



**SEANAD ÉIREANN**

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**BILLE NA gCUIDEACHTAÍ, 2012  
COMPANIES BILL 2012**

**LEASUITHE TUARASCÁLA  
REPORT AMENDMENTS**

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# SEANAD ÉIREANN

## BILLE NA gCUIDEACHTAÍ, 2012 —AN TUARASCÁIL

### COMPANIES BILL 2012 —REPORT

#### *Leasuithe Amendments*

*\*Government amendments are denoted by an asterisk*

**\*1.** In page 71, to delete lines 28 and 29 and substitute the following:

“(8) This section is without prejudice to—

- (a) the generality of the Interpretation Act 2005 and, in particular, section 27 of it; and
- (b) the special provision made in certain provisions of this Act for transitional matters as they relate to those provisions.”.

**\*2.** In page 74, between lines 10 and 11, to insert the following:

“(10) If a document created before the commencement of this section defines the expression “subsidiary” by reference to section 151 of the Act of 1963, then, for the avoidance of doubt, the construction provided in respect of that expression by the document is not affected by this section in the absence of an agreement to the contrary by the parties to the document.”.

**\*3.** In page 74, between lines 27 and 28, to insert the following:

“(4) If a document created before the commencement of this section defines the expression “holding company” by reference to section 151 of the Act of 1963, then, for the avoidance of doubt, the construction provided in respect of that expression by the document is not affected by this section in the absence of an agreement to the contrary by the parties to the document.”.

**\*4.** In page 75, between lines 14 and 15, to insert the following:

“(5) References in *Chapter 6 of Part 2*, however expressed, to this Part and *Parts 2 to 15* having application to a private company limited by shares shall not be read as excluding the application to such a company of provisions of the kind mentioned in *subsection (4)*.”.

**\*5.** In page 75, between lines 17 and 18, to insert the following:

“(2) For the avoidance of doubt, *subsection (1)* does not apply to the construction of—

- (a) the expression “holding company”, where that expression is used without qualification, in *Parts 2 to 14*; or

(b) any related expression, where used without qualification, in those Parts.”.

\*6. In page 83, to delete the text inserted by amendment 6 at Seanad Committee and substitute the following:

“(3) *Subsection (1)* as it relates to the use of the word “limited”, or any abbreviation of that word, shall not apply to a society registered under the Industrial and Provident Societies Acts 1893 to 2014.”.

[*For the information of Senators, the text proposed to be deleted above is shown as amendment 1 on the list of committee amendments made by the Seanad.*]

\*7. In page 83, between lines 12 and 13, to insert the following:

“(6) *Subsection (1)* shall not apply to any company—

(a) to which *Part 21* applies, and

(b) which has provisions in its constitution that would entitle it to rank as a private company limited by shares (whether under this Part or *Part 16*) if it had been registered in the State.”.

8. In page 88, line 34, to delete “privileges.” and substitute the following:

“privileges,

in so much as such action does not undermine or take precedence above a person’s right and entitlements as provided for in existing legislation or international treaties and agreements to which Ireland has signed up to.”.

—*Senators David Cullinane, Kathryn Reilly, Trevor Ó Clochartaigh.*

\*9. In page 89, line 5, to delete “shall” and substitute “may”.

10. In page 89, between lines 6 and 7, to insert the following:

“(2) In the case of a clash of “rights and privileges” a natural human being’s rights and privileges would always take precedence over a company’s.”.

—*Senators David Cullinane, Kathryn Reilly, Trevor Ó Clochartaigh.*

\*11. In page 91, lines 14 and 15, to delete “, by writing under its common seal.”.

\*12. In page 91, line 18, to delete “and under his or her seal”.

\*13. In page 99, between lines 1 and 2, to insert the following:

“(9) For the avoidance of doubt, the application of *Part 16*, in the circumstances under this section where that Part is stated to apply and notwithstanding that the course of action of delivering a constitution of the kind referred to in *subsection (1)* will not be adopted by such a company, extends to an existing private company falling within *subsection (10)* but—

(a) the application of *Part 16* to such a company does not affect the application of the provisions of the statute referred to in *subsection (10)* (or any other relevant statute) to the company; and

(b) if, by virtue of the foregoing statute, the company was not required to include the

word “limited” or “teoranta” in its name, that exemption is not affected by anything in this section or *Part 16*.

- (10) The existing private company referred to in *subsection (9)* is one that has been incorporated under a former enactment relating to companies (within the meaning of *section 5*) pursuant to, or in compliance with a requirement of, any statute.”.

**\*14.** In page 104, between lines 33 and 34, to insert the following:

“(10) The procedures under this section may be followed, after consultation by the company with the relevant Minister, by an existing private company that has been incorporated under a former enactment relating to companies (within the meaning of *section 5*) pursuant to, or in compliance with a requirement of, any statute (in *subsection (11)* referred to as the “relevant statute”) and may be so followed notwithstanding that statute but—

(a) the provisions otherwise of that statute (and any other relevant statute) shall apply to the designated activity company that the foregoing company re-registers as under this section as they apply to the foregoing company before such re-registration; and

(b) if the foregoing company is a company to which *section 1436#* applies, the provision made by *subsection (1)* requiring the substitution of certain words in its name shall be taken to be omitted from that subsection.

- (11) In *subsection (10)##* “relevant Minister” means the Minister of the Government concerned in the administration of the relevant statute.”.

[#This is a reference to the section proposed to be inserted by amendment 164.]

[##This is a reference to the subsection proposed to be inserted by this amendment.]

**\*15.** In page 139, line 33, to delete “*Chapter 4*” and substitute “4”.

**\*16.** In page 149, between lines 23 and 24, to insert the following:

“(5) This section shall not prevent the subscription, acquisition or holding of shares in its parent public company by a company which is a member of an authorised market operator acting in its capacity as a professional dealer in securities in the normal course of its business.”.

**\*17.** In page 156, to delete lines 23 to 27.

**18.** In page 166, line 28, after “on” to insert “and managed and controlled”.

—*Senators David Cullinane, Kathryn Reilly, Trevor Ó Clochartaigh.*

**19.** In page 166, line 41, after “trade” to insert “and is managed and controlled”.

—*Senators David Cullinane, Kathryn Reilly, Trevor Ó Clochartaigh.*

**\*20.** In page 197, between lines 33 and 34, to insert the following:

“(7) The depositing of the instrument of proxy referred to in *subsection (5)* may, rather than its being effected by sending or delivering the instrument, be effected by communicating the instrument to the company by electronic means, and this

subsection likewise applies to the depositing of anything else referred to in *subsection (5)*.”.

\*21. In page 220, line 24, to delete “Save where regulations under *subsection (7)* provide otherwise, any” and substitute “Any”.

\*22. In page 220, line 31, after “mentioned” where it secondly occurs to insert the following:

“and may also, by regulations, provide for such exceptions to *subsection (6)* as he or she considers appropriate”.

\*23. In page 233, line 4, after “duties” to insert “(other than those set out in *section 228(1)(b)* and *(h)*)”.

\*24. In page 233, line 7, after “duties” to insert “(other than those set out in *section 228(1)(b)* and *(h)*)”.

\*25. In page 233, line 25, to delete “or”.

\*26. In page 233, line 26, after “*subsection (2)*,” to insert the following:

“or

(iii) the director’s agreeing to such has been approved by a resolution of the company in general meeting;”.

\*27. In page 236, line 8, to delete “*section 228(1)(d)*” and substitute “*section 228(1)(a), (c), (d), (e), (f)* or *(g)*”.

