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**Office of the Director of Corporate Enforcement**

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## Office of the Director of Corporate Enforcement

### 1. Introduction

The aim of the Office of the Director of Corporate Enforcement (ODCE) is to improve the compliance environment for corporate activity in Ireland by encouraging adherence to the requirements of the Companies Acts 1963 to 2006 and bringing to account those who disregard the law.

### 2. Background

The conclusions of various review groups, courts, tribunals of inquiry and parliamentary committees over recent years revealed evidence that provisions in Irish company law and other legislation were regularly being breached without the companies or individuals in question being held accountable. As a result various innocent parties bore the cost of this misbehaviour and the associated business risks. Following a fundamental review, the Irish Government decided that there were insufficient resources and legal instruments available to the State to supervise and enforce adherence to the requirements of company law and that it was necessary to correct these deficiencies in the public interest.

### 3. Functions of the Director

These concerns about corporate malpractice led to the enactment of the Company Law Enforcement Act, 2001 (the “Act”) and the establishment of the Office of the Director of Corporate Enforcement (the “ODCE”) in November 2001. Under the Act, the Director of Corporate Enforcement is legally responsible for:

- encouraging compliance with company law, and
- investigating and enforcing suspected breaches of the legislation.

### 4. Role of the Registrar Of Companies

Under the Act, the Registrar of Companies remains responsible for:

- collecting and making publicly available up-to-date information on companies registered in Ireland,
- encouraging adherence to the filing and registration requirements of the Companies Acts, and
- where necessary, bringing non-compliant companies and officers to Court.

## **5. Role of the ODCE**

### **1. *Compliance Role***

The Director of Corporate Enforcement encourages compliance with company law requirements by communicating publicly the benefits of compliance with the law and the consequences of non-compliance. The strategies employed include:

- the publication of information, via the printed and electronic media, on the legal duties and powers which exist under Irish company law,
- consultations with professional bodies to secure the conformity of their members with the requirements of the law, and
- discussions with government and other parties to facilitate and support the compliance role of the Director.

### **2. *Detection***

The Detection Unit of the ODCE has a twofold duty:

- conducting initial assessments of complaints received of suspected breaches of company law, and
- the gathering of information on suspected breaches.

The role of the Detection Unit includes company investigations, examining company books and documents and interviewing company directors, auditors and other individuals.

The Unit identifies possible remedial options and takes appropriate steps to conclude or advance the complaints process. Having evaluated the information and corroborating material, the Unit will determine what action, if any, is appropriate and what would be the most suitable means of legal redress or sanction.

### **3. *The Enforcement Role***

The investigative and enforcement role of the ODCE arises in the following areas:

- the initiation of fact-finding company investigations,
- the prosecution of persons for suspected breaches of the Companies Acts,
- the supervision of companies in liquidation and of un-liquidated insolvent companies,
- the restriction and disqualification of directors and other company officers,
- the supervision of liquidators and receivers, and
- the regulation of undischarged bankrupts acting as company officers.

#### 4. *Insolvency*

One of the reasons why the ODCE was established was because of public concern that some of the cases of corporate failure involved directors acting dishonestly or irresponsibly resulting in creditors and other stakeholders of insolvent companies suffering commercial damage when monies for goods and services were left unpaid.

The task of the Insolvency Unit is to enforce the Director's responsibilities under company law in respect of insolvent companies by:

- supervising liquidators in the proper discharge of their duties,
- assessing directors' conduct in insolvent liquidation situations, and
- reprimanding and sanctioning fraudulent or abusive behaviour.

The liquidators of an insolvent company must report to the ODCE on its demise and must also apply to the High Court for the restriction of each of the directors of the company, unless they are relieved of that obligation by the Insolvency Unit.

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