

Office of the Director  
of Corporate Enforcement

*Oifig an Stiúirthóra um  
Fhorfheidhmiú Corparáideach*

# Annual Report | 2004



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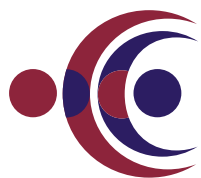
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## Foreword

I am pleased to present Mr Mícheál Martin, T.D., the Minister for Enterprise Trade and Employment, with the fourth Annual Report of the Director of Corporate Enforcement for the year 2004 pursuant to section 16(1) of the Company Law Enforcement Act 2001.

The Office made further tangible progress in 2004 with respect to its compliance and enforcement remit. Particular highlights included:

- the increase in successful enforcement activity. Some 66 convictions were obtained for company law offences in 2004, an increase of more than 50% on the 43 recorded for 2003. Two offences were successfully prosecuted by the ODCE for the first time (fraudulent trading and acting as a director while restricted and in breach of the statutory conditions);
- the restriction of more than 200 directors by the High Court. These were deemed to have acted irresponsibly prior to their companies being placed in insolvent liquidation;
- the imposition by the High Court of the sanctions of disqualification and restriction on the directors of unliquidated insolvent companies. These companies are now a particular focus of ODCE attention;
- the rectification of significant non-compliance in the area of directors' loans. Some €100 million of company assets has been repaid over the last two years to companies by the relevant directors and connected persons who appear to have been using much of these company funds for personal purposes;
- the development of Revised Guidance on Directors' Compliance Statements. This involved extensive work in association with business, professional and State interests and the general public;
- the making or publication of over 70 presentations, articles, press statements, etc. in support of the Office's advocacy work. This work seeks to secure improved company law compliance in the economy;
- the continuing success of the ODCE's website as a useful resource for compliance and enforcement information. Visits increased by 54% in 2004 to almost 117,000, compared with about 76,000 and 42,000 in 2003 and 2002 respectively.



Mr. Paul Appleby, Director

These results could not have been achieved without a committed and flexible staff, and I want to thank them publicly for their support and assistance in generating these impressive results last year.

In addition, I wish to acknowledge the continuing contribution of a large number of other parties to the development of the Office in 2004. These include the Oireachtas, the Minister for Enterprise Trade and Employment, the Minister for Trade and Commerce and their Departmental staff.

There were many individuals in business, professional and public bodies who also cooperated with us in our work in 2004. I want to thank in particular the contribution which the Companies Registration Office, the Courts, business and professional interests, especially auditors and liquidators, made during the year in supporting our work. I look forward to their continuing assistance in 2005.

The Office has developed a number of priorities for 2005 which we are actively pursuing. These include:

- the development of further guidance on the new or amended corporate governance requirements contained in the Companies (Auditing and Accounting) Act 2003;
- the management of a growing workload of investigation and enforcement cases;
- the acquisition of additional staffing resources to support the growing demand for compliance information and for the investigation of alleged corporate misconduct.

By improving compliance and deterring non-compliance, we are helping markets to work more effectively. We want to continue in 2005 to create conditions of fairer competition and reduced enterprise risk by ensuring that more people act and compete within the law. Our work in 2004 indicates that the ODCE has been active in supporting lawful and responsible market conduct, and we plan to build on that success further in 2005 and beyond.

**Paul Appleby**

Director of Corporate Enforcement

31 March 2005

# Introduction

The present Strategy Statement of the Director of Corporate Enforcement for the 2003 – 2005 period identifies the following primary ODCE goals and related sub-goals:

## Goal 1: Encouraging Compliance with the Companies Acts

- Sub-Goal 1.1: Publishing Accessible Company Law Information
- Sub-Goal 1.2: Promoting Compliance
- Sub-Goal 1.3: Improving Company Law and Associated Corporate Practices

## Goal 2: Uncovering Suspected Breaches of Company Law

- Sub-Goal 2.1: Developing Detection and Reporting Arrangements for Suspected Breaches of the Companies Acts
- Sub-Goal 2.2: Identifying Suspected Breaches of the Companies Acts
- Sub-Goal 2.3: Commissioning/Supporting Formal Company Investigations

## Goal 3: Prosecuting Detected Breaches of the Companies Acts

- Sub-Goal 3.1: Developing a Balanced Enforcement Policy
- Sub-Goal 3.2: Upholding the Disclosure Requirements of the Companies Acts
- Sub-Goal 3.3: Sanctioning Parties Disregarding Company or Other Interests
- Sub-Goal 3.4: Acting against Parties Denying Accountability under the Law

## Goal 4: Sanctioning Improper Conduct relating to Insolvent Companies

- Sub-Goal 4.1: Supervising Liquidators in the Proper Discharge of their Duties
- Sub-Goal 4.2: Assessing Directors' Conduct in Insolvent Liquidation Situations
- Sub-Goal 4.3: Sanctioning Fraudulent or Abusive Behaviour

## Goal 5: Ensuring Quality Customer Service

- Sub-Goal 5.1: Securing and Managing ODCE Resources
- Sub-Goal 5.2: Developing Staff
- Sub-Goal 5.3: Developing and Maintaining Quality Customer Services

This Report reviews progress in 2004 by reference to each of these goals and sub-goals.

Annual Report 2003



Tuirisc Bliantúil 2003

# Goal 1 – Encouraging Improved Compliance with Company Law Duties

## Introduction

In 2004, the Director of Corporate Enforcement and his staff continued with their work of encouraging directors and others to comply with their obligations under the Companies Acts 1963-2003. This work was undertaken at two main levels:

- by developing presentations, articles and guidance materials for company directors and others in support of their compliance efforts, and
- by promulgating the results of enforcement actions successfully undertaken by the Office and others against persons in default of their company law duties.

## Sub-Goal 1.1: Publishing Accessible Company Law Information

### Directors' Compliance Statements

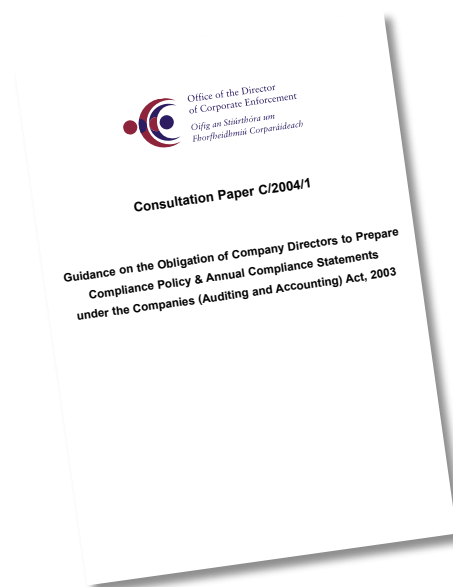
The substantive piece of compliance-related work undertaken by the Director and his staff in 2004 was the preparation of guidance on the new legal requirement contained in Section 45 of the Companies (Auditing and Accounting) Act 2003 that certain directors prepare statements of their company's compliance with company law, tax law and other 'relevant obligations'.

Consistent with his legal obligation to encourage compliance with company law and being aware that there was considerable uncertainty in relation to the responsibilities of directors with respect to this new requirement, the Director determined early in 2004 that his Office would have to prepare some guidelines in the area. Initially, this was prepared in-house by the then Corporate Compliance Manager, Mr. Ian Drennan. When a draft document was available, the Director invited the Consultative Committee of

Accountancy Bodies – Ireland (CCAB-I), IBEC, the Institute of Directors in Ireland and the Revenue Commissioners to contribute jointly to the preparation of Draft Guidance. Over the May to July period, the representatives met with the ODCE on seven occasions to finalise a Consultation Paper and Draft Guidance. This was published by the ODCE on 22 July as Consultation Paper C/2004/1 in the presence of the representatives of the contributing bodies.

The Director and his staff also contributed in parallel to the preparation by the Auditing Practices Board of guidance for auditors on their reporting obligations. This was published in draft form for consultation purposes in August 2004 and was made available on the APB's website at [www.frc.org.uk/apb/](http://www.frc.org.uk/apb/) and on the ODCE's website at [www.odce.ie](http://www.odce.ie).

In response to his request for submissions on the ODCE Consultation Paper and Draft Guidance, the Director received some 36 submissions on the content. A list of those who provided comments is at **Appendix 1.1.1** to this Report. Following the expiry of the deadline for public comments on 30 September, the Director reconvened the group to consider the submissions which had been received and to develop further the Guidance. He asked the Irish Financial Services Regulatory Authority to join the group because the Central Bank and Financial Services Authority of Ireland Act 2004 had recently included provisions dealing with compliance statements for regulated financial service providers.



Consultation Paper C/2004/1



As two of the substantive areas for comment were the date of the commencement of the compliance statements obligation and the possible exemption of certain qualifying companies (both of which were matters reserved for political decision in the legislation), the group also assisted the Director in developing a submission to Mr Michael Ahern, T.D., the Minister for Trade and Commerce on both issues. As part of this work, the ODCE undertook some original research in conjunction with Experian Ireland Ltd. which suggested that taking into account all Irish-registered public limited companies and all Irish-registered private companies limited by shares above the turnover and balance sheet thresholds indicated in the Act, a maximum of 7,000 companies (or less than 5% of Irish-registered companies) would be subject to compliance statements. The Director included this research in his submission to the Minister in mid-November, and no decision had been made on either issue at year-end.

In developing the Revised Guidance, the Director based the group's discussions on a restructured draft which had been included in the CCAB-I submission. The group proceeded during a further five meetings to refine this document. Some of the main issues where greater clarity was given in the Revised Guidance were the following:

- the companies which are subject to the requirement to prepare compliance statements and correspondingly those which are exempted from it;
- what obligations are covered by the reporting requirement;
- the extent to which directors could rely on the compliance policies, procedures and information provided by management;
- the scope and manner of reporting by directors and the impact of detected non-compliance on the content of the directors' annual compliance statement;
- certain terminology in the provision, e.g., 'all reasonable endeavours' and 'fair and reasonable'.

Following the conclusion of discussions within the group, the Director published the Revised Guidance on 16 December. He also made available a list of

company law offences for the assistance of directors and professionals who may be seeking to satisfy themselves that they have dealt with the main areas of potential offence in their compliance policies and procedures. Similar statements of tax and industry-specific obligations are being made available by the Revenue Commissioners and IBEC.

Since publication, the Director and his staff have received very positive feedback on the quality of the Revised Guidance. Copies of the Revised Guidance and the list of company law offences are available from [www.odce.ie/consultation.asp](http://www.odce.ie/consultation.asp) or on request from the Office. When Ministerial decisions are available on the commencement date of, and on any company exemptions from the obligation, the Director will formally publish the Revised Guidance.



Picture by Dara MacDonnell of the Irish Times

Paul Appleby at the launch of the Revised Guidance on Directors' Compliance Statements

### Information Note on the Companies Act 2003 (Commencement) Order 2004<sup>1</sup>

Following the making of the Companies (Auditing and Accounting) Act 2003 (Commencement) Order 2004 by the Tánaiste and Minister for Enterprise Trade and Employment, the ODCE prepared and published an Information Note on the scope of the provision. The Note identifies the sections and subsections of the Act which were commenced from specified dates and briefly explains the impact of the individual provisions.

### Website Development

The Director and his staff continued to give priority in 2004 to updating the content of the website to ensure that new compliance and enforcement material was prepared and included promptly on the ODCE website.

<sup>1</sup> A copy of the Information Note is available at [www.odce.ie/publications/information.asp](http://www.odce.ie/publications/information.asp)



## Sub-Goal 1.2: Promoting Compliance

### Market Research

In the ODCE's Annual Report for 2003 (see **Illustration 5.3.1** in particular), reference was made to a representative sample of the qualitative comments which were made to TNS/mrbi as part of their market research on the impact of the Office. In March 2004, the ODCE received the quantitative returns from the research which were positive for an organisation which had only been established some two years earlier.

The following table represents a summary of the quantitative research results in respect of a sample of 300 company directors, 100 accountants and 30 liquidators.

Issue	Outturn
<b>Perception of Improved Compliance Environment</b>	95% of accountants/ liquidators believe that company law compliance has improved. While a comparable result for directors was not measured, 97% of directors regard such compliance as important
<b>Awareness of the ODCE</b>	Overall, 67% are familiar with the ODCE – 54% of directors, 97% of accountants, 100% of liquidators
<b>Knowledge of ODCE Information Materials</b>	Overall, 47% are aware of ODCE publications – 30% of directors, 83% of accountants, 97% of liquidators
<b>Perception of ODCE Effectiveness</b>	Overall, 44% rate the ODCE as effective – 35% of directors, 67% of accountants and 60% of liquidators

### Advocacy Work

Throughout 2004, the Director and his staff continued to respond positively to requests from business, professional, regulatory and voluntary groups to speak on aspects of the ODCE's brief and on the particular

area of company law duties and obligations. In all, Office staff made close to 60 presentations to an aggregate audience of over 3,500 during the year. Unsurprisingly, the subject of directors' compliance statements featured strongly in the issues on which the Office was asked to contribute. Details of the presentations made by ODCE staff in 2004 are contained in **Appendix 1.2.1**.

The Director and his staff also contributed a number of articles and papers on compliance issues to the national and professional media. The Director continued his collaboration with the Registrar of Companies in the production of a Bulletin which is circulated to company directors. Specific issues which were the subject of articles with a view to improving company law compliance were:

- key company law obligations for directors;
- property management companies;
- directors' transactions with their companies and
- directors' compliance statements.

Details are contained in **Appendix 1.2.2**.

### Press Statements, Briefings and Queries

The Director issued 11 press statements on aspects of his compliance and enforcement remit in 2004. The Director's press statements dealt with two primary themes, namely directors' compliance statements and novel aspects of the Office's enforcement work in 2004. Details are contained in **Appendix 1.2.3**.

The largest event was the publication on 30 July of the High Court Inspectors' Report into National Irish Bank Ltd. and National Irish Bank Financial Services Ltd. Significant preparations were undertaken by the Office to prepare for the launch. The Director hosted a media briefing on the Report, issued a press statement and associated briefing material. The event attracted national and international media attention, and the Director was involved during the course of that day in giving many interviews to the press, radio and television. A copy of the complete Report and its various constituent parts were placed on the ODCE



Picture by Alan Berson of the Irish Times

Paul Appleby at the NIB/NIBFS Press Briefing in July 2004

website, and some 9,000 copies of the Report were downloaded as a result during 2004.

The Director and his staff also dealt with over a hundred press queries during the course of the year on aspects of the ODCE's remit and work. In many cases, the ODCE necessarily declined to provide direct information or comment having regard to the duty of strict confidentiality which underlies much of the Director's investigative work.

### Public Enquiries

The staff of the Office dealt with growing numbers of public enquiries in 2004 by phone and e-mail in particular. While the ODCE does not provide professional advice to members of the public, it does direct them to sources of relevant information with particular reference to company law issues. The Office's publications and website form a central part of that response. It is estimated that some 8,000 copies of ODCE publications were distributed in response. Details of the large growth in website traffic are contained in the Goal 5 section of this Report.

## Sub-Goal 1.3: Improving Company Law and Associated Corporate Practices

### Implementation of the Market Abuse Directive<sup>2</sup> in Ireland

During 2004, the Department of Enterprise Trade and Employment invited the ODCE, IFSRA and the Irish Stock Exchange to comment on the manner in which the 'Market Abuse' Directive and associated EU instruments would be implemented in Irish law. The result of these deliberations was that IFSRA will likely be designated as the 'competent authority' by the Minister for the purpose of giving effect to this Directive. At end-2004, the necessary implementing Regulations had not yet been made.

### Irish Auditing and Accounting Supervisory Authority – Interim Board

Pending the commencement of relevant provisions of the Companies (Auditing and Accounting) Act 2003, the Irish Auditing and Accounting Supervisory Authority<sup>3</sup> (IAASA) continued to operate on an interim basis during 2004. As a member of the Interim Board, the Director contributed to the work of the Authority during the course of the year. The Director's involvement in the Interim Board's work included inter alia the development of the Authority's initial work programme in preparation for the sanctioning of its staffing complement and the formal establishment of the Authority.

### Company Law Review Group

The Company Law Review Group (CLRG) is a statutory body which advises on the development and maintenance of a modern company law framework. In addition to the Director being a member of the Group, a number of ODCE staff continued to participate in the work of its committees and sub-committees.

During 2004, the ODCE was involved in particular in the CLRG's review and redrafting of aspects of the

<sup>2</sup> Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003. There are also an implementing Commission Regulation (EC) No. 2273/2003 of 22 December 2003 and two implementing Commission Directives 2003/124/EC and 2003/125/EC of 22 December 2003.

<sup>3</sup> Section 8 of the Companies (Auditing and Accounting) Act 2003 outlines the functions of IAASA. These include:

- supervising how the prescribed accountancy bodies regulate and monitor their members;
- promoting adherence to high professional standards in the auditing and accountancy profession;
- monitoring whether the accounts of certain classes of companies and other undertakings comply with the Companies Acts and
- acting as a specialist source of advice to the Minister on auditing and accounting related matters.

Companies Acts relating to insolvency matters. The Office attended meetings and offered assistance and advice in relation to ongoing drafts of the relevant chapter. In its work, the Office has sought to ensure that the proposed chapter contains a more user-friendly presentation of the statutory requirements and a simplification of the current legislation, in order that the State's corporate insolvency provisions are better structured and more accessible to creditors and other stakeholders.

## International Relations

As a member of the International Association of Insolvency Regulators (IAIR), the ODCE continued to make contributions to the work of the organisation. The Director and a staff member attended the Association's Annual Conference in New Delhi in February 2004 at which the Director gave a presentation on the research project on phoenix companies which he had been asked to lead. The Conference authorised the publication of the research in report form, and this was done during the year. Further information on the nature of the conclusions of the research is contained in the Goal 4 section of this Report.

The Director also attended an IAIR Workshop in Prague in October which EU Accession States had been invited to attend. Presentations were made by all of the attendees on the insolvency framework in their jurisdictions, and valuable contacts have been made as a result with a number of the Accession States which have given rise to useful exchanges of information since.