\*28. In page 264, between lines 31 and 32, to insert the following:

“(a) “basic facts concerning the default” means such of the facts, relating to the one or more acts or omissions that constituted the default, as can reasonably be regarded as indicating, at the relevant time, the general character of those acts or omissions,”.

\*29. In page 265, to delete lines 5 to 17 and substitute the following:

“(2) In relevant proceedings, where it is proved that the defendant was aware of the basic facts concerning the default concerned, it shall be presumed that the defendant permitted the default unless the defendant shows that he or she took all reasonable steps to prevent it or that, by reason of circumstances beyond the defendant’s control, was unable to do so.”.

30. In page 266, between lines 37 and 38, to insert the following:

“(d) a certificate of tax compliance,”.

—*Senators David Cullinane, Kathryn Reilly, Trevor Ó Clochartaigh.*

\*31. In page 278, line 13, after “both” to insert “of”.

\*32. In page 278, to delete lines 27 to 32 and substitute the following:

“(6) Subject to *subsection (7)#*, the reference in *subsection (5)* to the net assets of the company is a reference to net assets, as defined in *section 275(1)*, of the company and for this purpose the amount of its net assets shall be ascertained by reference to the

entity financial statements prepared under *section 290* and laid in accordance with *section 341* in respect of the last preceding financial year in respect of which such entity financial statements were so laid.

- (7) Where no entity financial statements of the company have been prepared and laid under the foregoing sections before that time, the reference in *subsection (5)* to the net assets of the company shall be taken to be a reference to the amount of its called-up share capital at the time of the contravention.”.

[#This is a reference to the subsection proposed to be inserted by this amendment.]

- \*33. In page 288, line 26, to delete “to its not having elected to prepare IFRS group financial statements and”.
- \*34. In page 290, line 17, to delete “to its not having elected to prepare IFRS group financial statements and”.
- \*35. In page 325, to delete lines 31 and 32 and substitute the following:

“(b) the company is availing itself of the exemption on the grounds that *section 358#* or *359##*, as appropriate, is complied with,”.

[#This is a reference to the section proposed to be inserted by amendment 41.]

[##This is a reference to the section proposed to be inserted by amendment 42.]

[For the information of Senators, the text proposed to be deleted above was amended by amendment 2 on the list of committee amendments made by the Seanad.]

- \*36. In page 326, between lines 8 and 9, to insert the following:
- “(5) Whenever a company has availed itself of the audit exemption in respect of a financial year, the company shall, if required by the Director of Corporate Enforcement to do so—
- (a) give to the Director such access to and facilities for inspecting and taking copies of the books and documents of the company, and
- (b) furnish to the Director such information,
- as the Director may reasonably require for the purpose of satisfying himself or herself that the company did, in respect of that financial year, comply with *section 358* or *359*, as appropriate.
- (6) If a company fails to comply with a requirement under *subsection (5)#*, the company and any officer of it who is in default shall be guilty of a category 4 offence.”.

[#This is a reference to the subsection proposed to be inserted by this amendment.]

- \*37. In page 326, line 10, to delete “*section 358(2)*” and substitute “*section 359(1)#*”.
- [#This is a reference to the section proposed to be inserted by amendment 42.]
- \*38. In page 333, lines 36 and 37, to delete “district court area” and substitute “District Court district”.
- \*39. In page 336, line 17, to delete “returns” and substitute “return’s”.

- \*40. In page 343, lines 15 and 16, to delete “laid before the members in general meeting or which is otherwise” and substitute “approved by the board of directors or which is”.
- \*41. In page 346, to delete lines 6 to 41, and in page 347, to delete lines 1 to 23 and substitute the following:

**“Main conditions for audit exemption — non-group situation**

358. (1) Subject to *subsection (3)* and the other provisions of this Chapter, *section 360* (audit exemption) applies to a company in respect of its statutory financial statements for a particular financial year if the company qualifies as a small company in relation to that financial year.
- (2) For the purposes of this section, whether a company qualifies as a small company shall be determined in accordance with *section 350(2), (3), (5), (7), (8), (9) and (10)*.
- (3) *Section 360* does not apply to a company in respect of its statutory financial statements for a particular financial year during any part of which the company was a group company (within the meaning of *section 359#*) unless the group qualifies, under *section 359#*, as a small group in relation to that financial year (and the other relevant provisions of this Chapter are complied with).
- (4) In *subsection (3)* “group”, in relation to a group company, shall be read in accordance with *section 359(1)(b)#*.
- (5) Nothing in this section prejudices the operation of *Chapter 16* (special audit exemption for dormant companies).”.

[#This is a reference to the section proposed to be inserted by amendment 42.]

[For the information of Senators, the text proposed to be deleted above was amended by amendments 3 to 7 on the list of committee amendments made by the Seanad.]

- \*42. In page 347, to delete lines 24 to 39, and in page 348, to delete lines 1 to 10 and substitute the following:

**“Main conditions for audit exemption — group situation**

359. (1) In this section—
- (a) “group company” means a company that is a holding company or a subsidiary undertaking; and
- (b) references to the group, in relation to a group company, are references to that company, together with all its associated undertakings, and for the purposes of this paragraph undertakings are associated if one is the subsidiary undertaking of the other or both are subsidiary undertakings of a third undertaking.
- (2) Subject to this Chapter, *section 360* (audit exemption) applies to any group company in respect of its statutory financial statements for a particular financial year if the group qualifies as a small group in relation to that financial year.
- (3) The determination of whether a group so qualifies shall be made, as provided for in this section, by reference to whether the financial year in question is the first, or a



subsequent, financial year of the holding company that heads the group.

- (4) A group qualifies as small in relation to the holding company's first financial year if the qualifying conditions are satisfied in respect of that year.
- (5) A group qualifies as small in relation to a subsequent financial year of the holding company—
  - (a) if the qualifying conditions are satisfied in respect of that year and the preceding financial year;
  - (b) if the qualifying conditions are satisfied in respect of that year and the group qualified as small in relation to the preceding financial year;
  - (c) if the qualifying conditions were satisfied in respect of the preceding financial year and the group qualified as small in relation to that year.
- (6) The qualifying conditions for a small group are satisfied by a group in relation to a financial year in which it fulfils 2 or more of the following requirements:
  - (a) the balance sheet total of the holding company and the other members of the group taken as a whole does not exceed €4.4 million,
  - (b) the amount of the turnover of holding company and the other members of the group taken as a whole does not exceed €8.8 million,
  - (c) the average number of persons employed by the holding company and the other members of the group taken as whole does not exceed 50.
- (7) For the purposes of *subsection (6)(a)*—
  - (a) “balance sheet total”, in relation to the holding company or another member of the group, means the aggregate of the amounts shown as assets in the company's or other member's entity balance sheet;
  - (b) there shall, in the operation of taking the balance sheet totals as a whole, be eliminated inter-group balances.
- (8) For the purposes of *subsection (6)(b)*—
  - (a) “amount of the turnover”, in relation to the holding company or another member of the group, means the amount of the turnover shown in the company's or other member's entity profit and loss account;
  - (b) there shall, in the operation of taking the amounts of turnover as a whole, be eliminated inter-group sales.
- (9) For the purpose of *subsection (6)(c)*, the average number of persons employed by a company or another member of the group shall be determined by applying the method of calculation prescribed by *section 317* for determining the number required by *subsection (1)* of that section to be stated in a note to the financial statements of a company.
- (10) In the application of *paragraph (b)* of *subsection (6)* to any period which is a financial year but is not in fact a year, the amount specified in that paragraph shall be

proportionally adjusted.

