



January 2019

Companies (Amendment) Bill 2019

It is proposed that the Companies Act 2014 (the “**2014 Act**”) be amended by way of the Companies (Amendment) Bill 2019 (the “**Companies Bill**”), published on 7 January 2019. The purpose of the Companies Bill is to amend Section 343 of the 2014 Act which relates to the time periods for filing a company’s annual return. Section 343(2) of the 2014 Act obliges a company to deliver an annual return to the Companies Registration Office (the “**CRO**”) no later than 28 days after the annual return date of that company. In circumstances where a company makes its annual return up to a date that is earlier than the company’s annual return date, Section 343(3) obliges that company to deliver its annual return to the CRO no later than 28 days after that earlier date. The Companies Bill seeks to amend Sections 343(2) and 343(3) of the 2014 Act to extend the periods of time in both instances to a period of 56 days.

In its Regulatory Impact Analysis appraising the potential impact of the Companies Bill, the Department of Business, Enterprise and Innovation has stated that the proposed technical amendment to Section 343 aims to reduce the administrative burden on companies by simplifying the process for filing annual returns. This will now be a single-step process that can be carried out electronically. In addition to the reduction in administrative burden, the extension of this time period will be welcomed by small businesses as the implications of a late filing can be relatively harsh in certain circumstances. As well as the late filing fees incurred as a result of missing a filing deadline, a company availing of a “**small company**” audit exemption loses its entitlement to the audit exemption for two years.

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Companies (Statutory Audits) Act 2018

The Companies (Statutory Audits) Act 2018 (the “**Audits Act**”) also made certain amendments to the 2014 Act. Once the Audits Act and the Companies Bill have been fully implemented, companies will have 56 days after the annual return date (as opposed to 28 days after its annual return date under the 2014 Act) within which to file **both** their annual return **and** their financial statements by electronic means. In this respect, the Audits Act revokes Section 344 and amends Section 346 of the 2014 Act to give effect to these changes. The aforementioned provisions of the Audits Act have not yet been implemented and it is envisaged that these will take effect in tandem with the enactment of the Companies Bill.

Further provisions introduced by the Audits Act include an amendment to the loss of exemption penalty mentioned above. Previously, such a penalty required a retrospective audit to be carried out for the year of the late filing (which is often more costly in terms of both time and money) and the subsequent year. The Audits Act now provides that the loss of exemption will be applicable for the two years subsequent to the year of the late filing. While the amended penalty still provides an incentive to avoid any late filing, it will be welcomed as less burdensome on small companies.

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