



## 106th Plenary Meeting of the Company Law Review Group

**Date:** Wednesday 27th November 2024

**Time:** 4:00 p.m.

**Venue:** College Green Hotel, Westmoreland Street, Dublin 2

### Minutes

#### Present

Paul Egan SC (Chair), Alan Carey, Emma Doherty, Ian Drennan, Bernice Evoy, Diarmuid Fahey, Neil Keenan, Prof. Irene Lynch Fannon, Kathryn Maybury, Neil McDonnell, David McFadden, Susan Monaghan, Salvador Nash, Fiona O'Dea, Niamh Ryan, Gillian O'Shaughnessy, Eadaoin Rock, Cathy Smith SC, James Finn

#### In Attendance

Paul Thompson, Dan O'Neill (Secretariat), Deborah Dignam, (PO)

#### Apologies

Barry Conway, Maragaret Cullen, Prof. Deirdre Ahern, Eamon Kennedy, Gillian Leeson, Maureen O'Sullivan, Tracey Sullivan, Doug Smith, David Hegarty, Tanya Holly. Michael Halpenny, Richard Curran

#### 1. Welcome from the Chair and Expression of Condolence

The Chairperson welcomed everyone to the meeting and noted apologies.

On his own behalf and on behalf of the Review Group he conveyed his sincere condolences to Ms Maureen O'Sullivan and her family on the death of her son Éamonn.

#### 2. Declarations of Interest

There were no declarations of interest.

#### 3. Minutes of the 105th Review Group meeting

The minutes of the 105th Plenary were approved with no amendments.

#### 4. Work Programme – Allocation of Topical Items

Following a discussion and with the agreement of the respective Committee Chairs, the topical Items on the Review Group's Work Program 2024-2026 were allocated as follows:

	Item	CLRG Committee
1	Consider court appointed inspectors by third parties under the Companies Act in s.747.	Corporate Enforcement Committee

	Item	CLRG Committee
2	Review the provisions and process pertaining to the disclosure of the director's residential addresses having regard to company transparency requirements and GDPR.	Corporate Governance Committee
3	Review examinership law in the context of applying optional articles of the Preventative Restructuring Directive (PRD), having regard to developments at domestic, EU and international level.	Corporate Insolvency Committee
4	Review sections 224 – 233 of the Companies Act 2014 (as amended) for any potential anomalies in the duties directors owe to the company.	Corporate Governance Committee
5	Examine the terms and scope of section 1417 of the Companies Act 2014 pertaining to the recognition of winding up orders made in the U.K.	Corporate Insolvency Committee

The Chair invited all Review Group members to nominate themselves or, where applicable, suitable alternates, to join one of these three Committees.

## 5. Updates on EU and Irish company law legislation

Ms Fiona O'Dea updated the group on legislative developments in the Department.

### Domestic

**The Companies (Corporate Governance, Enforcement and Regulatory Provisions) Act 2024** – On December 3rd, Minister Burke will announce the commencement of the majority of the Companies (Corporate Governance, Enforcement and Regulatory Provisions) Act 2024, following its enactment and signature by the President of Ireland on the 12th November. The 26 provisions not commencing on the 3rd December 2024 are those that require technical updates to be made to the CRO's ICT systems to facilitate the changes proposed. It is intended to commence these provisions in 2025.

**General Scheme of Co-Operative Societies Bill** – The drafting of the Bill is nearing completion, however, due to the Bill's size (over 270 heads in the general scheme) and complex nature, it is expected to bring the drafted Bill to Government in Quarter 1 of 2025.

**General scheme of a registration of limited Partnerships and Business Names Bill (Formerly known as Limited Partnerships Act, 1907 and Registration of Business Names Act 1963)** – Government approval for drafting of the Bill was received on the 9th July 2024. The OPC appointed a drafter on the 5th September 2024, and it is anticipated drafting will commence shortly.

## EU

**Cross Border Association Directive** - Discussions on this proposal at EU working party are currently stalled due to concerns that have arisen on a number of issues. There is currently no clarity on whether/ when this proposal will progress in its current form.