- (11) Each occasion of an amendment of the kind referred to in *subsection (12)* being effected shall operate to enable the Minister to amend, by order, *subsection (6)(a)* and *(b)*, by substituting for the total and the amount, respectively, specified in those provisions a greater total and amount (not being a total or an amount that is greater than the total or amount it replaces by 25 per cent).
- (12) The amendment referred to in *subsection (11)* is an amendment of the amount and the total specified in *paragraphs (a)* and *(b)*, respectively, of *section 350(5)*, being an amendment made for the purpose of giving effect to a Community act.
- (13) Nothing in this section nor in any subsequent provision of this Chapter prejudices the operation of *Chapter 16* (special audit exemption for dormant companies).”.

\*43. In page 348, lines 12 to 25, to delete all words from and including “The” in line 12 down to and including line 25 and substitute the following:

“The following provisions (the “audit exemption”) have effect where, by virtue of *section 358#* or *359##*, as appropriate, this section applies in respect of the statutory financial statements of a company or a group for a particular financial year—

- (a) without prejudice to *section 384(2)###*, *section 333* (obligation to have statutory financial statements audited) shall not apply to the company or group in respect of that financial year, and
- (b) unless and until circumstances (if any) arise by reason of which the company or group is not entitled to the audit exemption in respect of that financial year, the provisions specified in *subsection (2)* shall not apply to the company or group in respect of that year.”.

[#This is a reference to the section proposed to be inserted by amendment 41.]

[##This is a reference to the section proposed to be inserted by amendment 42.]

[###This is a reference to the section proposed to be inserted by amendment 50.]

[For the information of Senators, the text proposed to be deleted above was amended by amendment 8 on the list of committee amendments made by the Seanad.]

\*44. In page 349, to delete lines 17 to 36 and substitute the following:

**“Audit exemption not available where notice under *section 334* served**

**361.** (1) Notwithstanding that *section 358#* is complied with, a company is not entitled to the audit exemption referred to in that section in a financial year if a notice, with respect to that year, is served, under and in accordance with *section 334(1)* and *(2)*, on the company.

(2) Notwithstanding that *section 359##* is complied with—

- (a) a holding company and the other members of the group are not entitled to the audit exemption referred to in that section in a financial year if a notice, with respect to that year, is served, under and in accordance with *section 334(1)* and *(2)*, on the holding company (irrespective of whether such a notice is served

under and in accordance with those provisions on one or more of the other members of the group),

- (b) where no such notice has been served, under and in accordance with those provisions, on the holding company but one has been so served on another member of the group, then that member is not entitled to the audit exemption in the year concerned irrespective of whether its holding company and any other members of the group avail themselves of the audit exemption in that year (but this paragraph is not to be read as diminishing the extent of the audit exemption, so far as it relates to the holding company's group financial statements, that is availed of by the holding company).”.

[#This is a reference to the section proposed to be inserted by amendment 41.]

[##This is a reference to the section proposed to be inserted by amendment 42.]

[For the information of Senators, the text proposed to be deleted above was amended by amendments 9 and 10 on the list of committee amendments made by the Seanad.]

- \*45. In page 349, to delete lines 37 to 41, and in page 350, to delete lines 1 to 15 and substitute the following:

**“Audit exemption not available where company or subsidiary undertaking falls within a certain category**

362. (1) Notwithstanding that *section 358#* is complied with, a company is not entitled to the audit exemption referred to in that section if the company is a company falling within any provision (in so far as applicable to a private company limited by shares) of *Schedule 5*, other than a company referred to in *paragraph 5* or *16* of that *Schedule*, or if it is a relevant securitisation company.

(2) Notwithstanding that *section 359##* is complied with, a holding company and the other members of the group are not entitled to the audit exemption referred to in that section if—

(a) the holding company is a company falling within any provision (in so far as applicable to a private company limited by shares) of *Schedule 5*, other than a company referred to in *paragraph 5* or *16* of that *Schedule*, or if it is a relevant securitisation company, or

(b) any of those other members is—

(i) a credit institution,

(ii) an insurance undertaking,

(iii) a company falling within any provision of *Schedule 5*, other than a company referred to in *paragraph 5* or *16* of that *Schedule*,

(iv) a relevant securitisation company or

(v) a body any of the securities of which are admitted to trading on a regulated market.

(3) In this section “relevant securitisation company” means—

- (a) a qualifying company within the meaning of section 110 of the Taxes Consolidation Act 1997; or
  - (b) a financial vehicle corporation (“FVC”) within the meaning of—
    - (i) in the period before 1 January 2015, Article 1(1) of Regulation (EC) No. 24/2009 of the European Central Bank of 19 December 2008 concerning statistics on the assets and liabilities of financial vehicle corporations engaged in securitisation transactions; or
    - (ii) subject to *subsection (4)*, in the period on or after 1 January 2015, Article 1(1) of Regulation (EU) No. 1075/2013 of the European Central Bank of 18 October 2013 concerning statistics on the assets and liabilities of financial vehicle corporations engaged in securitisation transactions (recast).
- (4) If a Regulation is made by the European Central Bank concerning statistics on the assets and liabilities of financial vehicle corporations engaged in securitisation transactions that—
- (a) contains a different definition of financial vehicle corporation (“FVC”) from that referred to in *subparagraph (ii)* of *subsection (3)(b)*, the reference in that provision to that definition shall be read as a reference to the definition contained in the Regulation so made, or
  - (b) amends the definition so referred to, the reference in that provision to that definition shall be read as a reference to that definition as it stands so amended.”.

[#This is a reference to the section proposed to be inserted by amendment 41.]

[##This is a reference to the section proposed to be inserted by amendment 42.]

[For the information of Senators, the text proposed to be deleted above was amended by amendments 11 to 16 on the list of committee amendments made by the Seanad.]

\*46. In page 350, to delete lines 16 to 30 and substitute the following:

**“Audit exemption (non-group situation) not available unless annual return filed in time**

- 363.** (1) Notwithstanding that *section 358#* is complied with, a company is not entitled to the audit exemption referred to in that section in a financial year unless—
- (a) there is delivered to the Registrar, in compliance with *section 343*, the company’s annual return to which the statutory financial statements or (as appropriate) abridged financial statements for that financial year are annexed, and
  - (b) if the annual return referred to in *paragraph (a)* is not the company’s first annual return, there has been delivered to the Registrar, in compliance with *section 343*, its annual return to which the statutory financial statements or (as appropriate) abridged financial statements for its preceding financial year were annexed.
- (2) Where the annual return referred to in *paragraph (a)* or *(b)* of *subsection (1)* is the company’s first annual return, that paragraph shall have effect as if the reference to statutory financial statements or abridged financial statements being annexed to that return were omitted.”.

[#This is a reference to the section proposed to be inserted by amendment 41.]

[For the information of Senators, the text proposed to be deleted above was amended by amendment 17 on the list of committee amendments made by the Seanad.]