During 2004, the Office also briefed visitors from Australia and the UK on its role and activity in securing greater compliance with the Companies Acts and thereby improving the risk environment for companies operating in Ireland. The Director also spoke to an international conference held in Belfast on the subject of corporate regulation in Ireland which was attended by many regulators and other interests from around the world.

<sup>4</sup> Section 194(5) of the Companies Act 1990 (as amended by section 74 of the Company Law Enforcement Act 2001).

<sup>5</sup> Section 299 of the Companies Act 1963 (as amended by section 143 of the Companies Act 1990 and section 51 of the Company Law Enforcement Act 2001).

<sup>6</sup> Section 58 of the Company Law Enforcement Act 2001 and sections 192(6) and (7) of the Companies Act 1990 (as inserted by section 73 of the Company Law Enforcement Act 2001).

<sup>7</sup> Section 194(1)(b) of the Companies Act 1990 (as amended by section 74(b) of the Company Law Enforcement Act 2001).

# Goal 2 – Uncovering Suspected Breaches of Company Law

## Introduction

The visibility of the Office in encouraging and promoting compliance with the Companies Acts has continued to result in the Office receiving a large number of reports and complaints of suspected corporate misconduct. It was again our experience in 2004 that the reports from professional firms and bodies and from State or regulatory authorities were quite specific in identifying the suspected company law offence, while those complaints received from the general public tended to be more general in identifying a difficulty with a company. As a result, the Office often required to engage with the complainant to secure more definitive evidence of the problem with a view to identifying if a company law default was at issue. Some of the Illustrations under this Goal identify cases which were the subject of public complaint and where the Office intervened successfully to secure compliance with company law obligations.

## Sub-Goal 2.1: Developing Detection and Reporting Arrangements for Suspected Breaches of the Companies Acts

### Number/Sources of Suspected Breaches

The detection and reporting of suspected company law offences to the ODCE arises principally as a result of:

- mandatory obligations imposed in the Companies Acts on certain parties, such as auditors<sup>4</sup>, liquidators<sup>5</sup>, professional bodies<sup>6</sup> and the Registrar of Companies<sup>7</sup> and
- voluntary reports made to the Office by the public, the State or other authorities. The ODCE also follows up information in the public domain suggesting company law offences, whether from the media or other public sources, such as the

corporate information filed in the Companies Registration Office.

Relative to 2003, there was little change in the total number of new issues brought to ODCE attention in 2004. Some 1,956 reports and complaints were received in 2004 relative to 1,950 in 2003. The majority were from auditors, and complaints from the public (usually from or on behalf of affected directors, members/shareholders or creditors) also showed an increase.

The increase in auditor and public reporting was primarily balanced by the non-recurrence in 2004 of reported defaults in respect of the filing obligations of external companies. The Office had determined that these defaults were a matter for pursuit by the Registrar of Companies.

A breakdown of the reports by source is outlined in **Appendix 2.1.1**.

### Cooperation between Regulatory Authorities

During 2004, the Director of Corporate Enforcement signed two Memoranda of Understanding (MOU) on the sharing of confidential regulatory information, the first with the Irish Stock Exchange in February and the second with the Revenue Commissioners in December. In addition, discussions took place



Signing of the Memorandum of Understanding between the ODCE and Revenue

with two Government Departments in relation to formalising exchanges of information.

The MOU with the Stock Exchange yielded 18 reports to the ODCE in 2004, 15 of which related to the failure to notify the market on a timely basis of possible price sensitive information. The 18 reports concerned transactions in 16 listed companies.

The MOU with the Revenue Commissioners formalised the assistance which currently exists between both organisations, but the Director hopes that it will also deepen mutual co-operation over time and widen the incidence of detected non-compliance in the public interest.

The Office continued to have regular consultations with the Garda Bureau of Fraud Investigations and other Garda authorities on matters of mutual interest in relation to companies. The Garda Unit within the ODCE recorded some 126 such contacts during the year.

Arising from the signing of a Memorandum of Understanding with the Irish Financial Service Regulatory Authority in 2003, the ODCE continued to have regular contacts in 2004 on issues of concern in the financial sector. During the year, the Office also provided material to a professional accountancy bodies and a non-European Union authority in accordance with its legal powers permitting assistance to fellow regulators.

The Director acknowledges in particular the continuing assistance of the Registrar of Companies and his staff during 2004 in the registration and certification of filed documentation and in the attendance of CRO staff at Court proceedings initiated by the ODCE. This cooperation continues to be essential in supporting our compliance and enforcement work.

### Sub-Goal 2.2: Identifying Suspected Breaches of the Companies Acts

The nature of the matters reported in 2004 was quite similar to the previous year in respect of both mandatory and voluntary reporting.

#### Nature of Issues identified in Mandatory Reports

The 1,594 mandatory reports received in 2004 disclosed 2,007 suspected offences under the Companies Acts. **Appendix 2.2.1** to this Report outlines the nature of the offences reported to us in any numbers in 2004 relative to the previous year. The following six offences represented almost 99% of those reports:

- some 1,560 offences (or more than 77% of the total) involved the failure to file on time annual returns with the Registrar of Companies. The ODCE's general approach to these reports is to refer them to the Registrar for possible enforcement action. This offence will cease to be an offence reportable to the ODCE once section 37 of the Companies (Auditing and Accounting) Act 2003 is commenced by Ministerial order;
- over 300 cases of excessive use of company assets for the personal purposes of directors and connected persons (representing about 15% of the total number of reported offences) were referred to the Office for investigation or otherwise came to our attention. In only a small minority of these cases was wilful default apparent, which is the standard of proof required to secure a conviction in respect of this default;
- about 60 instances of failure to keep proper books of account in companies were received (about 3% of the total). This obligation is fundamental to the maintenance of a sound individual and collective structure for corporate affairs, and accordingly, the question of enforcement action is seriously considered in each such case;
- some 30 cases (or almost 1.5% of the total number of reported offences) were notified in respect of the failure of companies and their directors to hold an extraordinary general meeting (EGM) where the company's assets/liabilities ratio was reduced to 50% or less. This level of reporting was one-third of that for 2003, and the welcome improvement suggests that the relevant companies are now acting by way of an EGM to address their weak capital positions;
- 15 reported instances (or less than 1% of the total) related to the late notification to the market of possible price sensitive information. The Irish Stock Exchange has indicated to the Office that the timeliness of company reporting to the market has improved since they put listed companies on notice of this mandatory reporting obligation;
- 12 companies (also less than 1% of the total number of reported offences) were notified in

respect of which there was no Irish resident director. This represented a drop of 50% on the 2003 figure and can be attributable to the increased public awareness of this relatively new obligation.

### Nature of Issues identified in Voluntary and Other Reports

For 2004, the ODCE made available a revised Complaint Form in the English and Irish languages, the purpose of which was to encourage complainants to define better the specific company law offence(s) which were at issue. While some success was achieved with this Form, many public complaints continue to report some general suspicion of misconduct which may or may not have validity in reality. Notwithstanding the difficulty of categorising the nature of these complaints and reports, **Appendix 2.2.2** provides information on the type of issues coming to attention through this source. It will be noted that while many issues in 2004 were similar to those of 2003, the prominence of certain individual issues varied vis-à-vis the 2003 outturn in many cases.

The following four main areas constituted close to 50% of the issues raised:

- outstanding debt owed by companies, including in the following circumstances:
  - non-payment of Court determinations;
  - debts contracted by companies which are not paid on time or at all;
  - cases where Court Judgement has been obtained against the company but where the sheriff or County Registrar finds "no goods" when an attempt is made to enforce the Judgement;
  - the company has ceased to trade but has not been liquidated.



As the ODCE has no debt collection functions, creditors must pursue their own legal remedies. Complainants are advised to take professional advice (if they have not done so) on their legal options under company law and other legislation. The company law options include liquidating the company and seeking a Court order for the return of assets for which no or insufficient payment has been made;

- complaints alleging fraudulent, reckless or insolvent trading necessitate careful examination. **Illustration 2.2.1** deals with a case of two related companies which were put into liquidation following ODCE enquiries on foot of public complaints, where the creditors have the satisfaction of knowing that the companies' remaining assets will be recovered and sold to discharge the liabilities of the liquidation and the companies and where the directors will have to account to the liquidator for their stewardship of the companies;
- matters indicating a lack of understanding of the requirements of the Companies Acts in regulating a company's affairs. **Illustration 2.2.2** provides an example of a successful intervention by the ODCE in securing compliance by a company's directors with their statutory duties;
- the non-holding of Annual General Meetings or the failure to call them in accordance with the requirements of company law. In a significant number of these cases, the individual member or shareholder has not been given 21 days'

written notice of the meeting or provided with the directors' report, the audited financial statements and a proxy form. These concerns are most prevalent in guarantee and not-for-profit companies (e.g., apartment management companies or charities), in private closely-owned companies where there are external non-family shareholders and in companies benefiting from BES funds. Where such issues arise, the ODCE attempts to clarify what has happened, seeks to reconcile the parties and where this is not possible, directs the holding of an annual meeting under powers vested in the Director of Corporate Enforcement. An example of one such case in a property management company is provided in **Illustration 2.2.3**. An unsolicited letter thanking the Office for its involvement in rectifying non-compliance to the benefit of the property owners in question is provided in **Illustration 2.2.4**. This letter has been edited to omit the identity of the company and other parties.

## Disposal of Cases

Of the 2,362 cases received and on hands in 2004, the ODCE concluded its deliberations on 1,577 or over 66.7% of them. In addition, a further 493 cases were referred for investigation with a view to the potential initiation of criminal or civil proceedings. Some 292 cases were on hands at the end of 2004, a significant drop on the 406 on hands at end-2003. An overview of the throughput of these cases is provided in **Appendix 2.2.3**.

### Illustration 2.2.1: Case where Two Companies were put into Liquidation following Public Complaints and ODCE Enquiries

Complaints relating to the activities of a retailer alleged that significant deposits were being taken from customers in the knowledge that it would not be able, or would be very unlikely to be able, to supply the goods in question. Because of concerns that this might amount to reckless and/or fraudulent behaviour, the ODCE initiated enquiries into the business activities of the principals in a number of related companies.

On examination, it was found that a central principal director was involved in two companies. According to information filed on the Register of Companies,

the individual was recorded as having four residential addresses. Notwithstanding this, the ODCE sought certain information from him in relation to the present status of the companies and their apparent failure to comply with certain indicated company law requirements. After considerable persistence by the Office, the directors initiated the liquidation of both insolvent companies. At end-2004, the liquidation was underway, and the liquidator is scheduled to submit a report in early 2005 in respect of his investigation of the affairs of the companies and the conduct of the relevant directors.

This successful outturn masks a deteriorating age profile for a small number of the more difficult cases which are at initial assessment stage. The following table indicates that no decision has yet been made on some 121 cases which were received more than 12 months ago. This is symptomatic of a shortage of staffing resources which will require to be addressed in 2005:

Age Profile of Cases	2003	2004
Less than six months	222	126
Less than 12 months but six months or older	141	45
Less than 24 months but 12 months or older	40	101
24 months or older	3	20
<b>Total</b>	<b>406</b>	<b>292</b>

Appendix 2.2.4 provides a breakdown of the manner of disposal of the 1,577 cases which were assessed and closed in 2004, distinguishing between those which were the subject of mandatory or voluntary reports.

The majority of these cases related to filing defaults. Others were closed because of the absence of any evident criminal liability issues under the Companies Acts; some of these were appropriate for civil action by the complainants. Many of the remainder were dealt with by issuing letters warning of legal action in the event of a recurrence of the default. This is likely to result in improved compliance with company law in the future and is therefore consistent with the Director's overall compliance objectives. As indicated earlier, the balance of cases were resolved by successful administrative or legal intervention by the ODCE to correct or improve non-compliant behaviour.

The positive impact of the Office in improving compliance is perhaps most obvious in the area of company directors and connected persons using company assets for personal purposes. In conjunction with the reporting of these indictable offences by auditors in 2003 and 2004, many of the relevant directors have informed the ODCE that the loans in question have now been repaid. In all, some €100 million worth of company assets have been returned to the companies with consequent benefits for company stakeholders in reduced credit risk. In a number of individual cases, these loans were for substantial sums or represented a large part of the value of the company and were very substantially in

## Illustration 2.2.2: Rectification of Non-Compliance by a Charity following a Member's Complaint and ODCE Intervention

A company was incorporated as a guarantee company for charitable purposes in 2000. It subsequently acquired property.

In early 2004, the ODCE received a complaint indicating that an original subscriber to the company had been denied access to the books of account. Amongst the other issues raised was the non-holding of Annual General Meetings and a complete breakdown in normal concepts of corporate governance.

Following ODCE enquiries, it transpired that:

- regular financial statements were not being prepared,
- the company's financial affairs were not being audited,
- the board of directors did not appear to have been properly constituted and

- no annual returns had been filed for the company since its incorporation.

Notwithstanding these deficiencies, the Company had obtained grant assistance from a Health Board (for the provision of a pre-school facility) and from FÁS (for the operation of a coffee shop as part of an outreach programme).

When contacted by the ODCE, the directors appeared to be unaware of their obligations to hold Annual General Meetings and to provide full audited accounts to members. There was also uncertainty as to the role and involvement of the company's board of directors in supervising the conduct of the company's affairs.

The Office's dialogue with the directors resulted in the appointment of professional auditors, the convening of an annual general meeting and the updating of registers of members and directors.



excess of the permitted limits. The investigation of many of these cases has failed to disclose sufficient evidence that the relevant defaulters knew or had reasonable cause to believe that the company would, by entering into the transactions, be contravening the legislative prohibitions – an essential element of the criminal offence. However, this impediment to successful prosecutions should diminish in the future having regard to the extent to which the ODCE has been to the forefront in raising corporate awareness of these prohibitions.

### Sub-Goal 2.3: Commissioning/ Supporting Formal Company Investigations

Judicial inquiries and professional examinations of company documentation have been used on a reasonably regular basis over the last eight years to establish facts in relation to suspected misconduct involving Irish and foreign-registered companies. Since the establishment of the ODCE, this facility has been extended by use of the Director's search warrant powers. These powers have particularly been used in connection with criminal

investigations and are supplemented as necessary by legally acquiring bank documentation in relation to the companies in question.

### Completed Investigations

#### National Irish Bank Ltd. (NIB)/National Irish Bank Financial Services Ltd. (NIBFS)

The publication of the Inspectors' Report into NIB and NIBFS on 30 July 2004 was a significant event. The Report's publication was facilitated by the ODCE at the request of the High Court. The Director and his staff arranged for the printing of the Report in hard copy and CD formats and for its release and sale via the Government Publications Sales Office. The ODCE also distributed copies of the Report to the persons named in it, to domestic and overseas banking regulators and to other prominent persons.

The NIB/NIBFS Inquiry had been ongoing for over six years, and the Report makes a number of adverse findings against the companies, senior management and the companies' auditors and audit committee. Since publication, the Director has been taking legal

### Illustration 2.2.3: Rectification of Non-Compliance by a Property Management Company following a Member's Complaint and ODCE Intervention

A company limited by guarantee was incorporated in 1994, and it was responsible for servicing a block of more than 50 apartments and offices. The developers of the complex were the directors, one of whom provided a bookkeeping service to the company. Its most recent annual return was made up to 30 September 2002 to which was attached audited accounts for the year ended 31 December 2001.

The complainant, a member of the company, indicated that he owned one of the properties in the complex. Since its incorporation, the company had never invited its members to an annual general meeting and had never issued to the members the annual report of the directors or any other documentation appropriate to an annual meeting.

The ODCE's enquiries included an examination of the company's registers of members and directors and contact with the company's auditor who was asked a number of questions relating to:

- the entitlement of the company, being a guarantee company, to submit abbreviated accounts;
- his consent to the holding of a general meeting at short notice when the corresponding approval of the members was not available.

As a result of these enquiries, the ODCE directed the company's directors to hold an annual general meeting. Appropriate documentation was issued to the members, and the Annual General Meeting was subsequently held. At the meeting, a number of the members were elected to the board, and the developer directors retired. Subsequently, the new directors filed the company's outstanding filings, including its financial statements, with the Companies Registration Office.

Following the ODCE's successful intervention, the Director of Corporate Enforcement received a letter of thanks from the complainant. A copy of the letter in question which omits the identity of the company and of other named parties is included in **Illustration 2.2.4**.

advice on the possibility of initiating disqualification proceedings against a number of the parties criticised in the Report. No formal decision had been made on this at end-2004.

The cost of the NIB/NIBFS inquiry amounted to some €6.5 million. This was initially borne on the Vote of the Department of Justice Equality and Law Reform, but it is envisaged that this sum will be recouped by the Department from the Bank.

### **Ansbacher (Cayman) Ltd.**

Previous ODCE Annual Reports have dealt in some detail with the developments subsequent to the publication of the High Court Inspectors' Report with respect to Ansbacher (Cayman) Ltd. in June 2002. Reference was made in particular to the subsequent applications to the High Court by the Revenue Commissioners and the ODCE for access to the Inspectors' documentation. In 2002, the ODCE adjourned on legal advice its more limited application for access pending the Court's

decision on the wider Revenue application.

On 25 May 2004, the President of the High Court delivered his Judgement on the Revenue application and held inter alia that the Commissioners were entitled to obtain access to and copies of all of the Inspectors' documents not contained in their Report (except those working papers over which the Inspectors claimed privilege). This decision applied in particular to clients of Ansbacher (Cayman) Limited and persons and companies found by the Inspectors not to have co-operated with their Inquiry. Revenue were also given liberty to re-enter an application for access to the Inspectors' documents relating to any other individual or company not named in the Report.

Subsequent to the High Court decision, the ODCE sought the advice of Counsel in relation to its future proceedings. This was received towards the end of 2004 and was under consideration by the Director at the end of the year.

