

**Opening Statement for Paul Egan SC, Company Law Review Group
to Joint Oireachtas Committee on Enterprise, Trade and Employment, 1 Feb 2023**

Introduction

Good morning, Cathaoirleach and members of the Committee.

My name is Paul Egan and I appear as Chairperson of the Company Law Review Group, the CLRG. I am joined on line, remotely, by Professor Irene Lynch Fannon, Chair of the Corporate Insolvency Committee of the CLRG, and beside me is Ms Deirdre Morgan, Secretary to the CLRG.

I would like to thank the Committee for facilitating Professor Lynch Fannon's joining in the CLRG's presentation to the Committee at this time, in light of her being abroad at present.

Company Law Review Group

The CLRG is the statutory advisory body charged with advising the Minister for Enterprise, Trade and Employment on the review and development of company law in Ireland. It operates under Section 958 of the Companies Act 2014.

The CLRG consists of individuals with an expertise, an interest, and a stake in the development of company law, including:

- the State, its agencies, and regulators, such as DETE, Revenue, the Corporate Enforcement Authority and IAASA
- practitioners such as lawyers and accountants
- users and stakeholders such as business groups and trade unions

It is unique, not replicated in neighbouring jurisdictions. It has the advantage of gathering together all these stakeholders to identify issues, to review the law, and to design solutions for consideration by the Minister. The past two and a half years has seen two particular initiatives that originated at CLRG which led to prompt enactment of statutes – the 2020 Act which amended the Companies Act in the light of Covid, to allow for virtual meetings, and the Companies (Rescue Process for Small and Micro Companies) Act 2021. Act which introduced the SCARP rescue process.

Ultimately, policy is decided by the Minister, not by the CLRG, but we are very happy to contribute to the development of that policy.

Statutory functions

Our statutory functions are specified in section 959 of the Companies Act 2014. These include a requirement to monitor, review and advise the Minister on:

- the Companies Act and the amendment of the Act;
- the introduction of legislation on the operation of companies and commercial practices;
- the rules of court, judgments of courts;
- issues arising from the State's EU membership;
- international developments in company law; and
- other related matters.

In so doing we must seek to promote enterprise, facilitate commerce, simplify the operation of the 2014 Act, enhance corporate governance and encourage commercial probity.

Work programmes and Reports

The CLRG operates on a two-year work programme which is determined by the Minister.

In the information materials provided to the Committee this morning, the current work programme for 2022-2024 and the previous work programme for 2020-2022 are included.

The CLRG works through expert committees that focus on particular aspects of law – insolvency, governance, enforcement, public companies. We also have a Standing Committee to deal with urgent items requiring an immediate response.

The busiest Committee has been our Corporate Insolvency Committee, chaired by Professor Irene Lynch Fannon, which has produced 5 reports since 2018 as well as feeding into other reports.

The issues that gave rise to this Bill have been subject to lengthy and detailed analysis by the Corporate Insolvency Committee and the full CLRG. Our March 2021 report in particular is the most relevant. This Report reviewed existing legislative provisions regarding the provision of information to creditors generally and, in particular, to employees. This took account of the 2017 Report on the protections for employees and unsecured creditors and the Duffy Cahill report of 2016.

In summary, the Review Group, considered but did not recommend what is proposed in Section 2 of the Bill – the expansion of the class of preferential payments. I and Professor Lynch Fannon will be happy to explain the Review Group's reasoning in our Q&A session.

The Review Group has not considered what is proposed in section 3.

Insolvency Reports

We look forward to discussing these matters with you. Our responses today will aim to explain the consensus or near consensus of the CLRG on these matters. The Review Group has, since its establishment, sought to arrive at a consensus in its reports to reflect the diverse perspectives and interests of company law stakeholders.