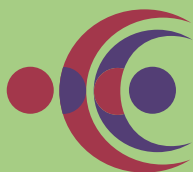


Company Secretaries

Their duties and powers



A quick guide



Oifig an Stiúrthóra um
Fhorfheidhmiú Corparáideach

Office of the Director
of Corporate Enforcement



Plain English
Approved by NALA

Introduction

We have produced this information booklet to explain the role of a company secretary under the Companies Acts.

What is a company secretary?

Every company must have a company secretary.

Their main role is to:

- carry out the directors' instructions;
- help ensure that the company obeys the law and its own constitutional rules; and
- prepare and maintain the associated company documents.

Who can be a company secretary?

The company secretary of a public limited company must have relevant qualifications or experience (a minimum of 3 years experience as a company secretary or a qualification from the Institute of Chartered Secretaries & Administrators (ICSA)). In other types of companies, people should inform themselves of the duties and responsibilities of a company secretary before agreeing to act as one. A company can appoint another company to act as a company secretary.

To protect the public, some people cannot be company secretaries at certain times. Bankrupts are prohibited from being a company secretary while their debts remain unpaid or until a court excuses them from paying those debts. People whom a court has found guilty of fraud or serious misconduct may be disqualified from acting as a company secretary for a certain period. If a person is found by a court to have acted dishonestly or irresponsibly in a company that failed to pay its debts, the court may restrict them. A restricted person can only act in certain companies in which the members have invested a significant amount of money. Restrictions are normally for a period of five years.

How is the company secretary appointed?

The first company secretary must give their written consent to act as secretary. Usually, the directors appoint the replacement company secretaries. A director will often act as company secretary.

What are the main duties of the company secretary?

Disclosure

On their appointment, company secretaries must give the company their name, address and details of any shares or debentures (a type of loan) in the company or related companies in which they have an interest. For as long as they are serving as secretary, they should promptly notify any changes to this information.

Administrative duties

The company secretary has important administrative duties, which will likely include:

- maintaining the company's registers including those of the members, the directors and secretaries and the interests of the directors and secretaries;
- arranging annual and extraordinary general meetings of the company and circulating members with the documents for those meetings;
- organising meetings of the board and sub-committees of the board and ensuring that the directors have the papers they need to consider the issues that are to be discussed;
- preparing the minutes of company general meetings and meetings of the board and its sub-committees;
- making the company's registers, minute book and other similar documents available for inspection by the board and the public;
- sending updated information and documents on time to the Companies Registration Office (CRO) and to other bodies;
- publishing legal notices in the media;
- keeping custody of the company seal; and
- providing the directors with legal and administrative support.

Legal duties

The company secretary must, together with one or more directors:

- complete, sign and send the company's annual return to the CRO;
- certify that the financial statements attached to the annual return are true copies of the originals; and
- verify the statement of the company's assets and liabilities if the company is in liquidation or receivership.

Standards

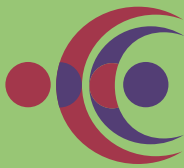
Company secretaries must act with due care, skill and diligence in the interests of the company and its members. Company secretaries can be penalised if they or the company are found to have breached the Companies Acts. The company secretary can be made liable for any loss resulting from their own negligence.

What are the powers of the company secretary?

A company secretary has the power to make contracts on behalf of the company as part of their day-to-day administrative duties. If the directors give their consent, the company secretary may make contracts outside their usual areas of authority.

Conclusion

A more detailed information book on company secretaries is available under Decision Notice D/2002/1 from www.odce.ie.



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