- \*47. In page 350, to delete lines 31 to 39, and in page 351, to delete lines 1 to 31 and substitute the following:

**“Audit exemption (group situation) not available unless annual return filed in time**

**364.** (1) In this section—

- (a) a reference to each of the relevant bodies is a reference to each of the holding company and the other members of the group (but this paragraph is subject to *subsection (6)*),
  - (b) “preceding financial year” means the financial year preceding the financial year referred to in *subsection (2)*.
- (2) Notwithstanding that *section 359#* is complied with, a holding company and the other members of the group are not entitled to the audit exemption referred to in that section in a financial year unless—
- (a) there is delivered to the Registrar, in compliance with *section 343*, the annual return of each of the relevant bodies to which the particular relevant body’s statutory financial statements or (as appropriate) abridged financial statements for that financial year are annexed, and
  - (b) if the annual return referred to in *paragraph (a)* is not the first annual return of each of the relevant bodies, the condition specified in *subsection (3) or (4)*, as the case may be, is satisfied.
- (3) If the annual return referred to in *paragraph (a) of subsection (2)* is not the first annual return of any of the relevant bodies, the condition referred to in *paragraph (b) of that subsection* is that there has been delivered to the Registrar, in compliance with *section 343*, the annual return of each of the relevant bodies to which the particular relevant body’s statutory financial statements or (as appropriate) abridged financial statements for the preceding financial year were annexed.
- (4) If the annual return referred to in *paragraph (a) of subsection (2)* is the first annual return of one or more, but not all, of the relevant bodies, the condition referred to in *paragraph (b) of that subsection* is that there has been delivered to the Registrar, in compliance with *section 343*, the annual return of each of the relevant bodies (excluding any of them the annual return of which is its first annual return) to which the particular relevant body’s statutory financial statements or (as appropriate) abridged financial statements for the preceding financial year were annexed.
- (5) In the case of—
- (a) the annual return thirdly mentioned in *subsection (2)(a)*, if that return is the company’s or other member’s first annual return, *subsection (2)(a)* shall have effect (in relation to the company or other member) as if the reference to statutory financial statements or abridged financial statements being annexed to that return

were omitted,

- (b) the annual return to which the condition referred to in *subsection (3) or (4)* applies (namely the annual return to which statutory financial statements or abridged financial statements for the preceding financial year are to be annexed) if that annual return is the relevant body's first annual return, *subsection (3) or (4)*, as the case may be, shall have effect (in relation to the relevant body) as if the reference to statutory financial statements or abridged financial statements being annexed to that return were omitted.

- (6) There shall not be reckoned as another member of the group for the purposes of this section (other than for the purposes of the expression "other members of the group" in *subsection (2)*) a subsidiary undertaking that is not a company registered under this Act or an existing company and the construction provided for by *subsection (1)(a)* (of references to each of the relevant bodies) shall be read accordingly."

[#This is a reference to the section proposed to be inserted by amendment 42.]

[For the information of Senators, the text proposed to be deleted above was amended by amendment 18 on the list of committee amendments made by the Seanad.]

**\*48.** In page 352, to delete lines 9 to 12 and substitute the following:

- "(b) unless and until circumstances, if any, arise in that financial year by reason of which the company is not entitled to that audit exemption in respect of that financial year, the provisions specified in *subsection (4)* shall not apply to the company in respect of that year."

**\*49.** In page 352, to delete lines 22 to 27 and substitute the following:

"(5) *Section 363#* shall apply for the purposes of this section as it applies for the purpose of *section 358##* with the substitution in *subsection (1)*—

- (a) for the reference to *section 358##* being complied with of a reference to the condition specified in *subsection (2)* of this section being satisfied, and
- (b) for the reference to the audit exemption referred to in *section 358##* of a reference to the dormant company audit exemption."

[#This is a reference to the section proposed to be inserted by amendment 46.]

[##This is a reference to the section proposed to be inserted by amendment 41.]

**\*50.** In page 366, to delete lines 3 to 10 and substitute the following:

- "(2) Whenever by reason of circumstances arising the company is not entitled to the audit exemption in respect of the financial year concerned, it shall be the duty of the directors of the company to appoint statutory auditors of the company as soon as may be after those circumstances arise."

**\*51.** In page 380, line 17, to delete "the foregoing paragraphs" and substitute "*paragraphs (b) to (c)*".

[For the information of Senators, the reference proposed to be inserted above comprehends the inclusion of amendment 19 on the list of committee amendments made by the Seanad.]

- \*52. In page 383, line 6, after “not” to insert “be under any duty to”.
- \*53. In page 398, line 36, after “(4)” to insert “or this subsection”.
- \*54. In page 398, line 38, to delete “that” and substitute “this”.
- \*55. In page 426, line 3, to delete “Subject to *subsection (6), subsection (1)*” and substitute “*Subsection (1)*”.
- \*56. In page 431, between lines 34 and 35, to insert the following:

“(4) The following provisions have effect for the purposes of *subsection (3)*—

- (a) “instrument” in that subsection includes—
  - (i) a lease, conveyance, transfer, charge or any other instrument relating to real property (including chattels real); and
  - (ii) an instrument relating to personalty;
- (b) *paragraph (f)(ii)* of that subsection applies in the case of references to the transferor company and its successors and assigns as it applies in the case of references to the transferor company personally;
- (c) *paragraph (g)* of that subsection applies in the case of rights, obligations and liabilities mentioned in that paragraph whether they are expressed in the contract, agreement or instrument concerned to be personal to the transferor company or to benefit or bind (as appropriate) the transferor company and its successors and assigns.”.

- \*57. In page 431, line 35, to delete “The” and substitute “Without prejudice to *subsections (6)# and (7)#*, the”.

[#These are references to the subsections proposed to be inserted by amendment 58.]

- \*58. In page 431, between lines 38 and 39, to insert the following:

“(5) There shall be entered by the keeper of any register in the State—

- (a) upon production of a certified copy of the order under *subsection (2)*; and
- (b) without the necessity of there being produced any other document (and, accordingly, any provision requiring such production shall, if it would otherwise apply, not apply),

the name of the successor company in place of any transferor company in respect of the information, act, ownership or other matter in that register and any document kept in that register.

- (6) Without prejudice to the generality of *subsection (5)#*, the Property Registration Authority, as respects any deed (within the meaning of section 32 of the Registration of Deeds and Title Act 2006) registered by that Authority or produced for registration by it, shall, upon production of the document referred to in *subsection (5)(a)#* but without the necessity of there being produced that which is referred to in *subsection (5)(b)#*, enter the name of the successor company in place of any transferor company in respect of such deed.

(7) Without prejudice to the application of *subsection (5)#* to any other type of register in the State, each of the following shall be deemed to be a register in the State for the purposes of that subsection:

- (a) the register of members of a company referred to in *section 169*;
- (b) the register of holders of debentures of a public limited company kept pursuant to *section 1121*;
- (c) the register kept by a public limited company for the purposes of *sections 1050 to 1055*;
- (d) the register of charges kept by the Registrar pursuant to *section 414*;
- (e) the Land Registry;
- (f) any register of shipping kept under the Mercantile Marine Act 1955.”.

[#These are references to the subsections proposed to be inserted by this amendment.]

**\*59.** In page 443, line 10, to delete “Subject to *subsection (6)*, *subsection (1)*” and substitute “*Subsection (1)*”.

**\*60.** In page 449, between lines 2 and 3, to insert the following:

“(5) The following provisions have effect for the purposes of *subsection (4)*—

- (a) “instrument” in that subsection includes—
  - (i) a lease, conveyance, transfer or charge or any other instrument relating to real property (including chattels real); and
  - (ii) an instrument relating to personalty;
- (b) *paragraph (f)(ii)* of that subsection applies in the case of references to the transferor company and its successors and assigns as it applies in the case of references to the transferor company personally;
- (c) *paragraph (g)* of that subsection applies in the case of rights, obligations and liabilities mentioned in that paragraph whether they are expressed in the contract, agreement or instrument concerned to be personal to the transferor company or to benefit or bind (as appropriate) the transferor company and its successors and assigns.”.

**\*61.** In page 449, line 3, to delete “Such” and substitute “Without prejudice to *subsections (7)#* and *(8#)*, such”.

[#These are references to the subsections proposed to be inserted by amendment 62.]

