General Scheme of the Companies (Corporate Governance, Enforcement and Regulatory Provisions) Bill 2024

26 April 2024

The Department of Enterprise, Trade and Employment recently published the General Scheme of The Companies (Corporate Governance, Enforcement and Regulatory Provisions) Bill 2024 (the **Scheme**) which envisages significant amendments to the existing Companies Act 2014 (the **Act**). Much of the Scheme deals with technical amendments and amendments to address identified anomalies in the Act. Some of the key provisions are as follows:

1. Corporate Governance:

- The Scheme carries over provisions from the Companies (Misc Provisions) (Covid-19) Act 2020 which will be repealed and replaced in the new Bill. Companies will be able to conduct meetings virtually, with meeting attendees permitted to participate online without a requirement for a physical meeting location.
- The Scheme also provides for companies to execute documents under seal in separate counterparts, with the aggregate counterparts being treated as one document. This approach had previously only been provided for on an interim basis during the Covid-19 pandemic.

2. Company law enforcement/supervision:

The Corporate Enforcement Authority will be given improved powers and status (eg increased surveillance capabilities, similar to the surveillance powers afforded to the Revenue Commissioners/An Garda Siochana).

3. Receivers:

- The Scheme establishes greater clarity/efficiency in the receivership process. In particular, information regarding a receiver's fees/costs will need to be made available to company shareholders and/or creditors within 7 days of a request.
- Additional information will be required to be included on the Form E8, which is filed upon the receiver's appointment.
- A reduction to 7 days in the time period for delivery to the Registrar of the final Form E9 upon ceasing to act as receiver (currently 30 days).
- Receivers will be entitled to receive remuneration (equivalent to the right of liquidators).

4. Audit exemption

The Scheme proposes that if a small company fails to file its annual return with the CRO for a second or subsequent time within a period of 5 consecutive years, then the company will lose its ability to claim audit exemption. The current legal position is that the exemption is lost after one failure to file.

5. Mergers

- The Scheme provides that when two or more companies are merging, one of the companies must be an LTD or a DAC (the Act currently states that one of the companies must be an LTD).

- In addition, it will be possible to facilitate a merger by absorption of a group of subsidiary companies in one transaction, so long as they are wholly owned by the same parent company. This will streamline the current process whereby this would need to be completed across several transactions.

6. New grounds for strike off

The Scheme provides for three new grounds for involuntary strike off:

- failure to notify of a change in registered office,
- no current company secretary recorded and
- failure to deliver beneficial ownership information to the central register of beneficial ownership.

Next Steps

Pre-legislative scrutiny of the Scheme has concluded and the next step is the drafting of the Bill. The Bill will then make its way through the Houses of the Oireachtas. It is hoped that it will be enacted in late 2024.

For more information, please contact Eoin Lee or your usual contact in Beauchamps.