#### **Illustration 2.2.4: Text of Letter thanking the ODCE for remedying defaults in complying with Annual General Meetings in a Property Management Company**

**Peter Durnin Esq.,  
Office of Directors of Corporate Enforcement,  
16 Parnell Square,  
Dublin 1.**

**26<sup>th</sup> March '04.**

**Dear Mr. Durnin,**

**Just a note to bring you up to date on matters.**

**The A.G.M. relating to the year and accounts for Y/E 31/12/02 was held on 16/03/04. Four new directors appointed – all three previous directors had tendered resignations to the company's solicitors, who announced the resignations on the night. He pointed out it was an 'oversight' not to have notified the members of previous A.G.M.'s.**

**The auditor was re-appointed and is very co-operative.**

**On behalf of the new board we would like to thank your office for it's efficient timely support on this matter.**

**We hope to sort out the problems we have inherited.**

**Thanking you.**

**Yours sincerely,**

## Kentford Securities Ltd.

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The Departmental report on Kentford Securities Ltd., a company related to Ansbacher (Cayman) Ltd., was transmitted to the ODCE in November 2002. Unlike the reports of Inspectors where the facts and opinions set out therein are admissible as evidence for the purpose of any subsequent civil proceedings, the facts and conclusions of an authorised officer require to be independently evidenced. Having investigated the contents of this report, the Director determined that the conduct of one person warranted enforcement proceedings, and the necessary affidavit evidence to support such proceedings was substantially prepared by the end of 2004.

## Celtic Helicopters Ltd.

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Having examined the Departmental report on Celtic Helicopters Ltd. which the Director received in 2003, the Director determined during 2004 that no enforcement action would be taken by him at this time against any of the persons mentioned in the report.

## Barnroe Ltd.

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Following the receipt of a number of public complaints about the conduct of its affairs, the ODCE initiated in May 2004 a company examination of the books and documents of Barnroe Ltd., a building company, with a registered office at 4c Kiltalawn Cottages, Blessington Road, Dublin 24. The Office engaged a professional accountant to assist it with this work. Subsequently, search warrants were secured from the District Court and executed. Company documentation was seized and made available to the appointed professional accountant for examination.

Having reviewed the accountant's completed report, the Director determined that disqualification proceedings were warranted against two of the company's directors, and these were initiated in December 2004. In parallel, the Director's decision to invoke his investigative powers in respect of this company has been judicially reviewed, and both sets of proceedings were awaiting a hearing date at end-2004.

## Ongoing Investigations

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### Dunnes Stores Ireland Company/Dunnes Stores (ILAC Centre) Ltd.

The ODCE's Annual Reports for 2002 and 2003 dealt at length with the various Supreme Court and High Court proceedings which delayed the examination of the books and documents of Dunnes Stores Ireland Company and Dunnes Stores (ILAC Centre) Ltd. until mid-2003. Mr Cyril Houlihan, an ODCE staff member, continued his work on this assignment during 2004, and the examinations were ongoing at end-2004.

### AIB Investment Managers Ltd.

In May 2004, the Director became aware of certain historic problems in the AIB Group, particularly with respect to AIB Investment Managers Ltd. Having examined the matter, he directed the production of certain books and documents relating to these problems, and these were provided. At end-2004, the Director's examination was ongoing, and his Office was considering the results of the detailed investigation by the Irish Financial Services Regulatory Authority into the same events which became available in December 2004.

## Other ODCE Company Examination

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An examination of a company's books and documents, commenced in December 2003, was also ongoing at the end of 2004. It is hoped to conclude this work during 2005.

## Departmental Company Examinations

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The Departmental examinations of the books and documents of College Trustees Ltd., Guinness and Mahon (Ireland) Ltd. and Hamilton Ross Company Limited continued through the end of 2004.

# Goal 3 – Prosecuting Detected Breaches of the Companies Acts

## Introduction

2004 was a year of increased enforcement activity levels across a number of fronts, with successful outcomes for the ODCE in virtually all proceedings in which it was involved. For the third year running, there was a substantial increase in the number of criminal convictions secured, with the figure rising to 66 (compared to 43 in 2003 and 14 in 2002). The Office also secured a number of disqualifications, restrictions and orders in compliance proceedings.

In October 2004, the Director also submitted to the Director of Public Prosecutions his first case relating a number of parties in breach of various company law obligations. A decision by the DPP on the case was awaited at year-end.

## Legal Proceedings

2004 also saw the Director broaden the scope of the civil and criminal proceedings successfully concluded. The following sanctions were secured for the first time:

- a conviction for fraudulent trading;
- a conviction for acting as a director while restricted without complying with the statutory conditions;
- the restriction of a director of an unliquidated insolvent company;
- the disqualification and restriction of the directors of a company which had been struck off the Register of Companies for failing to submit annual returns.

In addition to his enforcement work, the Director also participated, directly and indirectly, in a number of other significant or novel cases. These included:

- High Court proceedings relating to publication of the Inspectors' Report on National Irish Bank Ltd.

and National Irish Bank Financial Services Ltd. (see previous Sub-Goal 2.3 material);

- High Court and Supreme Court proceedings involving the liquidation of Eurofood IFSC Ltd., a subsidiary of Parmalat SpA;
- High Court proceedings for relief from disqualification by a person who had been disqualified in England and Wales some years earlier;
- High Court proceedings for relief by persons who had recently been restricted by the High Court. As indicated later under Goal 4.1, this application was withdrawn following the ODCE indicating that it would be opposing the application for relief;
- High Court proceedings for relief by a number of persons whose exercise of their shareholding rights had been frozen, because the company had not been informed in time of their purchase of the shareholding. ODCE enquiries in these cases led us to indicate to the applicants for relief that we had no objection to their applications for relief being granted by the High Court, and we understand that a number of the applicants were subsequently successful in securing relief.

Overall, the Director directly participated in 61 proceedings, of which 19 were in the High Court and 42 were in the District Court. Of the 61 proceedings in 2004, 42 were concluded, and 19 remain ongoing at year-end. All but three of the concluded proceedings were successful in terms of progressing criminal investigations or achieving criminal convictions, rectifications of unlawful behaviour or some other satisfactory outcome. An overview of the outcome of these proceedings by type is provided in **Appendix 3.1**.

The table below summarises the nature of the Court decisions made in the successful proceedings in which the Director participated in 2004 (relative to 2003).

Number/Nature of Successful Court Decisions	2003	2004
Bankers' books orders	13	2
Charges on which convictions were secured	43	66
Charges taken into account on conviction	9	9
Charges thought proven	16	24
Disqualifications	1	3
Judicial review	1	-
Orders made in compliance proceedings	14	2
Property disposal order	1	-
Restrictions	-	2
Retention of Seized Documents	-	5
Search Warrants	10	4
Other decisions	1	5
<b>Total</b>	<b>109</b>	<b>122</b>

**Appendix 3.2** outlines the nature of the 19 High and Supreme Court proceedings and the 42 District Court proceedings in which the Director was involved in 2004, together with the status and summary result of each type of proceedings.

Insofar as the completed civil and criminal proceedings are concerned, **Appendix 3.3** identifies the parties who were held by the High Court and the District Court to have breached their obligations under the Companies Acts. For the first time in relation to ODCE prosecutions, the District Court indicated a willingness to contemplate custodial sentences. In March, two suspended sentences of six months were imposed relating to convictions for fraudulent trading and failing to keep proper books of account. Later in the year, a further suspended sentence of three months

was imposed in conjunction with a conviction for acting as an auditor while unqualified.

Substantial penalties were also imposed in a number of individual cases. In one case, the District Court imposed fines and costs totalling over €6,500 on an individual.

The handing down of suspended custodial sentences and heavy fines and costs on a number of those convicted reflected the fact that more serious company law offences are increasingly being brought before the Courts by the ODCE. The results of ODCE enforcement actions are regularly included on the ODCE website at [www.odce.ie/](http://www.odce.ie/) shortly after the Court has made its judgement.

### Enforcement Cases

In conjunction with the significant enforcement developments which occurred in the Courts in 2004, the volume of cases for possible enforcement being dealt with within the Office continued to increase dramatically last year. In all, some 469 new cases were received in 2004, a significant increase on the 269 received in 2003.

At year-end, about 474 cases for possible enforcement were on hands, representing a near doubling of the end-2003 figure of 241. This increase occurred notwithstanding the fact that 209 of these cases were closed in 2004 compared with 51 in 2003. The details on the throughput of these cases are contained in **Appendix 3.4**.

As **Appendix 3.5** shows clearly, the character of the cases on hands is currently dominated by two offence categories:

- excessive directors' loans and
- the failure to keep proper books of account.

While it has been investigating these case types, the Office also has many other priorities which it continues to pursue. In concrete terms, this has involved us in 2004 in continuing to employ a rolling system of case prioritisation which has proved to be effective in extracting the optimum outputs for the Office in enforcement terms.



The kind of substantial case volume growth which the Office is experiencing, together with an ongoing increase in successful prosecution activity (which draws on many of the same personnel) and a virtually static staffing complement, obliges the Office to ensure absolutely that scarce resources are applied effectively and proportionately to the processing of cases. It is clear at the same time that the Office will not be able to address properly its current level of enforcement work without a significant increase in staffing resources.

### Sub-Goal 3.1: Developing a Balanced Enforcement Policy

As indicated above, case volume growth demands that the Office's enforcement policy be flexible and that the full range of available enforcement actions be employed in a pragmatic way.

Accordingly taking account inter alia of the character of the offence, the circumstances of the default and the quality of the available evidence, we continued in 2004 to employ one or more of the following options to rectify, deter or sanction misconduct under the Companies Acts:

- acceptance of actual remediation or an offer of voluntary rectification of the default;
- the issue of a warning letter indicating that any repeat of the default will be treated seriously;
- the issue of a warning letter urging early rectification of the default, failing which High Court proceedings will be undertaken to seek to compel compliance;
- the initiation of High Court restriction or disqualification proceedings to sanction past non-compliance;
- the taking of summary criminal proceedings for a suspected company law offence;
- the referral of an indictable offence case to the Director of Public Prosecutions for decision.

It will be clear from the statistics in this Report that the majority of cases of indicated non-compliance are dealt with on an administrative basis. In closing many

of these cases, the individuals in question have been acquainted with their obligations and have thereby been fixed with definitive knowledge of their duties in the event of their re-offending.

Where enforcement action was deemed to be warranted in 2004, the initiation of criminal proceedings on a summary basis was, as in previous years, selected most frequently. However, the Office made more use in 2004 of restriction and/or disqualification proceedings as a means of sanctioning misconduct. Some initial success in this area was reported this year with the Office's first restrictions and disqualifications. A number of other disqualification proceedings were also initiated before the end of the year, and further applications are in the pipeline.

The following three sub-sections, covering the three main offence areas, provide more detail of the matters pursued by the Office in 2004.

### Sub-Goal 3.2: Upholding Disclosure Requirements

The production and dissemination of adequate information on the status and performance of a company is essential for its proper management and future development. Companies, particularly those operating with limited liability, have a relationship of mutual dependence with their stakeholders, including their employees, creditors and investors. Because each of these interests is committed in financial or other terms to the success of the enterprise, it is important that they have available reliable and timely information on the status of the entity so that they can judge its future prospects and assess the risks of continuing to engage with the enterprise.

The Companies Registration Office is the primary means by which the State seeks to ensure that the commercial market operates on a reasonably transparent basis. Every limited company formed in Ireland must regularly make available reliable information on its present status. This includes the identity of its registered office and directors and information on its current financial position.

## Failure to Keep Proper Books of Account<sup>8</sup>

Where a company and its directors fail to record properly the transactions of the business, they are denying their stakeholders the right to make a fair assessment of the risk of their continuing to support the enterprise. The failure of a business without prior warning can disrupt the trading prospects of other companies as well as having adverse effects on company employees and investors.

This is why the Companies Acts require directors to maintain proper books of account and to prepare annual financial statements. Most of them are also required to file those statements in some form in the Companies Registration Office. Furthermore, the auditor of the company is required to give an independent opinion on the validity of the company's financial statements as prepared by the directors and to report publicly to the Companies Registration Office on any adverse opinion which s/he may have formed.

Consistent with the emphasis given by the Acts to maintaining a 'level playing field' for commercial relations, the ODCE continued in 2004 to treat seriously any reported failure to keep proper books of account. Some 15 summary proceedings were concluded by the Office arising from a suspected failure of the companies and their directors to comply with their legal obligations in this area. As will be clear from **Appendix 3.3**, the Office was successful in convicting the company and/or one or more of the directors in 14 of these cases – only one prosecution was dismissed for insufficient evidence. In one of the successful cases, the Office also secured a fraudulent trading conviction against the primary director. The circumstances of this case were outlined in **Illustration 3.3.1** in the ODCE's Annual Report for 2003.

## Failure to Submit Annual Returns to the CRO<sup>9</sup>

This requirement is fundamental to achieving a reasonably transparent environment of commercial relations in the State. Although it is the offence which is most frequently reported to the Office, it is primarily a matter for the Registrar of Companies to enforce this obligation. Nevertheless, the ODCE does prosecute suspected offenders for this offence in conjunction with other indicated breaches of the Companies Acts.

In 2004, we secured three convictions in two cases for breaches of this statutory obligation.

## Failure by Director/Secretary to notify Interest in Company Shares/Debentures<sup>10</sup>

The Companies Acts require every company to maintain a register of directors' and secretaries' interests. In order for companies to fulfil this obligation and maintain an up-to-date register, directors and secretaries must arrange for the prompt notification of their purchases and disposals of shares and debentures in the company or in any related company.

Where a director or secretary fails to comply with the disclosure requirements, their right or interest in the shares or debentures is not enforceable. This means, for instance, that shares cannot be sold or the shareholder may not exercise any voting rights as a result of his holding of the shares.

This 'freezing' of the shares or debentures may be lifted by the High Court, and in 2004, the ODCE became aware of applications to the Court by the holders of shares seeking relief from this disability. The ODCE's enquiries in two cases led us to believe that the default with respect to disclosure was accidental or caused by inadvertence on the part of the director or secretary concerned. We indicated to the Court in two proceedings that we had no objection to relief being granted, and both applications led to relief being granted by the Court.

## Provision of False Information<sup>11</sup>

The ODCE continues to support the CRO in its ongoing efforts to maintain a public register of company information which is both accurate and up-to-date. In our 2003 Annual Report, we warned that the provision of false information of a material character to the CRO would be treated seriously.

In 2004 in only the second such prosecution, a person was convicted of providing false information to the Registrar of Companies. The person in question submitted documents in which he had represented himself as an auditor of company financial statements when he was not in fact a person who was qualified to act as such.

<sup>8</sup> Section 202 of the Companies Act 1990.

<sup>9</sup> Section 125 of the Companies Act 1963 as replaced by Section 59 of the Company Law Enforcement Act 2001.

<sup>10</sup> Section 53 of the Companies Act 1990.

<sup>11</sup> Section 242 of the Companies Act 1990 as amended by Section 106 of the Company Law Enforcement Act 2001.



## Failure by Person Disqualified abroad to disclose that Disqualification<sup>12</sup>

Company law requires that persons disqualified in another jurisdiction must notify the Registrar of Companies of that disqualification on their appointment as a director of an Irish-registered company. The information to be disclosed includes:

- the jurisdiction in which s/he is disqualified;
- the date on which s/he became so disqualified and
- the period for which s/he is so disqualified.

Where a disqualified person makes this disclosure, it is available on the Register of Companies for public inspection, and s/he may act as a company director in the State.

However, where a disqualified person fails to disclose that disqualification, s/he is deemed to be disqualified in the State. And if they act as a director while disqualified, they are guilty of an offence. **Illustration 3.2.1** deals with a case which came to the ODCE's attention and which involved a disqualified individual having to apply to the High Court in 2004 for relief from his disqualification, in order to permit him to act as a director of an Irish-registered company. Having regard to the increasing mobility of international business people, this illustration serves to denote the importance of this disclosure obligation.

## Sub-Goal 3.3: Sanctioning Parties Disregarding Company and Other Interests

The Companies Acts contain many provisions where the freedom of company stakeholders to act is prohibited or restricted in order to protect the integrity of commercial relations and reduce the risk attaching to the creditors, employees and investors of the companies involved.

### Undischarged Bankrupts<sup>13</sup>

Undischarged bankrupts are prohibited by law from acting in a responsible position in a company. In 2004, the Office successfully prosecuted an individual who acted as a company director in this jurisdiction notwithstanding his having been an undischarged bankrupt in Northern Ireland at the time. This conviction was secured with the active support of the Northern Ireland Insolvency Service which gave evidence in support of the ODCE's prosecution. The individual was also convicted of a number of other company law offences as part of the same proceedings and is now disqualified by law from acting as a director of any Irish-registered company for five years.

### Restricted Persons acting in breach of the Statutory Conditions<sup>14</sup>

Following the requirements introduced in the Company Law Enforcement Act 2001, the directors of insolvent

### Illustration 3.2.1: Case of the Difficulties encountered by a Person Disqualified in England and Wales failing to disclose that Disqualification in Ireland

An individual who had been disqualified in England and Wales some years previously sought to involve himself in an Irish-registered company with the support of the company's bankers. Notification of his appointment as the company's director failed to disclose his previous disqualification. This omission meant that he was deemed by law to be disqualified in Ireland<sup>15</sup>.

When the matter came to the notice of the ODCE, our enquiries with the UK Authorities confirmed his disqualification in England and Wales. Arising from our enquiries of his status in Ireland, the individual sought professional advice and decided that he would have to seek relief in the High

Court from the deemed disqualification which now obtained in the State. The application for relief related solely to the Irish-registered company, and the effect of relief, if granted, would allow him to act in a responsible position in the management and development of the company.

Having made enquiries of the UK Authorities in relation to the circumstances of his disqualification in England and assessed the situation with respect to the Irish company, the ODCE decided to raise no objection to the application for conditional relief. The High Court was advised of our stance, and the Court subsequently deemed it appropriate to grant the relief sought.

<sup>12</sup> Section 195 of the Companies Act 1963 as amended by Section 51 of the Companies Act 1990, Section 47 of the Companies (Amendment) (No. 2) Act 1999 and Section 91 of the Company Law Enforcement Act 2001.

<sup>13</sup> Section 183 of the Companies Act 1963 as amended by Section 169 of the Companies Act 1990.

<sup>14</sup> Section 161 of the Companies Act 1990.

<sup>15</sup> Section 160(1A) of the Companies Act 1990 as amended by Section 42 of the Company Law Enforcement Act 2001

companies are liable to be restricted if they fail to satisfy the High Court that they acted honestly and responsibly in relation to the conduct of the affairs of the companies. Once restricted, a person may only act as a director if specific capitalisation requirements are met. The purpose of the capitalisation requirement is to create a situation where creditors and other stakeholders are less likely to be adversely affected by a further company failure.