**\*62.** In page 449, between lines 6 and 7, to insert the following:

“(6) There shall be entered by the keeper of any register in the State—

- (a) upon production of a certified copy of the order under *subsection (2)*; and
- (b) without the necessity of there being produced any other document (and, accordingly, any provision requiring such production shall, if it would otherwise apply, not apply),



the name of the relevant successor company (or, as appropriate, the names of the relevant successor companies) in place of the transferor company in respect of the information, act, ownership or other matter in that register and any document kept in that register.

- (7) Without prejudice to the generality of *subsection (6)#*, the Property Registration Authority, as respects any deed (within the meaning of section 32 of the Registration of Deeds and Title Act 2006) registered by that Authority or produced for registration by it, shall, upon production of the document referred to in *subsection (6)(a)#* but without the necessity of there being produced that which is referred to in *subsection (6)(b)#*, enter the name of the relevant successor company (or, as appropriate, the names of the relevant successor companies) in place of the transferor company in respect of such deed.
- (8) Without prejudice to the application of *subsection (6)#* to any other type of register in the State, each of the following shall be deemed to be a register in the State for the purposes of that subsection:
- (a) the register of members of a company referred to in *section 169*;
  - (b) the register of holders of debentures of a public limited company kept pursuant to *section 1121*;
  - (c) the register kept by a public limited company for the purposes of *sections 1050 to 1055*;
  - (d) the register of charges kept by the Registrar pursuant to *section 414*;
  - (e) the Land Registry;
  - (f) any register of shipping kept under the Mercantile Marine Act 1955.”.

[#These are references to the subsections proposed to be inserted by this amendment.]

**\*63.** In page 452, to delete line 20 and substitute the following:

“(c) the circumstances set out in *section 570(a), (b) or (c)* are applicable to the company.”.

**64.** In page 488, between lines 26 and 27, to insert the following:

“(5) Where a breach of employment law is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to have been attributable to any neglect on the part of, a person who, when the breach was committed, was a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, that person (as well as the body corporate) shall be liable to be proceeded against as if guilty of the breach committed by the body corporate.”.

—*Senators David Cullinane, Kathryn Reilly, Trevor Ó Clochartaigh.*

- \*65. In page 490, line 14, after “to” to insert “in”.
- \*66I In page 490, line 21, to delete “Part” and substitute “Act”.
67. In page 490, line 33, after “due,” to insert “or in the case of an employee or a group of employees a sum exceeding €1,500,”.
- Senators David Cullinane, Kathryn Reilly, Trevor Ó Clochartaigh.
68. In page 526, line 25, to delete “€10,000” and substitute “€40,000”.
- Senators David Cullinane, Kathryn Reilly, Trevor Ó Clochartaigh.
- \*69. In page 592, line 31, to delete “The” and substitute “Subject to *subsection (3)#*, the”.
- [*#This is a reference to the subsection proposed to be inserted by amendment 71.*]
- \*70. In page 592, to delete lines 34 to 36.
- [*For the information of Senators, the text proposed to be deleted above was amended by amendment 20 on the list of committee amendments made by the Seanad.*]
- \*71. In page 593, between lines 4 and 5, to insert the following:
- “(3) If the ground, or one of the grounds, on which the company had been struck off the register is that referred to in *section 726(b)*, *subsection (2)* shall have effect as if the following paragraph were inserted after *paragraph (a)* of that subsection:
- “(aa) the Registrar has received written confirmation from the Revenue Commissioners that they have no objection to the company being restored to the register under this section;”.
- \*72. In page 594, line 3, to delete “Minister for Finance” and substitute “Minister for Public Expenditure and Reform”.
- \*73. In page 594, line 9, to delete “Minister of Finance” and substitute “Minister for Public Expenditure and Reform”.
- [*For the information of Senators, the text proposed to be deleted above was amended by amendment 21 on the list of committee amendments made by the Seanad.*]
- \*74. In page 600, to delete lines 6 to 8 and substitute the following:
- “(b) in the case of a company that, in respect of the latest financial year of the company that has ended prior to the date of the making of the application under this section, fell to be treated as a small or medium company by virtue of *section 350*, the Circuit Court,”.
- \*75. In page 600, between lines 12 and 13, to insert the following:
- “(6) For the purpose of *paragraph (b)#* of *subsection (5)*, if the latest financial year of the company concerned ended within 3 months prior to the date of the making of the application concerned, the reference in that paragraph to the latest financial year of the company shall be read as a reference to the financial year of the company that preceded its latest financial year (but that reference shall only be so read if that preceding financial year ended no more than 15 months prior to the date of the making of the application concerned).”.

[#This is a reference to the paragraph proposed to be inserted by amendment 74.]

\*76. In page 601, to delete lines 7 to 9 and substitute the following:

“*subsection (1)*, if in respect of the latest financial year of the body corporate there referred to that has ended prior to the date of the making of the application for the approval, that body fell to be treated (or, if it were a company, would have fallen to be treated) as a small or medium company by virtue of *section 350*, and *subsection (7) of section 747* applies for the purposes of this subsection as it applies for purposes of *subsection (6)(b)* of that section.”.

\*77. In page 656, line 13, to delete “1977” and substitute “2014”.

\*78. In page 656, line 15, to delete “1978” and substitute “2014”.

\*79. In page 663, line 16, to delete “1977” and substitute “2014”.

\*80. In page 663, line 18, to delete “1978” and substitute “2014”.

\*81. In page 666, line 20, to delete “1977” and substitute “2014”.

\*82. In page 666, line 22, to delete “1978” and substitute “2014”.

\*83. In page 671, line 5, to delete “1977” and substitute “2014”.

\*84. In page 671, line 6, to delete “1978” and substitute “2014”.

\*85. In page 678, lines 19 and 20, to delete “an offence under this Act that is subject to summary prosecution” and substitute “a category 3 or 4 offence”.

\*86. In page 679, line 27, after “Act” to insert “(being a default that constitutes a category 3 or 4 offence)”.

\*87. In page 692, between lines 15 and 16, to insert the following:

“(7) The Registrar shall ensure that information is made available explaining the provisions of this Act according to which a third party can rely on the information and particulars referred to in *subsection (4)*.”.

[For the information of Senators, this text is proposed to be inserted after text inserted by amendments 22 and 23 on the list of committee amendments made by the Seanad.]

\*88. In page 699, to delete lines 34 to 38.

\*89. In page 705, line 28, to delete “*sections 933 and 937*” and substitute “*section 933*”.

\*90. In page 706, line 27, after “shares” to insert “or designated activity company”.

\*91. In page 707, line 1, after “shares” to insert “or designated activity company”.

\*92. In page 707, between lines 14 and 15, to insert the following:

“(3) For the purpose of determining whether a holding undertaking and all its subsidiary undertakings meet the criteria in *paragraph (b)*, in the operation of taking, as appropriate—

(a) the amounts of their turnover as a whole, or

(b) their balance sheet totals as a whole,

there shall be eliminated inter-group sales or inter-group balances, as the case may be.”.

- \*93. In page 709, line 18, after “*section 917*,” to insert “and”.
- \*94. In page 709, to delete lines 20 and 21 and substitute “*934(7)*.”.
- \*95. In page 722, to delete lines 23 to 38, to delete pages 723 and 724, and in page 725, to delete lines 1 to 10.
- \*96. In page 725, to delete lines 11 to 40, and in page 726, to delete lines 1 and 2.
- \*97. In page 726, line 5, to delete “*938*” and substitute “*936*”.
- \*98. In page 727, to delete the text inserted by amendment 133 at Seanad Committee and substitute the following:

**“Confidentiality of information**

**942.** (1) A person shall not disclose information that—

- (a) comes into the possession of the Supervisory Authority by virtue of the performance by it of any of its functions under this Act; and
- (b) has not otherwise come to the notice of members of the public.