**A proposal for a Directive on Corporate Sustainability Due Diligence (CSDD)** - The Corporate Sustainability Due Diligence (CSDD) Directive was published in the Official Journal of the European Union on the 5th July 2024 (DIRECTIVE (EU) 2024/1760) and came into force 20 days after the date of publication. Member States have two years to give effect to the Directive i.e. until 26th July 2026. Preparations for transposition are ongoing with the first transposition workshop scheduled for December 2024.

**Directive on Corporate Sustainability Reporting (CSRD)** - The directive was successfully transposed into Irish law before the deadline of the 6th July 2024. A minor clarifying amendment by way of statutory instrument was published to the Irish Statute Book in October. A link to the recent amendment can be found on the DETE Website/Irish Statute Book. An FAQ sheet may be found on the DETE website under FAQs Corporate Sustainability Reporting Regulations.

**A proposal for a Directive on Upgrading Digital Company Law (UDCL)** - This was published by the European Commission on 29th March 2023. The UDCL proposal is intended to further EU digitalisation efforts and aims to enhance transparency about companies and trust between Member States, while reducing the administrative burden for companies and other stakeholders in cross-border situations. Agreement was reached on the proposal in March and ratified by the European Parliament at end April.

The Directive is expected to be published in the Official Journal of the European Union in December 2024, with Member States having a further 30 months to transpose it into Domestic law.

**A Proposal for a directive on Multi-vote Share Structures** - The Directive has been finalised at EU level and published in the official journal on the 14th November 2024. There is a two-year deadline after the entry into force of the Directive. Transposition is expected by the 4th December 2026. Some amendments to the CA are likely. The Unit responsible has commenced work on the transposition.

**A proposal for a Directive harmonising certain aspects of insolvency law (Insol III)** - Given the political impetus behind the CMU, negotiations on this file intensified - with Working Party meetings held on 3rd, 24th/25th October and the 8th, 19th and 26th November - as the HU PRES push to reach a partial general approach on what they consider to be the least problematic titles of the proposal, namely Titles I, II, III, V and VIII.

It is expected that the HU PRES will finalise the text of the above Titles by the end of November and the file will then be discussed at the Justice and Home Affairs Council in early December.

IE's focus of engagement has been on ensuring that Insol III does not adversely affect our well-functioning insolvency systems, or the common law ethos and broader functioning of our courts system.

DETE have continued to liaise with relevant stakeholders in order to ensure that the Department's specific concerns are addressed within the proposal, and considerable effort has been expended to amend the text in respect of Title V Directors' Duties.

**Unclaimed Considerations of Dissenting Shareholders of Traded PLCs** – In 2022, the process set out in s459 of CA 2014 for dealing with the unclaimed considerations of dissenting shareholders of all companies except traded PLCs in a takeover was amended. It is proposed that the reform made in 2022 be extended to traded PLCs by way of regulations pursuant to the European Communities Act 1972.

## **6. Matters arising from practice**

**CRO** - In the absence of Maureen O’Sullivan, Dr David McFadden (CRO) provided an update on issues arising in practice. The automatic strike-off procedure has not yet resumed, but the CRO has been conducting manual strike-off procedures. In relation to the Register of Beneficial Ownership, a maximum fine was imposed by the Court in a case where the company concerned did not attempt to remedy its contravention before the Court hearing.

**CEA** - Ian Drennan provided an update on key statistics in relation to SCARP procedures, restrictions and disqualifications.

## **7. Lookback Report**

Paul Thompson outlined the exercise performed by the Secretariat and Company Law Review Unit in reviewing the recommendations made by recent CLRG Reports. Of the 63 recommendations made, 94% were noted or accepted. The Chairperson complimented the work on the Lookback Report.

## **8. Address by Secretary General**

Mr Declan Hughes, Secretary General of the Department of Enterprise, Trade and Employment<sup>NOTE</sup> addressed the meeting, conveying his appreciation for the Review Group’s work.

## **9. AOB**

Members thanked the Chairperson and Secretariat for their work throughout the year.

The Chairperson wished everyone a Happy Christmas.

## **10. Conclusion**

There being no further business, the meeting concluded at 5:15 pm.

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<sup>NOTE</sup> The then title of the Department.