Now that some 500 persons stand restricted, the Office has been regularly monitoring if any of these persons are continuing to act as a director in a company which is in breach of the company capitalisation requirements. In 2004, we identified a number of potential cases and initiated proceedings against three persons. One of these cases was concluded with a conviction of the individual in question, and he now stands disqualified from being a company director or any other officer of the company for five years.

### **Acting as Auditor While Not Qualified<sup>16</sup>**

The function of auditing is statutorily recognised in the Companies Acts because of the important independent and assurance role discharged by auditors in reviewing company financial statements. We successfully prosecuted three persons in 2004 of acting as auditors while not qualified to do so. The Office secured a total of 19 convictions against the individuals in question. A feature of most of these cases is that the persons involved could reasonably have been expected to be conversant with the fundamental distinction between accounting and auditing. We are committed to enforcing this important legal provision and to supporting auditors and their professional bodies in carrying out and promoting qualified and independent audits. Our case pipeline for 2005 suggests that there will be further prosecutions of this type of offence in the future.

### **Acting as Auditor While Disqualified<sup>17</sup>**

From time to time, the ODCE becomes aware of situations where firms qualified to act as auditors do so in respect of companies with which they are actually connected, whether as a director or otherwise. This potentially compromises the independence of the audit

process in relation to the company in question and is prohibited by law. In 2004, we prosecuted a firm of auditors for failing to observe their legal responsibilities in this area, and the Court, having thought the 24 charges proven, decided to give the defendants the benefit of the Probation of Offenders Act 1907.

### **Acting as a Liquidator while Disqualified<sup>18</sup>**

Similar legal restrictions apply to liquidators, in order to secure the independence and integrity of the liquidation process. One such prosecution was commenced in 2004 and is ongoing at year-end.

### **Directors' Transactions<sup>19</sup>**

The ODCE Annual Report for 2003 reported at length on the Guidance produced by the Office in an effort to improve directors' understanding of the legal restrictions involved in using company assets for personal purposes. This work, together with our engagement with directors and auditors on reported non-compliance with this provision, has had a positive effect in raising awareness of these restrictions.

From an enforcement perspective, the Office has, as indicated earlier, a large number of possible cases on hands. One case is ongoing in the Courts at present, and it is hoped to gather sufficient evidence of the quality required to pursue a small number of other cases in this area in 2005.

### **Unliquidated Insolvent Companies and Dissolved Companies**

The discussion under Goal 4.3 reports in detail on the work of the ODCE in 2004 with respect to unliquidated insolvent companies and dissolved companies. As indicated earlier, the Office obtained its first restrictions and disqualifications of the directors of such companies.

## **Sub-Goal 3.4: Acting against Parties Denying Accountability under the Law**

The Director takes seriously any failure by company officers to account for their conduct or to rectify any

<sup>16</sup> Section 187 of the Companies Act 1990.

<sup>17</sup> Section 187 of the Companies Act 1990.

<sup>18</sup> Section 300A of the Companies Act 1963 as inserted by Section 146 of the Companies Act 1990.

<sup>19</sup> Section 40 of the Companies Act 1990.

misconduct following a Court order. In 2004, the Office pursued a number of cases in this category in the Courts.

### **Persistent Failure to comply with Company Law and Other Requirements**

In 2004, the High Court heard an application by the ODCE for the disqualification of two company directors who had defaulted on their company law and tax obligations over an extended period, notwithstanding the making of a High Court order in 2001 compelling them to rectify their non-compliance. Further information on this case is contained in **Illustration 3.4.1**. The Director remains anxious to pursue actively parties with a record of repeated non-compliance with their statutory obligations.

### **Failure by a Director to deliver Company Books to a Liquidator<sup>20</sup>**

In 2004, the ODCE prosecuted the director of an insolvent company having received information from the company's liquidator that a director had failed to co-operate with him by making available certain books of the company. In the subsequent proceedings, the District Court dismissed the prosecution and awarded costs against the ODCE.

### **Failure by a Liquidator to report to the ODCE<sup>21</sup>**

The liquidators of insolvent companies are now required to report to the ODCE on the affairs of the company

and on the conduct of its directors. Further information on the process is contained under **Goal 4.1** following.

Having secured 14 High Court orders in 2003 requiring liquidators to comply with their reporting obligations, the Office continued to pursue defaulting liquidators who failed to respond to administrative encouragement to discharge their statutory duties. Two such proceedings were concluded in 2004 resulting in the production of the outstanding report in one case and an order for compliance in the second. At year-end, the latter individual remained in default, and if non-compliance continues, it will be necessary for the Office to take further legal action in this case during 2005.

### **Conclusion**

The ongoing efforts of the Office to act against those in breach of the Companies Acts continue to support our overall work in encouraging compliance. Effective enforcement is needed to deter non-compliance and to encourage a more compliant corporate environment. We will continue in 2005 to seek a good balance between our compliance and enforcement work in the interests of improving market conduct and reducing enterprise risk.

## **Illustration 3.4.1: Case of Widespread and Repeated Non-Compliance with Statutory Obligations**

In 2004, the High Court heard an application by the ODCE for the disqualification of two company directors who had:

- failed for a period of more than ten years to submit annual returns to the CRO and corporation tax returns to the Revenue Commissioners;
- failed to comply with a High Court Order in 2001 to deliver within three months all outstanding annual returns to the CRO and certain outstanding tax returns to the Revenue Commissioners and
- failed to discharge one High Court judgement obtained by the Revenue Commissioners in 2003 against the company for over €240,000 in aggregate.

Following the commencement of the ODCE proceedings, the High Court heard that the directors had filed the outstanding annual returns and corporation tax returns with the CRO and Revenue respectively and that an accountant was appointed as a director of the company in place of one of the existing directors. On the other hand, the company's indebtedness to the Revenue had in fact increased, although evidence was before the Court that a financial institution was disposed to provide loan facilities to discharge the company's tax liabilities, subject inter alia to satisfactory security cover.

At the conclusion of the proceedings, the High Court reserved its decision on the disqualification applications, and a decision was awaited at end-2004. The application was subsequently dismissed in early 2005 and is under appeal.

<sup>20</sup> Section 293 of the Companies Act 1963.

<sup>21</sup> Section 56 of the Company Law Enforcement Act 2001.

## Goal 4 – Sanctioning Improper Conduct with respect to Insolvent Companies

### Introduction

The creditors and other stakeholders of insolvent companies suffer commercial damage when monies for goods and services are left unpaid. Because of public concern that some of the cases of corporate failure involved the directors acting dishonestly or irresponsibly and because such behaviour, where it occurred, was not being sanctioned in the past, the ODCE was established to supervise insolvent companies. The purpose of ODCE activity is to deter unscrupulous activity and encourage ethical and responsible business conduct at a time of serious difficulty in the company life cycle.

2004 was the second full year of operating the mandatory reporting regime for liquidators enshrined in section 56 of the Company Law Enforcement Act 2001. This accountability framework under the supervision of the ODCE and the High Court was introduced to raise corporate standards, reduce creditor risks and deter malpractice in the business environment.

In all, 1,309 (947 in 2003) liquidator reports were considered or received during the year in respect of insolvent companies. Of these, 623 (821 in 2003) were initial reports<sup>22</sup>, while the balance of 686 (126 in 2003) constituted further<sup>23</sup> or final<sup>24</sup> reports on company liquidations.

Decisions were issued in the case of 1,084 reports (630 in 2003) of which 529 (560 in 2003) constituted initial reports from liquidators, 268 were further reports, and 287 were final reports. The evaluation of such a large number of reports within prescribed statutory deadlines required a concerted effort by the Office to which many staff contributed. Many of the remaining

225 reports (317 in 2003) were received in the final quarter of 2004 and will be determined in 2005.

In examining these reports with respect to directors' conduct, the ODCE is particularly anxious to ensure that suspected fraud or misconduct is dealt with properly. In pursuing this objective, the Office has sought to ensure in particular that entrepreneurial endeavour is not inhibited by needlessly sanctioning persons who clearly showed that they behaved honestly and responsibly in the conduct of failed companies, even though losses may have ensued to others.

### Liquidation Trends

The following table shows the number of liquidations notified to the Companies Registration Office over the last five years.

Liquidations	2000	2001	2002	2003	2004
Creditors	324	415	378	369	268
Court	12	24	34	31	36
Members	581	589	720	942	795
<b>Total</b>	<b>917</b>	<b>1,028</b>	<b>1,132</b>	<b>1,342</b>	<b>1,109</b>

The 2004 figure of 278 voluntary creditor liquidations continues a trend of decline in the number of such insolvent companies being liquidated compared to previous years. However, this has been counterbalanced by a substantial rise in recent years in the number of solvent companies being liquidated. The ODCE welcomes the fact that a higher proportion of company stakeholders have been receiving full payment for their outstanding debt.

The ODCE would be concerned if the decline in the number of insolvent companies was caused by persons trying to evade the new accountability framework, and the Office will keep developments in the area under close scrutiny for the foreseeable future. Curbing any such tactics will of necessity be a continuing objective, in order to maintain the coherence and credibility of the improving conditions for corporate behaviour.

<sup>22</sup> An initial report is the first report received from a liquidator within six months of his appointment and in the majority of cases the decision to grant relief or not is made based on this report. In some cases 'relief at this time' is granted to facilitate further investigations by the liquidator.

<sup>23</sup> A further report is received from a liquidator usually after six months if 'relief at this time' was granted and after twelve months if a decision to grant relief or not has been made. In this way the ODCE monitors progress on an insolvent liquidation. As the principal decision on whether or not to relieve a liquidator

of their obligation to take restriction proceedings will have been made based on the initial report the majority of decisions for further reports will be 'relief'. The exception to this is when 'relief at this time' has previously been granted to facilitate further investigations by the liquidator.

<sup>24</sup> A final report is received from a liquidator four weeks prior to final meetings or final dissolution if the liquidation is a Court liquidation. This is a final monitoring exercise for the ODCE prior to dissolution of an insolvent company.

## Breakdown of Insolvent Companies in Liquidation by Economic Sector

Appendix 4.1 provides a breakdown by economic sector of the insolvent companies in liquidation by reference to the first reports received from liquidators in 2004. The construction, manufacturing, transport and wholesale and retail sectors continued to feature prominently in the companies in insolvent liquidation. The technology sector was less prominent than 2003 indicating improving economic conditions in the sector.

## Goal 4.1: Supervising Liquidators in the Proper Discharge of their Duties

The Director's supervisory functions with respect to liquidators (and receivers in certain circumstances) are founded in the following principal provisions of the Companies Acts:

- section 56 of the Company Law Enforcement Act 2001 which requires the liquidator of an insolvent company to report to the Director on the conduct of the company's directors and, unless relieved by the Director, to apply to the High Court for the restriction of all of the directors;
- section 57 of the 2001 Act which enables the Director to request for a stated reason any liquidator to produce his or her books for examination. The Director has a similar power with respect to receivers under section 323A of the Companies Act 1963 (as inserted by section 53 of the 2001 Act);
- section 58 of the 2001 Act which requires a prescribed professional body to report to the Director in any case where it has found that a member conducting a liquidation or receivership has not maintained appropriate records or where it has reasonable grounds for believing that the member, while so acting, has committed an indictable offence under the Companies Acts;
- section 299 of the Companies Act 1963 (as amended by section 51 of the 2001 Act) which obliges the liquidator of any company to report forthwith to the Director (and to the Director of

Public Prosecutions) any past or present officer or any member of the company who seems to the liquidator to be guilty of an offence in relation to the company for which he/she is criminally liable.

## Section 56 of the 2001 Act - Liquidator Performance

It is the ODCE's practice to identify the companies in liquidation that may be the subject of a reporting obligation. In undertaking this task, it gathers relevant information from the Companies Registration Office and monitors publications and other sources of information dealing with liquidations and the appointment of liquidators. In order to ensure that the required reports were received on time, the ODCE wrote to all relevant liquidators in 2004 advising them of their reporting obligations and reminded them one month in advance of the statutory deadline for receipt of their section 56 reports. The compliance rate for the production by liquidators of their first reports showed a welcome improvement to 97% in 2004 compared with 93% in 2003. Appendix 4.1.1 has the associated details.

The ODCE also continued during 2004 to issue Public Notices in which the reporting liquidators and the insolvent companies<sup>25</sup> subject to a section 56 report were identified on the ODCE website. The purpose of these regular updates is to enable interested parties to bring any matters of concern in relation to a specific insolvent company to the attention of the liquidator and the Office, so that these concerns can be taken into account in determining to what extent a liquidator should benefit from being relieved of the statutory obligation to apply to the High Court for the restriction of the company's directors.

In implementing its functions under section 56, the ODCE has necessarily tracked the performance by liquidators in complying with their legal obligations. In 2004, the Office found it necessary to correspond formally with liquidators who failed to submit reports on 81 occasions (71 in 2003) drawing to their attention that they were in default with regard to their statutory reporting obligations. In two cases, the Director had to resort to legal proceedings under section 371 of the Companies Act 1963 (as amended), resulting in High Court orders being made against both. The identities of

25 A copy of this information which is updated regularly is available at [www.odce.ie/CourtDecisions/insolvency.asp](http://www.odce.ie/CourtDecisions/insolvency.asp)



the liquidators in question are contained in **Appendix 3.3** of the Report.

The Director also corresponded with liquidators on 52 occasions in 2004 in respect of their failure to notify his Office that restriction applications had been taken where no relief had been granted. Late in 2004, four liquidators were issued with formal warnings that legal proceedings would be initiated against them should they continue to be in default in taking the necessary restriction applications.

The standard of liquidator reports received under section 56 continued to be mostly satisfactory in 2004. The Office will keep under review the issues arising from the section 56 reporting process, and we will develop appropriate responses to improve effectiveness in this area.

### Section 57 of the 2001 Act

In 2004, the Director made no requests for access to the books of liquidators (three in 2003).

### Section 58 of the 2001 Act

The prescribed professional bodies<sup>26</sup> made no reports in 2004 of suspected liquidator or receiver misconduct under this section (one report in respect of a liquidator was made in 2003).

### Section 299 of the 1963 Act

Two reports were received under section 299 in 2004 (one in 2003). All such reports are examined in detail by the Office given that they denote possible criminal liability.

## Illustration 4.1: Importance for Irish and EU Insolvency Law of the Liquidation of Eurofood IFSC Ltd. (In Voluntary Liquidation)

In late 2003, the major multinational food group, Parmalat, suffered a financial crisis within certain of its companies. A wholly-owned subsidiary in the group was an Irish company, Eurofood IFSC Ltd. ("Eurofood"). Its principal activity since incorporation in 1997 was the provision of financing facilities for other group companies.

There followed a series of conflicting legal decisions in the Irish and Italian Courts which had implications for the interpretation of the EU Regulation on Cross-Border Insolvency Proceedings<sup>27</sup> which was law throughout the EU since 31 May 2002, viz:

- on 27 January 2004, the High Court appointed a provisional liquidator to Eurofood under the Companies Acts;
- on 20 February, Eurofood was admitted to "extraordinary administration" under Italian law which the ODCE believes to be similar to examinership in Irish law;
- on 23 March, the High Court determined that Irish law ought to prevail and confirmed its appointment of a liquidator to Eurofood.

In a subsequent appeal of the High Court decision, the Supreme Court has found it necessary to seek preliminary rulings from the European Court of Justice on certain issues of European Law for the purpose of enabling it to give its ultimate judgment.

The Director participated in the High Court and Supreme Court proceedings and is also one of the parties who has filed Written Observations with the European Court of Justice. While the complexities of this litigation is best understood by considering the judgments of the Irish Courts<sup>28</sup>, the key issues from the Director's perspective are:

- the extent to which companies whose "centre of main interests" is apparently located in Ireland can nonetheless fall to be wound up under the laws and regulatory structures of other EU Member States and
- the consideration of the circumstances in which it is permissible under the EU Regulation for the courts of one Member State to refuse to recognise insolvency proceedings opened in another Member State, where the effects of that recognition would be manifestly contrary to the latter State's public policy and in particular its fundamental principles or the constitutional rights and liberties of the individual.

The issues involved are both complicated and novel and have potential implications for our present legal understanding of the effect of the registration of companies in Ireland and in other EU States. It is thought likely that the matter will be dealt with by way of an oral hearing before the European Court of Justice, but owing to the large number of cases pending before that Court, no date for a hearing has yet been fixed.

<sup>26</sup> Under the Company Law Enforcement Act 2001 (Section 58) Regulations 2002 (S.I. 544 of 2002), the following professional bodies are prescribed:

- the Institute of Chartered Accountants in Ireland;
- the Institute of Certified Public Accountants in Ireland;
- the Association of Chartered Certified Accountants;
- the Institute of Incorporated Public Accountants Ltd;
- the Law Society of Ireland;

- the Institute of Taxation in Ireland;
- the Chartered Institute of Management Accountants.

<sup>27</sup> Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings.

<sup>28</sup> See [www.odce.ie/court/insolvency.asp](http://www.odce.ie/court/insolvency.asp) for copies of the High Court and Supreme Court judgements.

## Effect of Pooling Order on Reporting Obligation

During 2004, the High Court, on the application of a liquidator, made a pooling order under section 141 of the Companies Act 1990 ordering that the liquidation of two companies should be undertaken as if they were the one company. The liquidator sought advice from this Office on whether one or two section 56 reports were applicable. It was decided that as both companies had the same liquidator and having regard to the terms of the Court order, only one report was applicable.

## Eurofood IFSC Limited (In Voluntary Liquidation)

The decision of the High Court to assert its jurisdiction to order the liquidation of this company has given rise to legal dispute with the Italian Courts. The Supreme Court has sought preliminary rulings from the European Court of Justice on a number of issues which have considerable implications for Irish and EU insolvency law. The Director participated during 2004 in the High Court and Supreme Court proceedings and has filed Written Observations with the European Court of Justice. A synopsis of the issues pertaining to this case is included in the accompanying **Illustration 4.1**.

