



**ACHT NA gCUIDEACHTAÍ (LEASÚ), 1981
COMPANIES (AMENDMENT) BILL, 1981**

EXPLANATORY MEMORANDUM

The Companies Acts, 1963-1977 govern the operations of the different classes of companies in Ireland. The Companies Act, 1963 was first amended in 1973 by the European Communities (Companies) Regulations which gave effect to the First EEC Directive on company law about the publication of certain information on companies. The Companies (Amendment) Act, 1977 was a very short measure concerned solely with the computerisation of the title to securities on the Stock Exchange. These were the only major amendments to the company law code since 1963.

The purpose of the Bill is to amend, in various respects, the Companies Act, 1963 and it provides for:

- adjustments to facilitate the more efficient operation of the Companies Registration Office; there are requirements imposed in the 1963 Act on companies to file returns and documents with the registrar of companies who is responsible for the operation of that Office,
- revised procedures for the authorisation of public auditors i.e. auditors of certain types of societies and of company auditors,
- the amendment of an unconstitutional provision,
- additions to, and up-dating of money values in, the list of preferential payments in the provisions relating to the winding-up of companies,
- relaxation of restrictions as to numbers in the case of partnerships of accountants and solicitors,
- up-dating of fines, and
- the repeal of two sections of the Industrial Research and Standards Act, 1961.

The Companies Act, 1963 is referred to hereunder as the Principal Act.

Summary of the Bill

Section 1 is the usual interpretation section.

Section 2 amends the Principal Act by providing that there may, in the case of a company limited by guarantee and not having a share capital, be registered with the memorandum, articles of association prescribing regulations for the company.

Section 3 provides that a statement showing the names of the first directors, secretary or joint secretaries of a company, together with a signed consent of the directors and secretaries must accompany any memorandum delivered for registration.

Section 4 provides that information about the registered office of a company is to be included in the statement required under *section 3* so that this information will be available to the public as from the date of incorporation (instead of within 14 days after incorporation as at present).

Section 5 provides for filing information about classifications, rights and restrictions on company shares.

Section 6 provides for the application of certain criteria for the appointment of public auditors and for the amendment, in due course, of the criteria for the appointment of auditors of companies and public auditors.

Section 7 provides for revised procedures and penalties in the case of an officer or agent of a company who refuses to co-operate with an inspector investigating the affairs of that company (in order to overcome a constitutional difficulty with *Section 168* of the 1963 Act).

Section 8 provides for notification to the registrar of companies of, and signed consents to, changes in the directors and secretary of a company.

Section 9 provides for revised arrangements for filing declarations of solvency in the case of a proposal to wind up voluntarily.

Section 10 provides for additions to the list of preferential payments in a winding-up and for increases in the limits of certain sums in that list.

Section 11 provides for speeding up the process of striking defunct companies off the register.

Section 12 provides that the registrar of companies may strike off a company which, for three consecutive years, fails to make annual returns.

Section 13 removes the limit of twenty persons from partnerships of accountants and of solicitors.

Section 14 permits a company limited by guarantee and not having a share capital to adopt all or any of the articles set out in *Table C*.

Section 15 increases the maximum penalties for offences under the *Principal Act*.

Section 16 provides that proceedings in relation to certain offences under the *Principal Act* may be brought and prosecuted by the registrar of companies rather than by the Minister as at present.

Section 17 is an amendment consequent on the provisions of *sections 2* and *14*.

Sections 18-20 delete the requirement of indicating the occupations of allottees of shares.

Section 21 and the *Second Schedule* cover repeals. Two sections of the *Industrial Research and Standards Act, 1961* are repealed to facilitate the use of the words "Standard" or "Caighdeán" in the names of companies and Registered Business Names of service, as opposed to industrial, companies. The repeal of certain provisions in the *Industrial and Provident Societies Act, 1893* and the *Friendly Societies Act, 1896* in the *Second Schedule* is consequential to the provisions in *section 6*.

*An Roinn Trádála, Tráchtála agus Turasóireachta,
Deireadh Fómhair, 1981.*