

[No. 28.] *Company Law Enforcement Act,* [2001.]
2001.

Pt.6 S.66

- (b) that the person to whom the notice is delivered may, during a period of 21 days beginning on the date of the notice,
- (i) remedy the default, and
 - (ii) make to the registrar a payment of a prescribed amount which shall be accompanied by the notice,
- and
- (c) that a prosecution of the person to whom the notice is delivered will not be instituted during the period specified in the notice, or, if the default is remedied and the payment specified in the notice is made during that period, at all.
- (2) Where a notice is delivered under subsection (1)—
- (a) a person to whom it applies may, during the period specified in the notice, make to the registrar the payment specified in the notice, accompanied by the notice,
 - (b) the registrar may receive the payment and issue a receipt for it, and no payment so received shall in any circumstances be recoverable by the person who made it, and
 - (c) a prosecution in respect of the alleged default shall not be instituted in the period specified in the notice, and, if the default is remedied and the payment specified in the notice is made during that period, no prosecution in respect of the alleged default shall be instituted at all.
- (3) In a prosecution for an offence to which this section applies, the onus of showing that a payment pursuant to a notice under this section has been made shall lie on the defendant or accused.
- (4) All payments made to the registrar under this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

PART 7

COMPANY LAW REVIEW GROUP

Establishment of
Company Law
Review Group.

67.—There is hereby established a body to be known as the Company Law Review Group.

Functions of
Review Group.

68.—(1) The Review Group shall monitor, review and advise the Minister on matters concerning—

- (a) the implementation of the Companies Acts,
- (b) the amendment of the Companies Acts,
- (c) the consolidation of the Companies Acts,
- (d) the introduction of new legislation relating to the operation of companies and commercial practices in Ireland,

[2001.] *Company Law Enforcement Act*, [No. 28.]
2001.

- (e) the Rules of the Superior Courts and case law judgements insofar as they relate to the Companies Acts, Pr.7 S.68
- (f) the approach to issues arising from the State's membership of the European Union, insofar as they affect the operation of the Companies Acts,
- (g) international developments in company law, insofar as they may provide lessons for improved State practice, and
- (h) other related matters or issues, including issues submitted by the Minister to the Review Group for consideration.

(2) In advising the Minister the Review Group shall seek to promote enterprise, facilitate commerce, simplify the operation of the Companies Acts, enhance corporate governance and encourage commercial probity.

69.—(1) The Review Group shall consist of such and so many persons as the Minister from time to time appoints to be members of the Review Group. Membership of Review Group.

(2) The Minister shall from time to time appoint a member of the Review Group to be its chairperson.

(3) Members of the Review Group shall be paid such remuneration and allowances for expenses as the Minister, with the consent of the Minister for Finance, may from time to time determine.

(4) A member of the Review Group may at any time resign his or her membership of the Review Group by letter addressed to the Minister.

(5) The Minister may at any time, for stated reasons, terminate a person's membership of the Review Group.

70.—(1) The Minister shall, at least once in every 2 years, after consultation with the Review Group, determine the programme of work to be undertaken by the Review Group over the ensuing specified period. Meetings and business of Review Group.

(2) Notwithstanding *subsection (1)*, the Minister may, from time to time, amend the Review Group's work programme, including the period to which it relates.

(3) The Review Group shall hold such and so many meetings as may be necessary for the performance of its functions and the achievement of its work programme and may make such arrangements for the conduct of its meetings and business (including by the establishment of sub-committees and the fixing of a quorum for a meeting) as it considers appropriate.

(4) In the absence of the chairperson from a meeting of the Review Group, the members present shall elect one of their number to be chairperson for that meeting.

(5) A member of the Review Group, other than the chairperson, who is unable to attend a meeting of the Review Group, may nominate a deputy to attend in his or her place.

[No. 28.] *Company Law Enforcement Act,* [2001.]
2001.

Pt.7
Annual Report and
provision of
information to
Minister.

71.—(1) No later than 3 months after the end of each calendar year, the Review Group shall make a report to the Minister on its activities during that year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas within a period of 2 months from the receipt of the report.

(2) A report under *subsection (1)* shall include information in such form and regarding such matters as the Minister may direct.

(3) The Review Group shall, if so requested by the Minister, provide a report to the Minister on any matter—

- (a) concerning the functions or activities of the Review Group,
or
- (b) referred by the Minister to the Review Group for its advice.

PART 8

AUDITORS

Amendment of
section 187 of Act
of 1990.

72.—Section 187 of the Act of 1990 is amended—

- (a) in subsection (1)(a)(iii), by the insertion after “Principal Act” of “and holds a valid practising certificate from such a body”, and
- (b) by the insertion of the following after subsection (11):

“(12) (a) The Director may demand of a person acting as an auditor of a company or as a public auditor, or purporting to be qualified to so act, the production of evidence of his qualifications under subsection (1) in respect of any time or period during which he so acted or purported to be qualified to so act, and if the person refuses or fails to produce the evidence within 30 days of the demand, or such longer period as the Director may allow, he shall be guilty of an offence.

(b) In a prosecution for an offence under this subsection, it shall be presumed, until the contrary is shown by the defendant, that the defendant did not, within 30 days, or any longer period allowed, after the day on which the production was demanded, produce evidence in accordance with paragraph (a).

(13) (a) Where a person is the subject of a prosecution under subsection (9) for a contravention of subsection (6) or (7), it shall be sufficient evidence, until the contrary is shown by the person, of non-membership of a body of accountants for the time being recognised by the Minister for the purposes of this section for any or all such bodies to certify in writing to the court such non-membership, provided that the first-mentioned person is provided by the prosecutor with a copy of the certificate or certificates, served by registered post, not