(2) *Subsection (1)* shall not apply to—

- (a) person specified in *subsection (3)* or a director of the Authority in the performance by the Authority, or him or her, of any of its or his or her functions under this Act or any other enactment, being a communication the making of which was, in the Authority’s or his or her opinion, appropriate for the performance of the function concerned; or
  - (b) the disclosure of information in a report of the Supervisory Authority or for the purpose of any legal proceedings, investigation, enquiry or review under this Act or any other enactment or pursuant to an order of a court of competent jurisdiction for the purposes of any proceedings in that court; or
  - (c) a disclosure made where such disclosure is required by, or in accordance with, law; or
  - (d) a disclosure of information which, in the opinion of the Supervisory Authority, a member of its staff, any person specified in *subsection (3)* or a director of the Authority, may relate to the commission of an offence; or
  - (e) a disclosure to a person prescribed by regulations made by the Supervisory Authority as a person to whom a disclosure, or a specified class of disclosure, may lawfully be made.
- (3) The persons mentioned in *subsection (2)(a)* and *(d)* are any agent of the Supervisory Authority or professional or other adviser to it.
- (4) A person who contravenes *subsection (1)* shall be guilty of a category 2 offence.”.

*[For the information of Senators, the text proposed to be deleted above is shown as amendment 24 on the list of committee amendments made by the Seanad.]*

- \*99. In page 729, to delete lines 13 and 14.
- \*100. In page 729, line 16, to delete “or (5)”.
- \*101. In page 730, lines 10 to 13, to delete all words from and including “body;” in line 10, down to and including “*section 938(5)(a)*.” in line 13 and substitute “body.”.
- \*102. In page 731, to delete lines 11 to 14.
- \*103. In page 731, to delete lines 15 and 16.
- \*104. In page 731, line 17, to delete “all or any of *sections 225, 917 and 937*” and substitute “*sections 225 and 917* (or either of those sections)”.
- \*105. In page 731, line 19, to delete “1997” and substitute “1997”.
- \*106. In page 731, line 24, after “provisions” to insert “or that provision”.
- \*107. In page 731, line 40, to delete “, (g)”.
- \*108. In page 732, line 11, to delete “(g),”.
- \*109. In page 733, line 5, to delete “*947(3)*” and substitute “*947(2)*”.
- \*110. In page 741, line 22, to delete “*section 10*” and substitute “*section 10(1)#*”.  
*[#This is the appropriate reference if amendment 5 is accepted.]*
- \*111. In page 741, line 23, to delete “Unless” and substitute the following:  
“(1) Unless”.
- \*112. In page 742, to delete lines 19 to 22.
- \*113. In page 757, to delete lines 25 to 27 and substitute the following:  
  
**“DAC, with 2 or more members, may not dispense with holding of a.g.m.**  
**991.** *Section 175(3) and (4)* (which relate to dispensing with the holding of an annual general meeting) shall not apply to a DAC if it has more than one member.”.
- \*114. In page 758, lines 25 and 26, to delete “as referred to *section 358(1) or (2)*” and substitute “as referred to in *section 358# or 359##*”.  
*[#This is a reference to the section proposed to be inserted by amendment 41.]*  
*[##This is a reference to the section proposed to be inserted by amendment 42.]*
- \*115. In page 763, line 28, to delete “*section 10*” and substitute “*section 10(1)#*”.  
*[#This is the appropriate reference if amendment 5 is accepted.]*
- \*116. In page 763, line 29, to delete “Unless” and substitute the following:  
“(1) Unless”.

\*117. In page 765, to delete line 24 and substitute the following:

“

Mergers and divisions of companies	Chapters 3 and 4 of Part 9
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”

\*118. In page 817, to delete paragraph (a) inserted by Seanad Committee amendment 146.

*[For the information of Senators, the text proposed to be deleted above is shown as amendment 25 on the list of committee amendments made by the Seanad.]*

\*119. In page 824, line 11, to delete “(7)” and substitute “(8)#”.

*[#This is a reference to the subsection proposed to be inserted by amendment 120.]*

\*120. In page 825, between lines 7 and 8, to insert the following:

“(8) The reference in the definition of “properly prepared” in *section 121(7)* to financial statements includes a reference to interim or initial financial statements referred to in *subsection (5)* or *(6)* and, for the purpose of that definition as it relates to either such type of statement, *section 290* and *section 291* or *292* as appropriate, and, where applicable, *Schedule 3* shall be deemed to have effect in relation to interim and initial financial statements with such modifications as are necessary by reason of the fact that the financial statements are prepared otherwise than in respect of a financial year.”.

\*121. In page 827, to delete lines 20 to 22 and substitute the following:

**“PLC, with 2 or more members, may not dispense with holding of a.g.m.**

**1091.** *Section 175(3)* and *(4)* (which relate to dispensing with the holding of an annual general meeting) shall not apply to a PLC if it has more than one member.”.

\*122. In page 835, to delete lines 31 to 33.

\*123. In page 835, line 34, to delete “A member” and substitute “Without prejudice to the member’s general entitlements in that regard under *section 183(7)#*, a member”.

*[#This is a reference to the subsection proposed to be inserted by amendment 20.]*

\*124. In page 838, between lines 4 and 5, to insert the following:

**“Voting by director in respect of certain matters: prohibition and exceptions thereto**

**1115.** Save to the extent that the PLC’s constitution provides otherwise, a director of a PLC shall not vote in respect of any contract or arrangement in which the director is interested, and if the director does so vote, the director’s vote shall not be counted, nor shall he or she be counted in the quorum present at the meeting, but neither of those prohibitions shall apply to:

(a) any arrangement for giving any director any security or indemnity in respect of money lent by the director to or obligations undertaken by the director for the benefit of the PLC; or

(b) any arrangement for the giving by the PLC of any security to a third party in

respect of a debt or obligation of the PLC for which the director himself or herself has assumed responsibility in whole or in part under a guarantee or indemnity or by the deposit of security; or

- (c) any contract by the director to subscribe for or underwrite shares or debentures of the PLC; or
- (d) any contract or arrangement with any other company in which the director is interested only as an officer of such other company or as a holder of shares or other securities in such other company,

and the operation of those prohibitions may at any time be suspended or limited to any extent and either generally or in respect of any particular contract, arrangement or transaction by the PLC in general meeting.”.

**\*125.** In page 860, between lines 13 and 14, to insert the following:

“(4) The following provisions have effect for the purposes of subsection (3)—

- (a) “instrument” in that subsection includes—
  - (i) a lease, conveyance, transfer or charge or any other instrument relating to real property (including chattels real); and
  - (ii) an instrument relating to personalty;
- (b) *paragraph (f)(ii)* of that subsection applies in the case of references to the transferor company and its successors and assigns as it applies in the case of references to the transferor company personally;
- (c) *paragraph (g)* of that subsection applies in the case of rights, obligations and liabilities mentioned in that paragraph whether they are expressed in the contract, agreement or instrument concerned to be personal to the transferor company or to benefit or bind (as appropriate) the transferor company and its successors and assigns.”.

**\*126.** In page 860, line 14, to delete “The” and substitute “Without prejudice to *subsections (5)#* and *(6)#*, the”.

[#These are references to the subsections proposed to be inserted by amendment 127.]

