



105th Plenary Meeting of the Company Law Review Group

Date: Wednesday 2nd October 2024

Time: 10.30 a.m. to 12.30 p.m.

Venue: Gresham Hotel, O'Connell Street, Dublin 2

Draft Minutes

Present

Paul Egan SC (Chair), Alan Carey, Barry Conway, Margaret Cullen, Richard Curran, David Hegarty (for Ian Drennan), Bernice Evoy, Anne Fitzpatrick, Michael Halpenny, Tanya Holly, Neil Keenan, Eamonn Kennedy, Kathryn Maybury, Neil McDonnell, David McFadden, Susan Monaghan, Salvador Nash, Fiona O'Dea, Gillian O'Shaughnessy, Cathy Smith SC, and Doug Smith.

In Attendance

Paul Thompson, Dan O'Neill (Secretariat)

Apologies

Deirdre Ahern, Emma Doherty, Ian Drennan, Gillian Leeson, Katie Nagle, Maureen O' Sullivan, Tracey Sullivan, Eadaoin Rock, Prof Irene Lynch Fannon, Kathryn Maybury, Niamh Ryan

1. Welcome from the Chair

The Chairperson welcomed everyone to the meeting and noted apologies.

2. Declarations of Interest

There were no declarations of interest.

3. Minutes of the 104th Review Group meeting

The minutes of the 104th Plenary were approved with no amendments.

4. Updates on EU and Irish company law legislation

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

Domestic

Companies (Corporate Governance, Enforcement and Regulatory Provisions) Bill 2024 (now Act 2024) completed first stage of the legislative process on its publication in the Dáil on 25th July 2024. Second Stage was taken on 25th September with Committee Stage scheduled for 9th October.

General Scheme of Co-Operative Societies Bill – Steady progress is being made with the drafting of the Bill. However, due to the Bill's size (over 270 heads in the general scheme) and complex nature, it is expected the Bill will be submitted to Government in Quarter 4 of this year.

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) –

DETE's work on this Bill has been extensive. The complexity of the issues arising necessitated extensive analysis, legal advice and consultation. The Department engaged with the CRO, CEA, D/Fin, D/Justice and the Central Bank to ensure the proposals for reform are robust and address concerns raised. The Development of the General Scheme was also informed by the Economic Crime and Corporate Transparency Act 2023 which introduced reforms to tighten registration requirements and increase transparency measures for limited partnerships in the UK.

Government approval for drafting of the Bill was received on 9 July 2024. The OPC appointed a drafter on 5th September 2024, and it is anticipated drafting will commence shortly.

EU

Proposal for Cross Border Association Directive seeks to introduce an additional legal form of a European cross-border association (ECBA) in Member States' national legal systems, which is specifically designed for cross-border purposes and will reduce legal and administrative burden when it comes to the recognition and establishment of non-profit associations engaging in activities in another Member State. Member States have raised a variety of issues and concerns about the proposal including the potential for abuse, including fraud, money laundering and security. Issues have been raised relating to the appropriate legal basis for the proposal and the Council Legal Service (CLS) are continuing to advise on options. However, as yet, there is no agreement on how to proceed but is expected that significant changes will be required to the proposal. The next Working Party meeting is scheduled for 23 October, subject to the CLS opinion being available by then.

Directive on Corporate Sustainability Due Diligence (CSDD) was published in the EU Official Journal on 5th July 2024 (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. DETE is making preparations for transposition by reviewing the text of the Directive to see what changes, if any, will require primary legislation or whether the Directive can be transposed by way of statutory instrument.

Directive on Corporate Sustainability Reporting (CSRD) was successfully transposed into Irish law before the deadline of 6 July 2024. A minor clarifying amendment by way of statutory instrument was signed on 1st October 2024. The CLRG Secretariat will circulate the FAQ to members once prepared.

A proposal for a Directive on Upgrading Digital Company Law (UDCL) is intended to further EU digitalisation efforts and aims to enhance transparency about companies and trust between Member States, while reducing administrative burden for companies and other stakeholders in cross-border situations. Agreement was reached on the proposal in March and has been ratified by the European Parliament at end of April. It is expected that the final Directive will be published in Q3.

Directive on Multi-Vote Share Structures has a two-year deadline for transposition after the entry into force of the Directive in November 2024. In terms of transposition, the DMVSS will come into effect in November 2024 following which MSS have a 2 year period in which to

transpose it. In IE, transposition is likely to require some minor amendments to the Companies Act.

A proposal for a Directive harmonising certain aspects of insolvency law (Insol III) - The HU Presidency's intention is to try to achieve a partial general approach by the end of their term on Titles II, III, V and VIII. Ireland took the opportunity to meet with the Hungarian Presidency in late September to further outline our concerns which have been consistently raised throughout the negotiations. The focus of engagement is on ensuring that Insol III does not adversely affect our insolvency systems, or the common law ethos and broader functioning of our courts system. The Department will continue to engage with key stakeholders, including the standing CLRG Insolvency Sub-Committee.

Unclaimed Considerations of Dissenting Shareholders of Traded PLCs - In 2022, the process set out in s459 of Companies Act 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.

5. Update of the CLRG Committees on work in progress

Corporate Insolvency – The sub-committee has continued to provide expert advices to DETE to assist it in its negotiations on Insol III.

Corporate Governance – Mr Salvador Nash outlined the work in the last year. The Report on Company Names and Registered Trade Mark Rights was currently being reviewed by DETE.

Public Company – Mr Egan said that with developments under the Central Bank (Individual Accountability Framework) Act 2023 a review of s. 842 may be in order.

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.

CEA - In the absence of Ian Drennan, David J Hegarty (CEA) provided an update on issues arising in practice.

7. Work Programme 2024 -2026

Fiona O'Dea DETE explained that the proposed programme was subject to Ministerial approval. Mr Egan suggested an appropriate sub-committee for each provisional item. The CLRG approved the Work Programme 2024 – 2026 in principle, subject to a minor amendment to Topical Item 4.

8. CLRG Website

Mr Dan O'Neill (Secretariat) updated attendees on the status of the CLRG website overhaul. The new design is in line with other Departments and DETE adhering to the EU Accessibility Directive regarding ease of access and use. The work has been ongoing over the Summer with the

Department's ICT Unit and external partners. The Secretariat is happy with the redesign apart from a few minor details. It is hoped that the site will go live in the next few weeks.

9. DETE Presentation on A.I. Policy and Regulation

Mr Eamon Cahill DETE gave the Department's overview of AI Policy and Regulation. **AOB**

The Chair discussed an upcoming event in the Law Society on 'Balancing Privacy and Transparency' on October 10th for which he was one of the speakers.

The CEA conference is scheduled for October 17th

10. Date of next meeting

The provisional date for the next meeting is the afternoon of Wednesday November 27th.