## Goal 4.2: Assessing Directors' Conduct in Insolvent Liquidation Situations

The Director considers relieving liquidators of the statutory obligation to apply to the High Court for the restriction of a director, where the liquidator makes a clear and unambiguous statement in the section 56 report that the company director has demonstrated that he or she acted honestly and responsibly in relation to the conduct of the company's affairs. The liquidator is expected to provide details in the report of the factors that support that opinion or any other opinion which they may express.

29 Full Relief was granted in cases where the ODCE was satisfied, on the basis of information provided by the liquidator or otherwise, that all of the directors of the insolvent company had satisfactorily demonstrated that they had acted honestly and responsibly in the conduct of the company's affairs.

30 Relief was not granted in cases where the ODCE was satisfied, on the basis of information provided by the liquidator or otherwise, that none of the directors of the insolvent company had satisfactorily demonstrated that they had acted honestly and responsibly in the conduct of the company's affairs.

## ODCE Relief Decisions

As indicated in **Appendix 4.1.1**, the ODCE determined a total of 1,084 liquidator reports in 2004, of which 529 were first reports. In these 529 cases, the relief decisions in 2004 (relative to 2003) were of the following character:

Decision Type	2003	%	2004	%
Full relief <sup>29</sup>	294	53%	357	67%
No relief <sup>30</sup>	199	36%	93	18%
Relief at this time <sup>31</sup>	34	6%	53	10%
Partial relief <sup>32</sup>	25	4%	21	4%
Other decisions	8	1%	5	1%
Totals	560	100%	529	100%

Complete lists of the companies in respect of which full relief or relief at this time were granted in 2004 are contained in **Appendices 4.2.1** and **4.2.2** respectively.

The increase in the Office's 'full relief' decisions and a similar reduction in the proportion of 'no relief' cases can mainly be attributed to more responsible conduct by the directors of recently insolvent companies and to a greater familiarity by liquidators and the ODCE with the standards being applied by the High Court in determining what constitutes honest and responsible behaviour by directors. What is notable is that in 2003, all directors in more than one in three of these insolvent companies found themselves facing restriction proceedings. In 2004, this figure had halved to about one in six companies. This improvement suggests that directors are now more attentive to their duties with respect to creditors and other stakeholders because of the impact of the reporting regime.

Decisions of 'no relief' or 'partial relief' by the ODCE do not of course constitute a finding in relation to the honesty or responsibility of the directors concerned, and it would be improper for any such inference or imputation to be drawn. It is a matter for the High Court (having heard the liquidator's evidence and the explanations of company directors) to determine if a

31 Relief 'at this time' was granted in cases where the ODCE was satisfied that the liquidator needed more time to investigate properly the circumstances giving rise to the company's demise. The ODCE requires such liquidators to submit a second report, after which a fresh decision is made on relief.

32 Partial relief was granted in circumstances where the ODCE was satisfied, on the basis of information provided by the liquidator or otherwise, that some but not all of the directors of the insolvent company had satisfactorily demonstrated that they had acted honestly and responsibly in the conduct of the company's affairs.



restriction declaration should be made in the case of any particular company director.

## Tracking Court Decisions on the Restriction Applications

Where the ODCE decides not to grant relief, the legal obligation on the liquidator to commence restriction proceedings is confirmed. The effect of the ODCE's relief decisions in 2004 was that more than 200 company directors (relative to 500 in 2003) faced being called to account before the High Court for their stewardship of an insolvent company. As the Director is not a Notice Party to liquidator restriction applications, it can be some time before the ODCE receives definitive information on the completion of the Court proceedings and on the outcome of those proceedings. For the purpose of this Report, the Office has attempted, via a combination of Court notifications to the CRO (where restrictions declarations have been

made) and feedback from liquidators (particularly those cases where no restriction was imposed), to produce an initial review of the incidence of Court restrictions relative to the ODCE relief decisions.

During 2004, the High Court reached decisions in 141 cases where no relief or partial relief had previously been decided by the ODCE, with the remaining cases pending before the Court or yet to be initiated. In respect of the 141 cases heard, the High Court has restricted one or more directors in 109 cases, representing 77% of the total. No restriction orders were made in respect of the remaining 32 cases or 23% of the total. In terms of individual directors, there were 198 directors<sup>33</sup> restricted (representing 69% of this total) and one director disqualified. No restrictions were made in respect of 87 directors representing 31% of the total.

It is noteworthy that of the 217 persons who were restricted by the High Court during 2004, 198 of

### Illustration 4.2.1: Company/Director Transactions as discussed in *Re XNET Information Systems Ltd. (in voluntary liquidation) Stafford v Higgins & Others*<sup>34</sup>

A restriction order was made in respect of two directors of a company who obtained loans of company assets as a method of refinancing the purchase of assets which were to be used by the company. In the judgement on this case, the High Court highlighted that:

- a company and its directors are separate legal entities;
- directors must disclose their interests in contracts;
- determination of irresponsibility is independent of dishonesty or bad motive;
- loans of company assets may breach section 31 of the Companies Act 1990.

In particular, the Court stated: "I have concluded that I cannot accept that directors of a company, even those who do not take specific legal advice, could be regarded as acting responsibly in entering into significant financial transactions which were, in essence, financial transactions between the Company and themselves without either bringing those matters to the attention of their fellow directors or obtaining formal board approval.

Every director must be deemed to know and appreciate the distinction between the Company as a separate legal person and themselves as individuals. Further, it appears

to me that directors must be deemed to be aware of obligations which they have not only to the Company and its shareholders but also to creditors and others dealing with the Company. Further, directors must be assumed to know, at least in a general way, of their obligations under the Companies Act. Section 194 of the Companies Act, 1963 provides:

'(1) It shall be the duty of a director of a company who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the company to declare the nature of his interest at a meeting of the directors of the company.'

This obligation to disclose and, thereby, bring to one's fellow directors a potential conflict of interest may properly be regarded as principles of good governance and sound commercial probity and proper standards in commercial dealings. The board of directors of a company is responsible for managing the affairs of the company. It appears to me that, independently of any specific legislative requirement, a person who is a director of a company must be aware or ought to be aware and understand that if he or she proposes to enter into a contract with the company that the full board of directors should be made aware of the fact that he or she, a fellow director, is interested in the contract and asked to approve the contract."

<sup>33</sup> Where an individual is restricted, s/he may only act as the director or secretary of a company for a period of five years thereafter if that company meets certain minimum capitalisation requirements. In the case of a private company, a minimum called up share capital of €63,487 is required. In the case of a public limited company, the corresponding figure is €317,435. Moreover, the called up share capital must be fully paid for in cash. Restriction permits individuals to

continue to avail of the benefits of limited liability. However if a restricted person breaches the capitalisation conditions, s/he may potentially be convicted of an indictable offence, fined and disqualified for five years.

<sup>34</sup> [2004] IEHC 82 (6 May 2004) Finlay Geoghegan J.

these were a direct result of the obligation placed on liquidators under section 56 of the Company Law Enforcement Act 2001. Of the 19 restrictions not related to the section 56 process, two of these evolved from distinct ODCE enforcement actions. This means that only 17 persons were restricted during 2004 unrelated to ODCE enforcement activity.

Appendices 4.2.3 and 4.2.4 to this Report outline, in relation to restriction proceedings which concluded before the High Court in 2004, the outcome of the cases where restrictions were made and were not made respectively. The Register of Restricted Persons which is maintained by the Companies Registration Office records 479 restricted directors at end-2004. The full list of persons that currently stand restricted is available from the Companies Registration Office or at their website [www.cro.ie](http://www.cro.ie).

Two of the issues dealt with by the High Court in 2004 in its decisions concerned:

- company/director transactions and the duties of directors and
- the respective responsibilities of executive and non-executive directors in insolvent situations.

The accompanying **Illustrations 4.2.1** and **4.2.2** provide useful information on the approach of the High Court to these circumstances.

### Tracking Directors seeking Relief from their Restriction

Section 152 of the Companies Act 1990 allows a restricted director to seek relief within 12 months of being restricted either in whole or in part. Such an application must be notified to the liquidator of the company that gave rise to the restriction. In 2004, a number of restricted persons applied for relief without having made any moves to abide by the restriction conditions. When this Office indicated that we would be opposing the relief application, the application was

## Illustration 4.2.2: Duties of Executive and Non-Executive Directors as discussed in *Re RMF (Ireland) Limited (in voluntary liquidation) Kavanagh v. Riedler & Others*<sup>35</sup>

In addressing the respective duties of executive and non-executive directors (NEDs) in this case, the High Court indicated that even if the distinction was not expressly recognised in the Companies Acts, it was well established in commercial life. It therefore felt impelled to recognise the distinction in considering whether a person has acted responsibly while acting as a director of a company.

According to the Court, the first test in considering the responsibility of a NED is to consider the conduct “in relation to any such particular agreement or purpose” for which he or she had been appointed, especially if the appointment was made with a view to bringing certain expertise to the board. Therefore if a person is appointed as an advisory NED and has no managerial function, the Court will limit its consideration to those functions of the NED appropriate to that role.

However, merely because a person is appointed to bring expertise does not mean that they can escape responsibility as -

“Each individual director owes duties to the company

(i) to inform himself about its affairs and

(ii) to join with his co-directors in supervising and controlling them.”<sup>36</sup>

While the Court recognised that directors may collectively delegate to executives or management certain functions, “such delegation does not absolve the directors from their obligation of ultimate supervision.”

However, the Court added that a NED is required to act when the occasion arises and to take such steps as are necessary to address the matter:

“In considering whether a non-executive director has acted responsibly for the purposes of s. 150 of the Act of 1990 it appears to me that the courts should also recognise that, in general, a non-executive director is entitled both to rely upon information provided by his fellow executive directors and to rely upon the executive directors carrying out what might be considered to be normal executive or management functions. There may be factual circumstances which will put a non-executive director on notice that he should not continue to rely either upon information provided or upon executive duties being properly performed and require further action from him or her.”<sup>37</sup>

35 [2004] IEHC 334 (27 May 2004).

36 Numbering added for emphasis

37 Underlining added for emphasis

withdrawn, and the ODCE is considering at present if the individuals in question should now be prosecuted for their defaults. We will obviously continue to keep an eye on these types of cases, so as to ensure that applications for relief in respect of restrictions (and disqualifications) are fully justified to the High Court.

### Tracking Directors not abiding by their Restriction Conditions

As indicated earlier under Goal 3, ODCE investigations have confirmed that there are a number of restricted individuals acting in breach of the statutory requirements, and at year-end, we secured a first conviction and disqualification against a restricted director for continuing to act as a director or secretary in a company which did not comply with the capitalisation requirements. Two further such prosecutions are ongoing at year-end.

## Goal 4.3: Sanctioning Fraudulent or Abusive Behaviour

### Unliquidated Insolvent Companies

The Director is conscious that the directors of insolvent companies may be tempted to cease trading without a formal liquidation as a means of evading their responsibilities to the company's creditors and other stakeholders and avoiding the implicit threat of restriction which arises in a liquidation situation. The 2004 results indicating declining numbers of directors going before the High Court means that company directors have nothing to fear from the section 56 process if they behaved honestly and responsibly in conducting the business of the insolvent company and cooperated fully with the liquidator in the discharge of his/her duties.

Having successfully improved behaviour in the area of liquidations, the Office focused attention in 2004 on cases involving the conduct of directors of some insolvent companies that are not in liquidation. In the interests of fair play, the ODCE clearly wants to see the same discipline of good conduct apply to all insolvent companies, not just those that are placed in liquidation. The orderly winding up of insolvent companies should be the normal response to insolvency rather than the abandoning of the company and its creditors.

The ODCE is aware that some directors are evading accountability for their actions and omissions, whether by accident or design, by refraining from placing their companies in liquidation. Having ceased trading, these companies will usually end up being dissolved by the Registrar of Companies for failing to file annual returns. The law now provides that the directors of dissolved insolvent companies are at risk of disqualification<sup>38</sup>.

Disqualification typically gives rise to greater personal consequences for irresponsible directors than a restriction flowing from the liquidation of an insolvent company. The identity of both disqualified and restricted individuals is available online from the CRO's public register at [www.cro.ie](http://www.cro.ie), and all businesses should be mindful that the CRO is a useful source of credit risk information.

In 2004, the ODCE focused greater attention on the phenomenon of unliquidated insolvent companies. The areas of activity included:

- companies with outstanding registered judgements which have ceased trading. The Director secured a five-year restriction from the High Court against a director of one such company in 2004. Correspondence has issued to the directors of a number of other similar companies, and in the absence of satisfactory replies, restriction proceedings will also be brought against all of their directors;
- companies which are the subject of complaint to the Office. Following the examination of documents and information seized under search warrant in one case, the Director has recently launched disqualification proceedings against two directors of the company in question;
- companies which have been struck off the Register of Companies for failing to file annual returns. As indicated earlier in Goal 3, the ODCE secured from the High Court during 2004 the disqualification of one company director for two years and the restriction of a fellow director for five years. While this was the first case of its type to come to a decision, proceedings in another five such cases were before the High Court at end-2004.

<sup>38</sup> If disqualified by the High Court, a person is prohibited from being appointed or acting as an auditor, director or other officer, receiver, liquidator or examiner and from being in any way, whether directly or indirectly, concerned in or part of the

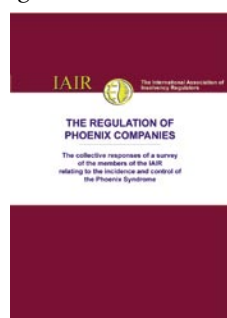
promotion, formation or management of any company or any society registered under the Industrial and Provident Societies Acts. A disqualified person who breaches the Court order is liable to be convicted and disqualified for ten years.

Companies may also fail to be liquidated following the conclusion of a receivership, and the Director has also been given the ability to monitor unliquidated insolvent companies in these circumstances. Specifically, a receiver appointed pursuant to a floating charge over the whole or substantially the whole of the property of the company is now required<sup>39</sup> to state his or her opinion as to whether or not the company is solvent at the end of the receivership, and this information is made available to the ODCE via the receiver's notification to the Registrar of Companies. In 2004, the Director received 24 such notifications confirming an insolvent situation in the company. This latter group of companies are forming part of the Director's overall examination of the problem of unliquidated insolvent companies.

## Research on Phoenix Companies

At the request of the International Association of Insolvency Regulators (IAIR) of which the ODCE is a member, the Director and his staff completed an international research project into the phenomenon of phoenix companies in 2004. The research drew on the collective experience of IAIR members and found *inter alia* that phoenix companies were particularly prevalent in the clothing, construction, hospitality and transport sectors. There was general agreement that the primary victims of phoenix activity are the tax authorities (who are the primary creditor) and the legitimate competitors of the phoenix company (who are prejudiced by the resulting unfair competition). It was also acknowledged that other creditors, such as service providers, consumers and employees, also tend to suffer losses if their services are not required by the phoenix entity.

While the comparative study did not identify any 'big idea' which would eliminate the problem, it was encouraging that many jurisdictions (including Ireland) appeared to possess many of the legal instruments that had been successfully deployed in other jurisdictions to contain the problem. The research will therefore prove valuable in helping regulators in particular to refine the measures, practices and procedures necessary to tackle successfully the phoenix phenomenon.



The Report on Regulation of Phoenix Companies

The Director remains anxious to detect any such activity in the State, so that he can act to minimise its disruptive impact on genuine businesses. A copy of the Report entitled 'The Regulation of Phoenix Companies' is available at [www.insolvencyreg.org](http://www.insolvencyreg.org).

## Conclusion

As a result of the regime of mandatory reporting introduced for the liquidators of insolvent companies a little over two years ago, the ODCE has received reports on more than 1,200 insolvent companies. Following our examination of the liquidators' recommendations in these reports, we have determined that the directors of more than 300 of these companies should defend their behaviour in High Court proceedings for restriction. As a result of proceedings concluded to date, the High Court has deemed it appropriate to restrict about 500 directors for irresponsible conduct in the management of their failed companies.

As the primary legal sanction for irresponsible behaviour in insolvent companies, restriction has been increasingly applied by the High Court in the last two years. Disqualification is a more serious civil penalty, which can be imposed for misconduct with respect to both solvent and insolvent companies. Both orders are primarily made in order to protect the interests of potential future creditors in company commercial affairs. A disqualification application is a useful complementary option to those of restriction and criminal prosecution, and the ODCE plans to make more use of this measure in the future in order to sanction suspected misconduct and alert the market to past misbehaviour.

The result of ODCE's initial work (in tandem with that of liquidators and the Courts) is that the market is becoming a potentially safer place for the development of companies, at least in terms of making information available to the market on past misbehaviours and safeguarding genuine business from the ravages and uncertainties of unscrupulous business conduct. This Office would therefore encourage all directors who are unfortunate enough to have been restricted or disqualified to take the necessary action to comply with the law. If they fail to do so, the ODCE will consider bringing them before the Courts again, and our experience to date is that the Courts do not have much sympathy for defendants who default on orders made by the High Court.

<sup>39</sup> Section 319 of the Companies Act 1963 (as amended by section 52 of the Company Law Enforcement Act 2001).

## Goal 5 – Providing Quality Customer Services

### Introduction

The ODCE continued to provide quality customer services to its clients during 2004. The final results of initial market research undertaken in late 2003/early 2004 on the first two years of the Office were generally positive. The following services in particular attracted praiseworthy comment:

- the Office's educational initiatives, including its Information Books;
- its consultations with professional interests;
- its accessibility in facilitating presentations and training seminars;
- the increased regulation of corporate insolvency matters;
- the combination of educational and enforcement activity which has helped to improve overall compliance levels.

During 2004, the Office sought to consolidate these strengths and to develop further its enforcement role in line with the feedback indicated in this research.

### Goal 5.1: Securing and Managing Resources

#### 5.1.1 Staffing

Although several vacancies arose during 2004, with not all being immediately filled, the ODCE remained close to its full staffing complement throughout the year. **Appendix 5.1.1** provides a breakdown of the Office's staffing at the end of the year.

The ODCE lost six staff last year as a result of promotion, retirement or transfer. The Director acknowledges the significant contribution which Sharon Bracken, Ian Drennan, Diarmuid Ó'Grúagáin,

Kevin Roche, Phyllis O'Connor and Mary Solan-Avison made to the ODCE's initial success.