**\*127.** In page 860, between lines 17 and 18, to insert the following:

“(5) There shall be entered by the keeper of any register in the State—

- (a) upon production of a certified copy of the order under *subsection (2)*; and
- (b) without the necessity of there being produced any other document (and, accordingly, any provision requiring such production shall, if it would otherwise apply, not apply),

the name of the successor company in place of any transferor company in respect of the information, act, ownership or other matter in that register and any document kept in that register.

- (6) Without prejudice to the generality of *subsection (5)#*, the Property Registration

Authority, as respects any deed (within the meaning of section 32 of the Registration of Deeds and Title Act 2006) registered by that Authority or produced for registration by it, shall, upon production of the document referred to in *subsection (5)(a)#* but without the necessity of there being produced that which is referred to in *subsection (5)(b)#*, enter the name of the successor company in place of any transferor company in respect of such deed.

- (7) Without prejudice to the application of *subsection (5)#* to any other type of register in the State, each of the following shall be deemed to be a register in the State for the purposes of that subsection:
- (a) the register of members of a company referred to in *section 169*;
  - (b) the register of holders of debentures of a public limited company kept pursuant to *section 1121*;
  - (c) the register kept by a public limited company for the purposes of *sections 1050 to 1055*;
  - (d) the register of charges kept by the Registrar pursuant to *section 414*;
  - (e) the Land Registry;
  - (f) any register of shipping kept under the Mercantile Marine Act 1955.”.

[#This is a reference to the subsections proposed to be inserted by this amendment.]

**\*128.** In page 879, between lines 21 and 22, to insert the following:

- “(5) The following provisions have effect for the purposes of subsection (4)—
- (a) “instrument” in that subsection includes—
    - (i) a lease, conveyance, transfer or charge or any other instrument relating to real property (including chattels real); and
    - (ii) an instrument relating to personalty;
  - (b) *paragraph (f)(ii)* of that subsection applies in the case of references to the transferor company and its successors and assigns as it applies in the case of references to the transferor company personally;
  - (c) *paragraph (g)* of that subsection applies in the case of rights, obligations and liabilities mentioned in that paragraph whether they are expressed in the contract, agreement or instrument concerned to be personal to the transferor company or to benefit or bind (as appropriate) the transferor company and its successors and assigns.”.

**\*129.** In page 879, line 22, to delete “Such” and substitute “Without prejudice to *subsections (6)#* and *(7)#*, such”.

[#These are references to the subsections proposed to be inserted by amendment 130.]

**\*130.** In page 879, between lines 25 and 26, to insert the following:

- “(6) There shall be entered by the keeper of any register in the State—



- (a) upon production of a certified copy of the order under *subsection (2)*; and
- (b) without the necessity of there being produced any other document (and, accordingly, any provision requiring such production shall, if it would otherwise apply, not apply),

the name of the relevant successor company (or, as appropriate, the names of the relevant successor companies) in place of the transferor company in respect of the information, act, ownership or other matter in that register and any document kept in that register.

- (7) Without prejudice to the generality of *subsection (6)#*, the Property Registration Authority, as respects any deed (within the meaning of section 32 of the Registration of Deeds and Title Act 2006) registered by that Authority or produced for registration by it, shall, upon production of the document referred to in *subsection (6)(a)#* but without the necessity of there being produced that which is referred to in *subsection (6)(b)#*, enter the name of the relevant successor company (or, as appropriate, the names of the relevant successor companies) in place of the transferor company in respect of such deed.
- (8) Without prejudice to the application of *subsection (6)#* to any other type of register in the State, each of the following shall be deemed to be a register in the State for the purposes of that subsection:
  - (a) the register of members of a company referred to in *section 169*;
  - (b) the register of holders of debentures of a public limited company kept pursuant to *section 1121*;
  - (c) the register kept by a public limited company for the purposes of *sections 1050 to 1055*;
  - (d) the register of charges kept by the Registrar pursuant to *section 414*;
  - (e) the Land Registry;
  - (f) any register of shipping kept under the Mercantile Marine Act 1955.”.

[#These are references to the subsections proposed to be inserted by this amendment.]

\*131. In page 882, line 18, to delete “*section 10*” and substitute “*section 10(1)#*”.

[#This is the appropriate reference if amendment 5 is accepted.]

\*132. In page 882, line 19, to delete “Unless” and substitute the following:

“(1) Unless”.

\*133. In page 898, to delete lines 25 to 27 and substitute the following:

**“CLG, with 2 or more members, may not dispense with holding of a.g.m.**

**1202.** *Section 175(3) and (4)* (which relate to dispensing with the holding of an annual general meeting) shall not apply to a CLG if it has more than one member.”.

\*134. In page 901, lines 30 and 31, to delete “as referred to *section 358(1) or (2)*” and substitute “as referred to in *section 358# or 359##*”.

[#This is a reference to the section proposed to be inserted by amendment 41.]

[##This is a reference to the section proposed to be inserted by amendment 42.]

[For the information of Senators, the text proposed to be deleted above is shown as amendment 26 on the list of committee amendments made by the Seanad.]

\*135. In page 906, line 19, after “to” to insert “that section and”.

\*136. In page 906, line 31, to delete “*section 10*” and substitute “*section 10(1)#*”.

[#This is the appropriate reference if amendment 5 is accepted.]

\*137. In page 906, line 32, to delete “Unless” and substitute the following:

“(1) Unless”.

\*138. In page 915, between lines 5 and 6, to insert the following:

“(5) If special circumstances exist which render it, in the opinion of the Minister, expedient that such an exemption should be granted, the Minister may, subject to such conditions as he or she may think fit to impose and specifies in the exemption, grant, in writing, an exemption from the obligation imposed by *subsection (1)*.”.

\*139. In page 915, line 6, after “is” to insert “also”.

\*140. In page 919, line 18, after “by” to insert “(subject to *section 1236(5)#*)”.

[#This is a reference to the subsection proposed to be inserted by amendment 138.]

\*141. In page 920, line 16, after “shall” to insert “, subject to *section 1236(5)#*”.

[#This is a reference to the subsection proposed to be inserted by amendment 138.]

\*142. In page 922, between lines 1 and 2, to insert the following:

**“Application of section 94 to ULCs and PUCs**

**1252.** *Section 94* shall apply to an ULC and a PUC as if the following subsection were substituted for subsection (2):

“(2) The instrument of transfer of any share shall be executed by or on behalf of the transferor and the transferee.”.

\*143. In page 924, to delete lines 3 to 5 and substitute the following:

**“Unlimited company, with 2 or more members, may not dispense with holding of a.g.m.**

**1260.** *Section 175(3) and (4)* (which relate to dispensing with the holding of an annual general meeting) shall not apply to an unlimited company if it has more than one member.”.

\*144I In page 925, lines 16 and 17, to delete “as referred to in *section 358(1) or (2)*” and substitute “as referred to in *section 358# or 359##*”.

[#This is a reference to the section proposed to be inserted by amendment 41.]

[##This is a reference to the section proposed to be inserted by amendment 42.]

\*145. In page 944, to delete line 36.

\*146. In page 945, between lines 1 and 2, to insert the following:

“ “2009 Directive” means Directive 2009/101/EC of 16 September 2009;”.

\*147. In page 949, line 30, to delete “Article 2(1)(h), (j) and (k) of the 1968 Directive” and substitute “Article 2(h), (j) and (k) of the 2009 Directive”.

\*148. In page 954, line 28, to delete “the registration of company” and substitute “registration of the company”.

\*149. In page 959, between lines 6 and 7, to insert the following:

“(4) Notwithstanding anything in *paragraph (a)* of that subsection, *subsection (1)* applies to, amongst other bodies corporate, a society registered under the Industrial and Provident Societies Acts 1893 to 2014.”.