The ODCE was pleased that the commitment, conscientiousness and hard work of two of its staff, Damien Kelly and Ellen Reilly, were recognised by the Department of Enterprise Trade and Employment in its Merit Awards for 2004.

#### 5.1.2 Financial Resources

The administrative costs of the Office in 2004 were funded through Subhead A09 of Vote 34 (Minister for Enterprise Trade and Employment). A summary of the allocated and expended amounts for the main Pay and Non-Pay headings are provided in the following table.

Subhead A09, Vote 34	2004 Allocation	2004 Expenditure
	€000s	€000s
Pay	1,686	1,682
Non-Pay	2,564	1,385
Total	4,240	3,067

A detailed breakdown of the above figures is contained in **Appendix 5.1.2**.

Overall expenditure by the ODCE in 2004 amounted to €3.07 million, an 8% increase on the outturn of €2.84 million in 2003.

While pay expenditure was very close to the allocation, a surplus was recorded on the non-pay budget. This was primarily due to legal and other professional costs being less than anticipated.

In accordance with Government Accounting Procedures, the surplus allocation was surrendered at the end of 2004.

#### 5.1.3 Organisational Development

The online access to the CRO database secured in 2003 was further enhanced during 2004. The link was updated to ensure that the information received by the ODCE is synchronised with the latest data available to the CRO. This greatly assisted in expediting case evaluation and maintaining the quality of assessment employed in progressing investigations.



The effectiveness of the Office in 2004 was also improved by the further development of a database to record and track its cases in the detection, enforcement and insolvency areas. The system is designed to integrate information from these functions across the Office. Phase 1 was implemented during September 2004.

The ODCE had occasion in 2004 to engage external expertise to assist it in undertaking its investigative and enforcement work in particular. The operation of the Office's legal and accounting expert panels was reviewed in 2004, and a streamlining of procedures is underway at year-end.

### 5.1.4 Risk Management Action Plan

During 2004, the ODCE co-operated with the Department of Enterprise Trade and Employment in establishing a risk management system in accordance with the recommendations of the Mullarkey Report.

The overall objective of the policy is to ensure that appropriate actions are taken to identify, assess and manage effectively the principal risks to which the business of the Department and its Offices may be exposed.

The system builds on existing informal risk management practices, processes and procedures, making best use of the limited management time that is available. Staff within the ODCE have been designated as a "Response Team" in the event of an occurrence causing disruption to the business of the Office.

## Goal 5.2: Developing Staff

### 5.2.1 Performance Management

The Office implements the Performance Management and Development System which applies across all Government Departments and Offices.

Taking into account the goals identified in the ODCE's Strategy Statement 2003-2005, staff contributed to the development of the Office's Business Plan for 2004. ODCE staff were involved in relating their individual roles to meeting the identified tasks in the Business Plan and in identifying the competencies, skills and knowledge

required to complete those tasks successfully. Staff roles were reviewed during 2004, and adjustments to tasks and training requirements were made as necessary in the light of work-related developments.

In 2004, some 60 external training days were provided to ODCE staff across all grades, of which 21 training days were IT-related. The Department of Enterprise Trade and Employment provided an additional eight days of IT-related training for each of three ODCE staff, and internal training was also provided in-house.

### 5.2.2 Team-Based Working

Multi-disciplinary teams operate within the ODCE in order to handle the Office's rising volume of casework. This is particularly so in the detection, enforcement and insolvency areas. The teams' operating procedures and performance were reviewed, developed and adjusted during the year, in order to improve the quality and quantity of case evaluation and throughput. A pictorial representation of the respective involvements of ODCE staff by functional area is at **Appendix 5.2.1**.

During 2004, the Director made a number of revisions to the powers delegated to designated staff under section 13 of the Company Law Enforcement Act 2001 in support of the work of the Office. In all, ten members of staff working in various teams and areas of the Office were formally delegated to discharge on his behalf one or more of the Director's legal functions. This consisted of five changes to existing delegations and five new delegations.

The Office Management Committee, chaired by the Director and representative of all staff, met on a regular basis in 2004, dealing predominantly with policy and organisational issues affecting the Office's continuing development.



The Audit Committee Institute Ireland were briefed by Mr. Appleby on the requirements regarding Directors' Compliance Statements

## Goal 5.3: Developing Quality Services

### 5.3.1 Services Offered

ODCE has committed considerable resources to develop and use new technology to provide information to its customers, to receive input from customers and to enhance efficiencies in work practices. The services offered by the Office to the public and professionals include:

- information on company law and related matters made available through the Office's website, publications, etc. (some 220 customers registered in 2004 to be notified of new information on the website);
- talks, seminars and other compliance initiatives provided by Office staff;
- the facility permitting the making of complaints of suspected corporate misconduct;
- statute-based services, whereby auditors, liquidators and other interests are required to report in certain circumstances to the Office;
- general assistance offered to Office clients in dealing with telephone queries, correspondence, e-mail, etc.

Internal and external customer concerns are key issues for the ODCE and have been addressed in its Strategy Statement, Business Plans and Annual Report. During 2004, staff of the Office continued to make every effort to provide quality services both to its internal and external customers.

### 5.3.2 Publications

The following publications were prepared and issued during 2004:

- the Director's End-of-Year Statement and Review of 2003;
- the ODCE Annual Report for 2003 (in both the Irish and English languages);

- Consultation Paper C/2004/1 on Directors' Compliance Statements and the associated Draft Guidance;
- Information Note on the Companies (Auditing and Accounting) Act 2003 (Commencement) Order 2004 (Statutory Instrument No. 132 of 2004);
- The Report of the Inspectors into the affairs of National Irish Bank Ltd. and National Irish Bank Financial Services Ltd.;
- Revised ODCE Guidance on the Directors' Compliance Statements;
- lists of companies which are the subject of a liquidator's report pursuant to section 56 of the Company Law Enforcement Act 2001.

The ODCE also contributed articles and papers to the national and professional media and collaborated with the CRO in a Bulletin on topical company law issues which was issued to Irish company directors.



Revised Guidance on Directors' Compliance Statements

### 5.3.3 Website

A key element of ODCE services is the provision of information via the ODCE website. New information relating to the ODCE's work and associated corporate governance developments was regularly posted to the Office's website in 2004. This included the following:

- new Office publications as indicated above;
- copies of presentations made by Office staff to business, professional and related interests;

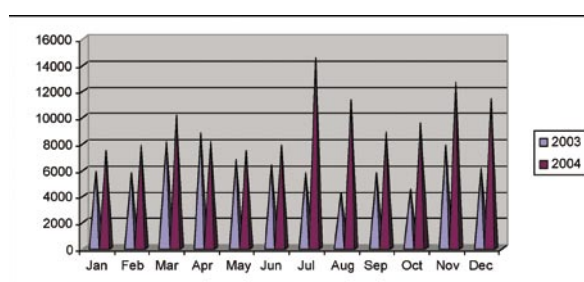


- press statements, articles, etc. issued by the Director and other staff and
- the results of Court cases in which the Director prosecuted suspected breaches of company law and other Court decisions relevant to company law.

The results of the 2003 survey of customer satisfaction with its website were analysed and reviewed. A report setting out recommendations for the planned redevelopment of the website was completed and agreed in 2004. These recommendations include improvements to its accessibility, particularly for persons with disabilities. Work has begun at year-end to implement a number of these improvements.

The success of the website in terms of the quality and quantity of the featured company law materials is evident in the continuing growth of traffic. Some 116,783 visits were made to the website in 2004, a 54% increase on the 75,597 figure achieved in 2003.

The following chart indicates the monthly distribution of visits. Some of the higher monthly counts can be explained by the issue of new ODCE publications. For instance, the 'spike' in July can be attributed to the publication of the Inspectors' Report into National Irish Bank Ltd. (NIB) and National Irish Bank Financial Services Ltd. (NIBFS) which resulted in a surge of visits to the website to view and download portions of the Report.



Some 59,261 downloads of information on the ODCE website were recorded in 2004, a substantial increase on the comparable figure of 26,408 in 2003. The downloads related to a total of 191 documents (89 in 2003), and the Office's Decision Notices, Guidance Booklets and Information Notes, as well as the NIB/NIBFS Report, featured prominently among the most popular documents. **Appendix 5.3.1** itemises the classes of documents in most demand in 2004.

A report on the website by Silicon Republic ([www.siliconrepublic.com/](http://www.siliconrepublic.com/)) gave the ODCE website a favourable review, saying inter alia that it "appears to do a good job of giving companies the material they need to act responsibly and fulfil their growing list of obligations in the area of corporate governance."



### 5.3.4 Freedom of Information (FOI) Acts

The FOI Acts permit the disclosure of records concerning the general administration of the Office only. During 2004, the ODCE received no new requests seeking records under the Acts. One request received in December 2003 was finalised in January 2004, the request being partially granted.

### 5.3.5 Data Protection Acts

The ODCE is registered with the Office of the Data Protection Commissioner as a Data Controller. The Data Protection Acts 1988 and 2003 protect against the improper disclosure of any information held about an individual. The ODCE continues to adhere to this requirement, as well as complying with its own strict confidentiality provisions contained in the Company Law Enforcement Act 2001.

### 5.3.6 Prompt Payment of Accounts Act 1997

The Act provides for the payment of interest to suppliers whose invoices are unpaid at the prescribed date. In line with the Office's policy of arranging that all invoices be settled in a timely manner, the ODCE incurred no interest surcharge on payments in 2004.

### 5.3.7 Compliance with Agreed Customer Service Standards

The ODCE finalised its Customer Service Plan in 2004 and received clearance late in the year for its contents from the Department of Enterprise Trade and Employment. This will be published early in 2005.

The ODCE is committed to providing a quality customer service to all members of the public who have dealings with it as well as to the internal customer. The Office regularly reviewed and sought to improve further the standard of services provided. The Feedback Service and Complaints Service on the website is part of this process, as is the proposed redevelopment of the website to WAI compliance level 3 (accessibility for users with disabilities).

While the Director is very satisfied overall with the standard of service provided by Office staff to its customers, he did receive a small number of complaints during the year relating in particular to delays in the evaluation of reports and complaints made to the Office. These delays are due to the accumulated workload which has arisen during 2003 and 2004 due to the volume of alleged unlawful activity which the Office is being asked to examine. Because of the profile of the Office in the compliance area, we are also in receipt of a significant volume of requests for information on company law obligations which we are anxious to deal with promptly and professionally.

Despite the successful application of team-working in the Office and the use of technology to speed evaluation and throughput of cases, present staff numbers are simply not adequate to deal with public enquiries and manage the current case volumes on a professional basis. It will accordingly be necessary in the short term to secure additional staff for these purposes. Otherwise, there will be increasing dissatisfaction with the service standards available from the ODCE in 2005 and beyond.

## Conclusion

The ODCE responded well to a number of key challenges in 2004. The Office recognised that some companies would face difficulty in introducing the new obligation to prepare and publish statements of compliance, and it initiated the process of developing guidance to help company directors and managements meet this requirement. In producing high quality guidance in partnership with business, professional and regulatory interests during the year, the Director believes that the credibility of the ODCE as a positive agent for change in improving corporate compliance was enhanced.

The Office's work appears to be achieving real benefits. Auditor reports of the commission of suspected company law offences were regularly accompanied in 2004 by directors' statements that the defaults in question had been regularised. The Office also continued its valuable work in responding to public complaints and acted in many cases to rectify current non-compliance and/or deter future misconduct to the benefit of those disadvantaged by unlawful practices.

Notwithstanding a heavy and growing workload, the Office managed to increase the number and range of its successful civil and criminal enforcement actions and achieved a number of notable Court decisions in support of its mandate.

The ODCE's remit with respect to insolvent companies continued to have a positive impact with signs of improved director behaviour. The Office also began to focus more attention on the problem of unliquidated insolvent companies given their disruptive effect on a fair and competitive market.

Overall, the visibility of the Office in the compliance and enforcement area appears now to be improving as evidenced by the growing number of visits to the Office website and the public appetite for receiving compliance-related information.

As we face into 2005 however, the Office still has much unfinished business. It has a large and growing backlog of cases for investigation and enforcement, and it is clear that this cannot be professionally cleared

without an increase in staff. Our success is also generating additional demands on the Office. While staff remain committed to advancing the Office's compliance and enforcement agenda, it is the case that the Office could be achieving more in both areas with additional staffing resources.



At the Seminar on Taxation

The Director is accordingly anxious to increase the Office's staffing in 2005 in a number of key areas. Pending a decision on this issue, he and his staff will continue to make inroads into the ODCE's current programme of work in the interests of creating better conditions for enterprise development. The Office wants to see less unscrupulous activity, greater market transparency and improved legal conduct in corporate affairs.

The ability of the Office to fulfil its statutory mandate will continue to depend on receiving the support of corporate and professional interests and the general public. We hope that people at large will continue to recognise the overall benefits of corporate compliance and act in a manner consistent with achieving this result.

# Appendices

## Appendix 1.1.1

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### List of Submissions in response to Consultation Paper C/2004/1 on Directors' Compliance Statements

ACCA – Ireland  
Arthur Cox  
Audit Committee Institute Ireland  
Business Software Alliance  
Clery's Department Store  
Deloitte  
Dillon Eustace Solicitors  
Enterprise Ireland  
Ernst & Young  
Fashion and Footwear Federation  
Financial Services Ireland  
Friel Stafford Chartered Accountants  
Grant, J.E.C.  
Holohan, Simon  
IBEC  
Institute of Certified Public Accountants in Ireland  
Institute of Chartered Accountants in Ireland  
Irish Association of Investment Managers  
Irish Bankers' Federation  
Irish Congress of Trade Unions  
Irish Financial Services Regulatory Authority  
Irish Insurance Federation  
Irish Stock Exchange  
Irish Taxation Institute  
Irish Venture Capital Association  
John M. Molloy Engineering Ltd.  
Kane, Mary  
Kidney, R. J. & Co., Chartered Accountants  
KPMG  
Lavery Kirby, John  
Law Society of Ireland  
Mater Misericordiae & The Children's University Hospitals Ltd.  
Matheson Ormsby Prentice Solicitors  
McCann Fitzgerald Solicitors  
Phelan, Mervin  
PWC  
Rehab Group

## Appendix 1.2.1

### List of ODCE Presentations in 2004

Date	Promoter	Event Type	Subject	Location	Audience (approx.)	Speaker
13/01/04	Revenue	Senior Managers Conference	Overview of ODCE to date plus ODCE/ Revenue Liaison Process	Revenue South West Region	15	Dermot Madden
20/01/04	Centre for Corporate Governance – IOD	Presentation	Role and Functions of the ODCE	UCD, Dublin	20	Ian Drennan
05/02/04	Laois Leader Group	Presentation	Company Directors' Duties	Killeshin Hotel, Portlaoise	70	Ian Drennan
09/02/04	The Dublin Bar Solicitors Association	Presentation	Corporate Health Check for Small Private Companies and ODCE	Conrad Hilton Hotel, Dublin	200	Adrian Brennan
09/03/04	An Garda Síochána	Detective Training Course	ODCE Role	Garda Depot, Phoenix Park	25	Gerry Walsh
10/02/04	ACCA, Cork	Presentation	ODCE Update	Kingsley Hotel, Cork	40	Ian Drennan
10/02/04	ACCA, Dundalk	Presentation	ODCE Update	Fairways Hotel, Dundalk	50	Ian Drennan
17/02/04	ACCA, Dublin	Presentation	ODCE Update	Burlington Hotel, Dublin	60	Ian Drennan
17/02/04	International Association of Insolvency Regulators	Annual Conference	The Regulation of Phoenix Companies	New Delhi	40	Paul Appleby
18/02/04	International Association of Insolvency Regulators	Annual Conference	Member Report for Ireland	New Delhi	40	Paul Appleby



## Appendix 1.2.1 (continued)

### List of ODCE Presentations in 2004

Date	Promoter	Event Type	Subject	Location	Audience (approx.)	Speaker
19/02/04	Society of Archivists, Ireland	Presentation	Companies Acts' Documentary Requirements	Ormond Hotel, Kilkenny	50	Ian Drennan
25/02/04	IFSRA	Presentation	Role and Functions of the ODCE	IFSRA HQ, Dame Street	40	Ian Drennan
25/02/04	IFSRA	Presentation	Investigation of Fraud Offences/ Exhibit Handling	IFSRA HQ, Dame Street	50	Pat Collins
02/03/04	Monaghan Partnership Board	Presentation	Company Directors' Duties	Monaghan Road, Castleblaney	30	Ian Drennan
23/03/04	ACCA, Galway	Presentation	ODCE Update	Menlo Park Hotel, Galway	40	Ian Drennan
25/03/04	ICPAI Accountants' Update	Presentation	ODCE Update	Holiday Inn, Dublin Airport	80	Ian Drennan
26/03/04	Revenue - BMW Region	Senior Managers Conference	Overview of ODCE to date plus ODCE/ Revenue Liaison process	Athlone	15	Dermot Madden
30/03/04	Jordans Publications	Conference	Ensuring Compliance within your company	Jury's Hotel, Dublin	100	Paul Appleby
30/03/04	ICPAI Accountants' Update	Presentation	ODCE Update	Moran's Silver Springs Hotel, Cork	80	Ian Drennan
01/04/04	ICAI Practice Conference 2004	Presentation	ODCE Update	Great Southern Hotel, Killarney	120	Ian Drennan
07/04/04	ACCA, New Ross	Presentation	ODCE Update	Brandon House Hotel, New Ross	30	Ian Drennan
19/04/04	Committee of the New South Wales Parliament of Australia	Information-Sharing Meeting	Overview of the ODCE and its powers	ODCE, Dublin	8	Ian Drennan