\*150. In page 996, lines 8 and 9, to delete “as referred to *section 358(1)* or *(2)*” and substitute “as referred to in *section 358#* or *359##*”.

[#This is a reference to the section proposed to be inserted by amendment 41.]

[##This is a reference to the section proposed to be inserted by amendment 42.]

\*151. In page 1001, line 36, to delete “*section 10*” and substitute “*section 10(1)#*”.

[#This is the appropriate reference if amendment 5 is accepted.]

\*152. In page 1001, line 37, to delete “Unless” and substitute the following:

“(1) Unless”.

\*153. In page 1002, between lines 30 and 31, to insert the following:

“

Directors’ compliance statement and related statement	<i>Section 225</i>
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”.

\*154. In page 1008, to delete lines 32 to 38.

\*155. In page 1008, line 39, to delete “*subsection (1), (8) or (9)*” and substitute “*subsection (1) or (8)*”.

\*156. In page 1029, line 7, to delete “1977” and substitute “2014”.

\*157. In page 1029, line 9, to delete “1978” and substitute “2014”.

\*158. In page 1030, between lines 24 and 25, to insert the following:

**“Audit by Comptroller and Auditor General of companies not trading for gain**

**1433.** (1) This section shall apply to a company which is not trading for the acquisition of gain by its members.

(2) The expression “statutory auditor” and the expression “audit of the statutory financial

statements” shall, for the purposes of this Act, be deemed to include, respectively, the Comptroller and Auditor General and audit of the statutory financial statements by the Comptroller and Auditor General in any case in which he or she is appointed, under any enactment, auditor of a company to which this section applies.

- (3) *Chapters 18, 20 and 21 of Part 6* shall not apply to the Comptroller and Auditor General in a case falling within *subsection (2)* nor to the audit of statutory financial statements by him or her in such a case.”.

**\*159.** In page 1031, line 15, to delete “1978” and substitute “2014”.

**\*160.** In page 1031, line 16, to delete “1977” and substitute “2014”.

**\*161.** In page 1031, line 21, after “body” to insert “of accountants”.

**\*162.** In page 1031, between lines 21 and 22, to insert the following:

“(3) In addition to the requirement of *subsection (2)*, none of the following persons shall be qualified for appointment as a public auditor of a society registered under the Industrial and Provident Societies Acts 1893 to 2014—

- (a) an officer or servant of the society,
- (b) a person who has been an officer or servant of the society within a period in respect of which accounts would fall to be audited by the person if he or she were appointed auditor of the society,
- (c) a parent, spouse, civil partner, brother, sister or child of an officer of the society,
- (d) a person who is a partner of or in the employment of an officer of the society,
- (e) a person who is disqualified under this subsection for appointment as a public auditor of any other society that is a subsidiary or holding company of the society or a subsidiary of the society’s holding company,
- (f) a person who is disqualified under Regulation 71 of the European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations 2010 for appointment as statutory auditor of a company that is a subsidiary or holding company of the society,
- (g) a body corporate.

(4) In addition to the requirement of *subsection (2)*, none of the following persons shall be qualified for appointment as a public auditor of a friendly society—

- (a) an officer or servant of the friendly society,
- (b) a person who has been an officer or servant of the friendly society within a period in respect of which accounts would fall to be audited by the person if he or she were appointed auditor of the friendly society,
- (c) a parent, spouse, civil partner, brother, sister or child of an officer of the friendly society,
- (d) a person who is a partner of or in the employment of an officer of the friendly society,

- (e) a body corporate.
- (5) A person shall not act as a public auditor at a time when he is or she is disqualified under *subsection (3)#* or *(4)#*, as the case may be, for appointment to that office.
- (6) If, during the person's term of office as public auditor, a person becomes disqualified under this section for appointment to that office, the person shall thereupon vacate his or her office and give notice in writing to the society or friendly society, as the case may be, that he or she has vacated his or her office by reason of such disqualification.”.

[#These are references to the subsections proposed to be inserted by this amendment.]

**\*163.** In page 1031, to delete line 26 and substitute the following:

- “(4) A person who contravenes *subsection (2), (5)#* or *(6)#* shall be guilty of a category 2 offence.
- (5) This section shall not apply to the Comptroller and Auditor General.
- (6) References in this section to an officer or servant do not include references to a public auditor.”.

[#These are references to the subsections proposed to be inserted by amendment 162.]

**\*164.** In page 1031, between lines 26 and 27, to insert the following:

**“Provision as to names of companies formed pursuant to statute**

**1436.** (1) This section applies to a company that—

- (a) had been incorporated under a former enactment relating to companies (within the meaning of *section 5*) pursuant to, or in compliance with a requirement of, any statute; and
  - (b) by virtue of that statute was not required to include the word “limited” or “teoranta” in its name (or, as the case may be, the words “public limited company” or “cuideachta phoiblí teoranta” in its name).
- (2) A company to which this section applies, notwithstanding its continuance in existence by a particular Part of this Act, shall not be subject to the requirement in that Part that its name end with a particular set of words.
- (3) A company to which this section applies, notwithstanding its re-registration pursuant to *Chapter 6* of *Part 2* as a designated activity company, shall not be subject to the requirement in *Part 16* that its name end with a particular set of words.”.

[For the information of Senators, this text is proposed to be inserted after text inserted by amendments 28 to 31 on the list of committee amendments made by the Seanad.]

**\*165.** In page 1031, after line 30, to insert the following:

**“Provision in respect of certain discretion afforded by Commission Decision 2011/30/EU**

**1437.** (1) In this section—

“2010 Audits Regulations” means the European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations 2010 (S.I. No. 220 of 2010);

“third-country audit entity” has the same meaning as in Regulation 3 of the 2010 Audits Regulations;

“third-country auditor” has the same meaning as in Regulation 3 of the 2010 Audits Regulations.

(2) The Minister may by regulations provide that Chapter 3 of Part 8 of the 2010 Audits Regulations shall apply to third-country auditors and third-country audit entities that carry out audits of the annual or group accounts of a company falling within Regulation 113(2) of the 2010 Audits Regulations and incorporated in a country listed in Annex II to Commission Decision 2011/30/EU of 19 January 2011 (as amended by Commission Decision 2013/288/EU of 13 June 2013), including that Annex as it stands—

(a) amended from time to time, or

(b) replaced by another Annex (or an equivalent provision listing third countries for the purpose of the discretion of the kind afforded to Member States by Article 2(4) of Commission Decision 2011/30/EU of 19 January 2011).”.

**\*166.** In page 1033, to delete lines 30 and 31 and substitute the following:

“

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”.

**\*167.** In page 1072, line 17, to delete “Subject to *paragraph 6, subparagraph (1)*” and substitute “*Subparagraph (1)*”.

**\*168.** In page 1072, line 18, to delete “paragraph” and substitute “subparagraph”.

**\*169.** In page 1076, line 19, after “holding” to insert “undertaking”.

**\*170.** In page 1078, to delete lines 20 and 21 and substitute the following:

“of the European Communities (Credit Institutions) (Consolidated Supervision) Regulations 2009 (S.I. No. 475 of 2009).”.

**\*171.** In page 1078, to delete lines 37 to 39 and substitute the following:

“14. A company that has close links (within the meaning of the European Union (Capital Requirements) Regulations 2014 (S.I. No. 158 of 2014) with an authorised investment firm referred to in paragraph 1 or a company referred to in paragraph 5.”.

**\*172.** In page 1080, line 35, to delete “*section 1395(6)*” and substitute “*section 1395(4)#*”.

[#This is a reference to the section inserted by amendment No. 27 on the list of committee amendments made by the Seanad.]