## Appendix 1.2.1 (continued)

### List of ODCE Presentations in 2004

Date	Promoter	Event Type	Subject	Location	Audience (approx.)	Speaker
20/04/04	Offaly LEADER	Presentation	Company Directors' Duties	Tullamore Court Hotel	70	Ian Drennan
22/04/04	ACCA Limerick	Presentation	ODCE Update	Clarion Hotel, Limerick	30	Ian Drennan
28/04/04	Revenue Commissioners	Staff Briefing/ Presentation	Role & Powers of the ODCE & related matters	Royal Dublin Hotel, Dublin	20	Dermot Madden; Mick Moran
29/04/04	Carlow County Enterprise Board	Presentation	Company Directors' Duties	Seven Oaks Hotel, Carlow	30	Ian Drennan
11/05/04	Irish Venture Capital Association	Seminar	The New Company Law Regime	Enterprise Ireland (Merriion Hall)	80	Paul Appleby
11/05/04	An Garda Síochána	Detective Training Course	ODCE Role	Garda Depot	25	Gerry Walsh
20/07/04	Law Society of Ireland	Presentations	The Role and Functions of the Director of Corporate Enforcement	Law Society of Ireland - Law School	60	Kevin O'Connell
07/09/04	Audit Committee Institute Ireland	Seminar	Draft Guidance on Directors' Compliance Statements	The Conrad Hotel, Dublin	200	Paul Appleby
13/09/04	Key Network Group	Presentation	ODCE Enforcement and Corporate Health Check for Company Directors	59 Lansdowne Road, Dublin	20	Adrian Brennan
21/09/04	Queen's University Belfast	International Conference	Reforming the Regulatory Environment in Ireland	Queen's University, Belfast	100	Paul Appleby
22/09/04	Revenue East-South East Region	Senior Managers Conference	Overview of ODCE to date plus ODCE/ Revenue Liaison process	Carlow	50	Dermot Madden; Mick Moran

## Appendix 1.2.1 (continued)

### List of ODCE Presentations in 2004

Date	Promoter	Event Type	Subject	Location	Audience (approx.)	Speaker
30/09/04	Mid West Community Development Support Agency	Presentation	Directors' Duties & related matters	Ashbourne Business Park, Dock Rd, Limerick	20	Mick Moran
05/10/04	An Garda Síochána	Detective Training Course	ODCE Role	Garda Depot, Phoenix Park	25	Gerry Walsh
07/10/04	International Association of Insolvency Regulators	EU Accession States workshop	Insolvency Regulation in Ireland	Prague	20	Paul Appleby
13/10/04	The Institute of Chartered Secretaries and Administrators	Conference	Corporate Update '04	The Conrad Hotel, Dublin	200	Paul Appleby
20/10/04	Association of Compliance Officers in Ireland	Seminar	The ODCE and Compliance – Relevance to Financial Services	The Clarion Hotel, IFSC	120	Paul Appleby
29/10/04	Revenue Training Branch	Presentation	Overview of ODCE to date plus ODCE/ Revenue Liaison process	Dublin	20	Dermot Madden; Mick Moran
03/11/04	Chartered Institute of Management Accountants	Seminar	Company Directors' Responsibilities	The Shelbourne Hotel, Dublin	150	Paul Appleby
05/11/04	West Training Development	Presentation	Directors' Duties & related matters	Galway	25	Mick Moran
10/11/04	Public Affairs Ireland	Conference	Companies, Public Authorities and the Director of Corporate Enforcement	The Shelbourne Hotel, Dublin	200	Paul Appleby
12/11/04	Irish Council for Social Housing	Seminar	Directors' Duties & related matters	Prince of Wales Hotel, Athlone	40	Mick Moran
17/11/04	Garda Bureau of Fraud Investigation	Presentation	ODCE Role, Investigation of Company Law Offences, Sharing of Information	G.B.F.I Harcourt Square, Dublin	N/A	Pat Collins

## Appendix 1.2.1 (continued)

### List of ODCE Presentations in 2004

Date	Promoter	Event Type	Subject	Location	Audience (approx.)	Speaker
17/11/04	Revenue	Presentation	Directors' Compliance Statements	Dublin	20	Dermot Madden
18/11/04	Irish Bankers Federation/ Institute of Bankers	Seminar	Directors' Compliance Statements: Feedback and Implementation	IoB Conference and Learning Centre, IFSC	150	Paul Appleby
22/11/04	Smurfit Graduate School of Business	UCD M. Acc. Class	Overview of ODCE and work to date	Dublin	80	Dermot Madden
23/11/04	MBA Association of Ireland	Seminar	The ODCE and Compliance in Ireland	The Smurfit Business School	80	Paul Appleby
23/11/04	UCC Continuing Professional Development	Lecture	ODCE Update	Cork	30	Mick Moran
23/11/04	ICPAI	ICPAI Conference	Overview of ODCE and work to date	Tullamore	50	Dermot Madden
25/11/04	Revenue - East/South East Regions	Senior Managers Conference	Overview of ODCE to date plus ODCE/ Revenue Liaison process	Blarney	50	Dermot Madden
29/11/04	Continuing Legal Training Conference	Presentation	Directors' Compliance Statements: Current Developments	Westbury Hotel, Dublin	50	Adrian Brennan
30/11/04	Cavan County Enterprise Board	Presentation	Corporate Health Check for Directors of Private Companies	Slieve Russell Hotel, Cavan	50	Adrian Brennan
30/11/04	ICPAI	ICPA CPD Conference	Overview of ODCE and work to date	Ennis	50	Dermot Madden
07/12/04	CID Course	Presentation	Role of ODCE, Investigation of Company Law offences	Garda HQ	N/A	Pat Collins

## Appendix 1.2.1 (continued)

### List of ODCE Presentations in 2004

Date	Promoter	Event Type	Subject	Location	Audience (approx.)	Speaker
09/12/04	Association of Compliance Officers	Presentation to Students	ODCE Role	Institute of Bankers, Dublin	250	Adrian Brennan
20/12/04	Eastern Regional Health Authority	Seminar	Roles and Responsibilities of Company Directors under the Companies Acts	Stewart's Hospital, Palmerstown	50	Paul Appleby

## Appendix 1.2.2

### Subject of ODCE Articles, etc. in 2004

Date	Subject	Author
July 2004	Article entitled “Management Companies are becoming a Major Issue” published in the Irish Construction Industry Magazine – July/August 2004. The article was reproduced in an Irish Independent Property Supplement in September 2004.	Paul Appleby
September 2004	Paper entitled “Reforming the Regulatory Environment in Ireland” to the ‘Governing the Corporation Conference’, Queen’s University, Belfast	Paul Appleby
October 2004	Article on ‘Good Governance’ published by the Disabilities Federation of Ireland	Adrian Brennan
November 2004	Article entitled “Directors’ Compliance Statements – Will They Apply to You?” published in ‘Corporate Compliance Matters – Winter 2004’.	Paul Appleby
November 2004	Article on Directors’ Transactions entitled “Is Your Company Your Personal Bank?” published in ‘Corporate Compliance Matters – Winter 2004’	Paul Appleby
December 2004	Article on Directors’ Duties entitled ‘Corporate Check – Ten steps that every company director should take to help secure their compliance with Company Law’ – published in the January 2005 edition of Business Plus Magazine	Adrian Brennan



## Appendix 1.2.3

### Subject of ODCE Press Statements – 2004

Date	Subject
09/01/04	Publication of ODCE End-of-Year Review for 2003
08/03/04	First ODCE Restriction of a Director of an Unliquidated Insolvent Company
18/03/04	First ODCE Fraudulent Trading Conviction
01/06/04	Publication of ODCE Annual Report for 2003
22/07/04	Publication of an ODCE Consultation Paper and Draft Guidance on the Obligation of Company Directors to Prepare Compliance Policy and Annual Compliance Statements under the Companies (Auditing and Accounting) Act 2003
30/07/04	Publication of the High Court Inspectors' Report into the affairs of National Irish Bank Ltd. and National Irish Bank Financial Services Ltd.
07/09/04	Presentation to the Audit Committee Institute Ireland on Directors' Compliance Statements
20/10/04	Review of the Submissions received with respect to the Draft Guidance on Directors' Compliance Statements
10/11/04	Presentation to the Public Affairs Ireland Conference on Governance, Accountability and Financial Management in the Public Sector
15/11/04	First ODCE Disqualification and Restriction of the Directors of a Struck-off Company
16/12/04	Publication of Revised ODCE Guidance on the Directors' Compliance Statements

## Appendix 2.1.1

### Breakdown of New Cases in 2004 by Source

Source of New Cases	Total 2003	Total 2004
<b>Mandatory Reports</b>		
- Indictable Reports from Auditors	1488	1568
- Reports from the CRO	9	15
- Report from Liquidator	1	2
- Indictable Reports from Professional Bodies	8	9
<b>Total Mandatory Reports</b>	<b>1506</b>	<b>1594</b>
<b>Voluntary Reports</b>		
- Public Complaints	307	341
- Reports from State Authorities	118	2
- Reports from non-State Authorities	1	18
- Other Reports and Detections	18	1
<b>Total Voluntary Reports</b>	<b>444</b>	<b>362</b>
<b>TOTAL REPORTS</b>	<b>1950</b>	<b>1956</b>

## Appendix 2.2.1

### Mandatory Reports – Character of Possible Company Law Defaults

Types of Indicated Default	Total 2003	Total 2004
Non-filing of Annual Returns on a timely basis	1519	1560
Excessive Directors' Loans	271	303
Failure to Keep Proper Books of Account	48	59
Non-holding of Extraordinary General Meetings	92	30
Directors' Interests/Shares Registration Infringements	0	15
No Director Resident in the State	24	12
Non-holding of Annual General Meetings	3	6
Non-Qualification for Appointment as Auditor	5	4
Fraudulent Trading	1	2
Failure of Liquidator to call Meetings of Company/Creditors	1	2
Falsification of Documents	1	2
Failure to Comply with Accounting Principles	0	2
Other	1	10
<b>Total Defaults in Mandatory Reports</b>	<b>1966</b>	<b>2007</b>

## Appendix 2.2.2

### Voluntary and Other Reports – Character of Issues Involved

Types of Indicated Issues	Total 2003	Total 2004
External company filing defaults	117	Nil
Debt Issues	68	63
Irish Registered Company Filing Issues	44	11
Shareholder Issues	17	24
Information alleging Misconduct	17	18
Director Issues	17	16
Civil Issues	12	13
Reckless/Fraudulent/Insolvent Trading	11	53
Liquidated Companies	10	3
Failure to effect service of documents on Registered Addresses	8	2
Trading while struck off the Companies Register	8	13
Annual/Extraordinary General Meetings	8	27
Companies ceasing trading (but not placed in liquidation)	6	2
Forgery/False information	3	13
Unclear/Other Issues	98	104
<b>Total</b>	<b>444</b>	<b>362</b>

## Appendix 2.2.3

### Throughput of Cases at Detection Stage

Detection of Cases	Total 2003	Total 2004
Cases on hands at 1 January	147	406
New Cases	1950	1956
Cases Concluded	1406	1577
of which - Cases Closed	238	351
- Cases Referred to the CRO	1168	1226
Cases for Further Consideration by the ODCE	292	493
Cases on hands at 31 December	406 <sup>40</sup>	292

<sup>40</sup> Includes seven cases reopened in 2003

## Appendix 2.2.4

### Cases Concluded at Detection Stage by Primary Manner of Disposal

Detection Decisions	Voluntary Reports	Mandatory Reports	Total 2004
Insufficient Evidence of Default	67	-	67
Default Appropriate for Civil Action	59	-	59
Cases Closed by Remedy of Default/Warning	3	152	155
Default Referred to CRO	10	1216	1226
Other	70	-	70
<b>Total Cases Closed</b>	<b>209</b>	<b>1368</b>	<b>1577</b>
Cases Referred for Possible Enforcement	115	354	469
Cases Referred for Insolvency Examination	22	2	24
Cases Referred for Further Consideration	137	356	493



## Appendix 3.1

### Overview of ODCE Proceedings in 2003 and 2004

Proceedings by Case Type	2003		2004	
Investigative				
• Successful	23		11	
• Unsuccessful	-		-	
• Ongoing	2		-	
• Sub-Total		25		11
Civil Enforcement				
• Successful	15		4	
• Unsuccessful	-		1	
• Ongoing	4		7	
• Sub-Total		19		12
Criminal Enforcement				
• Successful	18		20	
• Unsuccessful	2		2	
• Ongoing	12		9	
• Sub-Total		32		31
Judicial Review and Others				
• Successful	2		4	
• Unsuccessful	-		-	
• Ongoing	-		3	
• Sub-Total		2		7
All Proceedings				
• Successful	58		39	
• Unsuccessful	2		3	
• Ongoing	18		19	
• Total		78		61

## Appendix 3.2

### Breakdown of Legal Proceedings in 2004 involving the Director

Type	Subject Matter	Section/Act <sup>41</sup>	Case Nos.	Case Status/Result
<b>High/Supreme Courts</b>				
Application	Access to the Inspectors' papers etc.	S. 12, 1990	1	Ongoing
Application	Compliance by liquidator with reporting obligations	S. 371, 1963	2	Compliance Order and Costs Order Granted
Application	Disqualification of company directors	S. 160(2), 1990	8	Disqualification and Restriction granted; Ongoing (7)
Application (ODCE acted as Respondent)	Relief by a disqualified director	S. 160(8), 1990	1	Conditional relief granted
Application (ODCE acted as Respondent)	Relief by a director from the disability of his rights or interests in shares being unenforceable	S. 58(3), 1990	2	Relief granted
Application	Restriction of the directors of unliquidated insolvent companies	S. 150, 1990 (as applied by S. 251, 1990)	2	Granted (1); Withdrawn (1)
Intervention	Liquidation of Irish-registered company	S. 214, 1963	1	Liquidation ordered; appeal to the Supreme Court and referred to the European Court of Justice
Intervention	Publication of Inspectors' Report	S. 11, 1990	1	Report published
Judicial Review	Commencement of company examinations	S. 20, 1990	1	Ongoing

## Appendix 3.2 (continued)

Type	Subject Matter	Section/Act	Case Nos.	Case Status/ Result
<b>District Court</b>				
Application	Production of Banking Documentation	S. 7A, 1879/ S. 63, 1994	2	Granted
Application	Retention of Documents	S. 20, 1990	5	Granted
Application	Search Warrant	S. 20, 1990	4	Granted
Prosecution	Acting as a director while an undischarged bankrupt	S. 183, 1963	1	Conviction and disqualification
Prosecution	Acting as a director while restricted and in breach of the statutory conditions	S. 161, 1990	3	Conviction and disqualification; Ongoing (2)
Prosecution	Acting as a liquidator while disqualified	S. 300A, 1963	1	Ongoing
Prosecution	Auditing a company while disqualified	S. 187, 1990	1	Probation Act - 24 charges thought proven
Prosecution	Auditing a company while not qualified to do so	S. 187, 1990	6	Convictions (19); Ongoing (3)
Prosecution	Excessive directors' loans	S. 40, 1990	1	Ongoing
Prosecution	Failure to deliver books to a liquidator	S. 293, 1963	1	Dismissal
Prosecution	Failure to keep proper books of account	S. 202, 1990	19	Convictions (38) Dismissal (1); Withdrawal (2); Ongoing (2)
Prosecution	Failure to submit annual returns	S. 125, 1963	3	Convictions (3)
Prosecution	Fraudulent Trading	S. 297, 1963	1	Conviction
Prosecution	Furnishing false information	S. 242, 1990	3	Convictions (3); Ongoing (2)

## Appendix 3.3

### Details of Successful ODCE Enforcement Actions in 2004

Parties Convicted/Offence	Company Number	Penalty/ Decision	Costs/ Expenses
<b>Acting as an auditor while unqualified</b>			
Richard Bennett (14 convictions)	-	€4,900	€1,563
Shane Bowe (4 convictions)	-	€2,000	-
Gerard Martin	-	Suspended 3 Months' Sentence	-
<b>Acting as a company director while an undischarged bankrupt</b>			
Miceal McGovern, Director, Tenants First (Ireland) Limited	255182	€50 and 5 Years' Disqualification	€467.08
<b>Acting as a company director while restricted and in breach of the statutory conditions</b>			
William McCormack, Director, Redgewood Flooring Limited	351017	€600 and 5 Years' Disqualification	€218
<b>Acting as a director of a company which was struck off the Register of Companies for failing to submit annual returns</b>			
Brendan Curtis, Director, Norse Security Ltd.	326393	2 Years' Disqualification	Costs to be taxed in default of agreement
Ann Curtis, Director, Norse Security Ltd.		5 Years' Restriction	-
<b>Acting irresponsibly and/or dishonestly as a director of an insolvent company</b>			
Samantha Hutton, Director, At Hand Cleaning Services Ltd.	341260	5 Years' Restriction	€1,500

## Appendix 3.3 (continued)

Parties Sanctioned/Reason for Sanction	Company Number	Penalty/ Decision	Costs/ Expenses
<b>Failure to keep proper books of account</b>			
Agriquip Limited (5 convictions)	84866	€1,750	€400
Altrux Limited	254988	€500	€423
Anthony Whelan, Director		€250	€223
Marie Whelan, Director		€250	€223
Avaya GCM Sales Limited	100712	€100	-
C.A.N.N. Security & Maintenance Limited <sup>42</sup>	328820	€200	€223
Noel McNamee, Director		-	-
Isabella Mary Barry, Director		-	-
Chadsley Company Limited	201370	€1,000	€228
Contact Papers Limited	57459	€950	€223
Francis Mulvany Limited	39060	€750	€353
Francis Mulvany, Director		€750	€353
Kazbar Limited	238691	€250	€370
National Deposit Brokers Limited <sup>43</sup>	206284	-	-
Ronnie Caraher, Director (3 convictions)		€900	€112
Douglas Farrell, Director (3 convictions)		€900	€111
Office Chat Limited	339393	€100	€223.59
Ian Fogarty, Director		€200	€223.59
Aiveen Fogarty, Director		€200	€223.59
P. Shiels Plant Hire Limited <sup>44</sup>	244853	€950	€465.59
Patrick Shiels, Director		€950	-
Fergus Shiels, Director		-	-
Tenants First (Ireland) Ltd. (3 convictions)	255182	€150	€690.69
Miceal McGovern, Director (3 convictions)		€150	€260.55
Inge McGovern, Director (3 convictions)		€150	€390.69
The Costume Mill Limited (2 convictions)	263921	€500	€223

<sup>42</sup> A further charge against each director was taken into consideration by the Court.

<sup>44</sup> The charge against Fergus Shiels was taken into consideration by the Court.

<sup>43</sup> Three charges against the company were taken into consideration by the Court.

## Appendix 3.3 (continued)

Parties Sanctioned/Reason for Sanction	Company Number	Penalty/Decision	Costs/ Expenses
<b>Failure to submit Annual Returns to the CRO</b>			
Anthony Whelan, Director, Altrux Limited <sup>45</sup>	254988	€250	€223
Marie Whelan, Director, Altrux Limited		€250	€134
John Ralph, Director, Coast to Coast Couriers Limited (In Liquidation)	307637	€100	-
<b>Failure to submit a Liquidator's Report to the ODCE</b>			
John Byrne, Liquidator, Bould Biddy's Ltd.	-	Order for Compliance	€3,392
Derek Owens, Liquidator, Uniwood Machinery Ltd.	-	Order for Costs	€1,200
<b>Fraudulent trading/Failure to keep proper books of account</b>			
Séan Gannon, Director, Corran Building Services Ltd. (in Liquidation) (2 Convictions) <sup>46</sup>	306415	Two Suspended 6 Months' Sentences	-
<b>Furnishing False Information</b>			
Shane Bowe (3 Convictions)	-	€1,500	€750

<sup>45</sup> A further charge against each director was taken into consideration by the Court.

<sup>46</sup> A further charge against Sean Gannon for failing to submit annual returns was taken into consideration by the Court.



## Appendix 3.4

### ODCE Throughput of Possible Enforcement Cases

Cases for Possible Criminal Prosecution	2003	2004
Cases on hands with ongoing criminal proceedings at 1 January	3	12
Other cases on hands for possible enforcement at 1 January	56	241
New cases received for possible enforcement	269	469
<b>Total Number of Cases</b>	<b>328</b>	<b>722</b>
<b>Treatment of Cases during the year</b>		
Cases where criminal proceedings were withdrawn	1	2
Cases where criminal proceedings were determined	19	20
Cases where criminal proceedings were adjourned	-	1
Other cases closed	51	209
Cases on hands with ongoing legal proceedings at year end <ul style="list-style-type: none"> <li>• Criminal Enforcement</li> <li>• Civil Enforcement</li> </ul>	12 4	9 7
Cases on hands for possible enforcement at year end	241	474
<b>Total Cases</b>	<b>328</b>	<b>722</b>

## Appendix 3.5

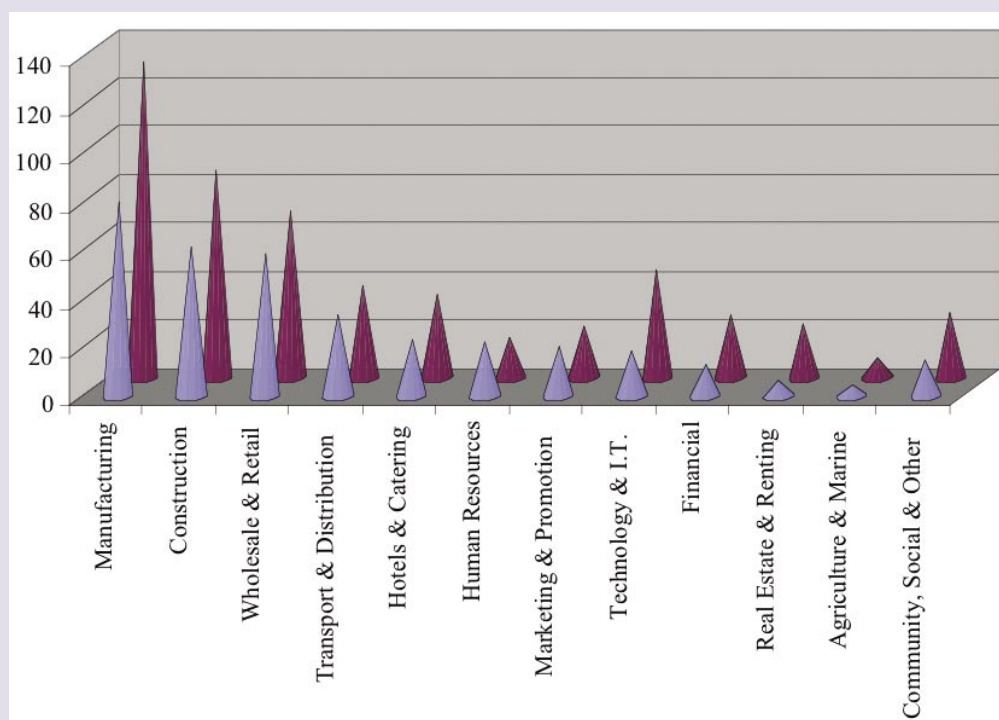
### Breakdown of Cases for Possible Enforcement in 2004 by Character

New Cases by Character	Total
Excessive Directors' Loans	296
Failure to Produce Company Registers	4
Failure to Keep Proper Books of Account	66
Falsification of Books and Documents	9
Reckless/Fraudulent Trading	20
Trading as a Limited Company while not so Incorporated	4
Undesirable General Conduct by Directors, etc.	7
Unliquidated Insolvent Companies	15
Unqualified Auditors	9
Other Suspected Offences	<u>39</u>
<b>Total Cases</b>	<b>469</b>

## Appendix 4.1

### Liquidator Reports received in 2004 – Sectoral Analysis

Insolvency by Sector	Section 56 Reports Involved	
	2003	2004
Manufacturing	130	80
Construction	86	62
Wholesale & Retail	69	59
Transport & Distribution	38	34
Hotels & Catering	34	24
Human Resources	17	23
Marketing & Promotion	21	21
Technology & I.T.	45	19
Financial	26	13
Real Estate & Renting	22	7
Agriculture & Marine	8	5
Community, Social & Other	27	15
<b>TOTALS</b>	<b>523</b>	<b>362</b>



## Appendix 4.1.1

### Liquidator Reports at 31 December 2004 – Reports Progressed

Classification	First Reports	Further Reports	Final Reports	Total Reports
<b>Section 56 Reports received</b>				
Reports brought forward from 2003	261	26	30	317
Reports received in 2004	362	298	332	992
Reports due and not received in 2004	11	30	n/a	41
Compliance Rate	97%	90%	n/a	96%
<b>Section 56 Reports – Decisions</b>				
Decisions due in 2004	534	267	290	1091
Decisions issued in 2004	529	268	287	1084
Conclusion Rate	99%	100%	99%	99%
Decisions where full relief <sup>47</sup> was granted	357	218	287	862
Decisions where partial relief <sup>48</sup> was granted	21	8	0	29
Decisions where relief at this time <sup>49</sup> was granted	53	21	0	74
Decisions where relief was not granted	93	21	0	114
Other Decision made	5	0	0	5
Reports carried forward to 2005	94	56	75	225
<b>No. of Liquidators Involved in Section 56 Reports</b>	123	n/a	n/a	123
<b>No. of Directorships Involved in Section 56 Reports</b>	893	n/a	n/a	893

\* n/a denotes not applicable

<sup>47</sup> Full Relief is granted in all cases where the ODCE is satisfied, on the basis of information provided by the liquidator or otherwise, that the directors of the insolvent company had acted honestly and responsibly in the conduct of the company's affairs.

<sup>48</sup> No Relief / Partial relief is granted in circumstances where either the liquidator has not sought to be relieved and ODCE accords with this recommendation or where the ODCE is not fully persuaded by the reasons which the liquidator had given as to why he/she ought to be relieved from the obligation of applying to the

Court for the directors' restriction. Cases of Partial Relief are those in which such circumstances apply in respect of some, but not all, of the company's directors.

<sup>49</sup> Relief 'at this time' is granted in cases where the ODCE is satisfied that the liquidator needs more time to investigate the circumstances giving rise to the company's demise. The ODCE requires such liquidators to submit a further report, after which a fresh decision will be made on relief.

## Appendix 4.2.1

### Cases Granted 'Full Relief' by the ODCE in 2004 pursuant to Section 56

Company Name	Company Number
Acsis Technologies (Ireland) Limited	246120
Advanced Sweepers & Equipment Limited	343148
Aerospace Industries International Limited*	264165
Aerospace Industries Trading Limited*	279109
AFS Computer Supplies Limited	288460
AHB Ireland Limited	340803
Aherne Fogarty Engineering Limited	101181
AK Manufacturing Limited	307892
Allies Limited	163496
Alpha Mobile Communications Limited	273091
Alterations Xpress Limited	272906
Alu-Rail (Project Division) Limited	348570
Alva Fashion Limited	360196
An Bialann Blasta Teoranta	232264
Apollo Financial Services Limited	253187
Asgard Construction (Ireland) Limited	205250
Ast Ireland Limited	203102
Avonway Limited	116127
B.T.M. Industries Limited	81260
Ballyfair Flooring Limited	338324
Beckett Ceilings Limited	113290
Belmont Contract Haulage Limited	227433
Best Styles Limited	191986
Beverage Logistics Limited	245185
BIFE Research Ireland Limited	203101
Big Snack-Fast Foods Limited	92205
Bigback Solutions Limited	315735
Body & Sole Limited	280393

## Appendix 4.2.1 (continued)

### Cases Granted 'Full Relief' by the ODCE in 2004 pursuant to Section 56

Company Name	Company Number
Boo.com Ireland Limited	297782
Brenson Limited	60254
Brendan Mooney Transport Limited	288777
Briarwise International Limited	267437
Business Furniture Limited	278051
Byrne & Darley Limited	61704
Byrne Print Limited	347071
C&M Security Services Limited	167636
C.K.C. Gas Services Limited	323214
C.M.C. (Munster) Limited	314264
Callan Computer Sales Limited	97508
Cantier Construction Limited	287994
Careca Enterprises Limited	304818
Casualwear Ireland Limited	319713
Cellular Three Telecommunications Limited	302828
Celtic And Heraldic Jewellery Limited	102836
Celtic Joinery Limited	281841
Cemsip International Limited	180623
Century Dental and Medical Limited	312729
Checkout Marketing Ireland Limited	316729
Chillbrook Limited	244276
Christians of Ireland Limited	308547
Cinehub.com Limited	316743
Cladagh Sales & Distribution Limited	233883
Clane Properties Limited	298725
Clonlara Industrial Services Limited	156934
Colin Browne Construction Limited	302947
Colour Repro Limited	87562

## Appendix 4.2.1 (continued)

### Cases Granted 'Full Relief' by the ODCE in 2004 pursuant to Section 56

Company Name	Company Number
Columbus Financial Services Ireland Limited	253186
Comspec Limited	197797
Consumer & Business Promotions Limited	283036
Coolcotts Trading Co. Limited	175366
Copernicus Financial Services Limited	253185
Copperthwaite Decorators Limited	268679
Cortez Financial Services Limited	253184
Courtmount Hotels Limited	309233
Crofts & Son Limited	48597
Crowe Chizek (Ireland) Limited	206949
Crystal Voice and Data Limited	323068
Crystallynx Limited	320504
CSS Financial Markets Holding Limited	283358
Cunninghams (Laois) Limited	260184
D & D Direct Limited	347982
D & E Installations Limited	310283
D & K Designs Limited	259586
DAP (Press) Limited	245089
Dardis & Dunns Seeds & Cereals Limited	121365
Dardis & Dunn's Seeds Limited	12977
Delphoni Limited	233080
Delvin Management Group Limited	321533
Derrymullen Construction Limited	284152
D.E.S. Limited*	112899
Designyard Limited	209800
Discovery Financial Services Limited	253183
Distribution Services Teoranta	174652
DMG Distributors limited	183025
Document Systems Group Limited*	316222



## Appendix 4.2.1 (continued)

### Cases Granted 'Full Relief' by the ODCE in 2004 pursuant to Section 56

Company Name	Company Number
Doheny Transport Limited	85071
Donegal Timber Products Limited	232833
Donnelly Automation and Tooling Limited	248739
Ductex Limited	140666
E.Smart Limited	240676
E.A.S. Tagging Limited	313175
East Pier Limited	282404
Ebeon Limited	250638
Economy Insulations Limited	90779
Edgedawn Limited	324901
Edward Kavanagh (Maynooth) Limited	72186
E-Exchange PLC	287641
Electrocom Manufacturing Limited	352048
Electrocom Technical Services Limited	191841
Electronic Cash Registers Limited	67279
Elm Electronic Controls Limited	212383
Emerge (Ireland) Limited	193406
Enigma (Superclub) Limited	354063
EP Electromat Ireland Limited	138273
Eskimo Socks Limited	87931
Eventive Limited	156026
Exante Limited	354742
Excel Fire Prevention Limited	204320
Expert Edge Computer Systems Limited	117389
Express Cards Limited	340843
F. Moen Freight Limited	328614
Feltcon Limited	320188

## Appendix 4.2.1 (continued)

### Cases Granted 'Full Relief' by the ODCE in 2004 pursuant to Section 56

Company Name	Company Number
Fethard Holiday Homes Limited	168861
Field Construction Limited	25267
Fifth-Wheel Publishing Limited	254615
Financial Credit Options Limited	181444
Finbar O'Connor & Co. Insurances Limited	57578
Fitzgerald Packaging Limited	58363
Fitz-pack Cartons Limited	116101
Flexible Multimedia Limited	237494
Flying Giraffe Freight Limited	126381
Formus Communications Ireland Limited	304787
Francis Murray Limited	361212
Fusion Telecommunications Limited	335594
G.Net Group Limited	311321
Gainsrock Limited	286452
Galileo Financial Services Limited	253182
Ganvale Limited	109635
Gardoyle Construction Limited	243578
Garline Limited	247158
Gerard Casey Limited	55017
Gerard Molloy & Son Manufacturing Limited	169505
Glasnevin Tyre & Battery Service Limited	156663
Glenbeg Mechanical Services Limited	337549
Glenbrook Tankers Limited	280619
Global Cargo Services Limited	254970
Global Personnel Services Limited	314262
Globetrotter International (Trucking) Limited	210650
Goods Handling Services Limited	273409

## Appendix 4.2.1 (continued)

### Cases Granted 'Full Relief' by the ODCE in 2004 pursuant to Section 56

Company Name	Company Number
Group World Travel Limited	221755
H. & H. Metal Fabrications Limited*	126140
Halion Construction Limited	162287
Harcourt Photo Limited	348519
Helen's Cuisine Limited	219824
Heronford Fashion Limited	360195
Hibergen Limited	303332
Hibernia Foods Sales (Ireland) Limited	209856
Hillstar Properties Limited	236162
Hingehand Limited	290122
Hodges Limited	165398
Hynes Ventilation and Air Conditioning Limited	114722
I.A.F. Screen Services Limited	310294
ILCUTECH Limited*	257712
Imperial Schrade Europe Limited	147948
Imprint Lithographic Printers Limited	226579
Incept Limited	257309
Industrial Adhesive Fastenings Limited	148938
Industrial Sound & Lighting Limited	278306
Inside - Outside Limited	312321
Inspace Limited	302360
Intelligent Network Management Services	270189
Interior Dreams Concepts Limited	305171
International Fibres (Dundalk) Limited	76136
International Radio Traffic Services Limited	138110
Irelandfm Global Media Limited	315171
Irish Connections Limited	221222

## Appendix 4.2.1 (continued)

### Cases Granted 'Full Relief' by the ODCE in 2004 pursuant to Section 56

Company Name	Company Number
Irish Ispat Limited	11960
Irish Screen Holdings Limited	231634
Irish Uniques Limited	303445
Island Holiday Hostel Limited	224868
J & M Engineering Limited	139352
J. Fagan & Sons Limited	257548
J.F. Menton Limited	37843
James Hughes Haulage Limited	124507
JDM Computer Training Limited	271627
Jim Brady Metals Limited	73627
John Casey Formwork Limited	327922
Jour Research Ireland Limited	308718
K.A. Smyth & Co. Limited*	151698
Kavanagh Holdings Limited	44573
Kel Electronics Limited	60732
Kershaw Enterprises Limited	210559
Key Tech Enclosures Limited	91838
Kilcoran Developments Limited	341113
Kilcormac Farms Limited	73815
Kingmoore Limited	230996
Kiribati Limited	266231
Knightsmarsh Limited	320811
Kutz'R Us Limited	324384
LA FORME Limited	324607
Labels & Decals Limited	302425
Lavake Limited	266607
Lawlor Formwork Limited	270434

## Appendix 4.2.1 (continued)

### Cases Granted 'Full Relief' by the ODCE in 2004 pursuant to Section 56

Company Name	Company Number
Liffeydale Limited	291344
Lighthouse Industries Limited	336965
Limerick Bacon Retail Company Limited	77474
Lissadell Towels Limited	30219
Local Ireland Limited	296801
Logic Engineering Limited	327053
LSA Travel Limited	46936
M & S Furniture Limited	294153
M.C. Computer Consulting Limited	309134
Machines Limited	8665
Madulen Limited	325769
Maher's Decorating Limited	342234
Management Freight Distribution Limited	272748
Marcon Homes Limited	233090
Market Innovators (Europe) Limited	233191
Marlin Construction Management (Ireland) Limited	298641
Marsal PC International Limited	275368
Martello Taverns Limited	136722
Maura Bracken Limited	318142
Maypark Printers Limited	221340
McGowan Asphalt Roofing Services Limited	195434
McMillian Video Ireland Limited	318671
MC's Plastering Limited	308717
MDR Leictreonach Teoranta	127297
Mechanical & Processing Manufacturing Limited	272872
Mercier Bookshops Limited	12874
Mercury Glass Limited	342974
Mettvane Limited	186889
MFS Group Limited	52526

## Appendix 4.2.1 (continued)

### Cases Granted 'Full Relief' by the ODCE in 2004 pursuant to Section 56

Company Name	Company Number
Midlands Meats Limited	111953
Millstreet Electrical Supplies Limited	135165
Motogen Holdings Limited*	280775
Motogen Services Limited*	123952
Motor Ace Limited	292618
Moyle Salad Time Limited	135780
Murphy Floods Hotel Limited	343598
Myler Stainless & Engineering Supply Limited	58546
National Frames Limited	302500
National Institute For Occupational Health Limited	259370
Navan Carpets Limited	20333
Navan Resources Limited	119653
Nessbase Limited	326750
Netnote International Limited	277078
Network Next Limited	266229
New Media CV Limited	291340
New World Concept Limited	290858
Nizzie Limited	201018
Norrismount Investments Limited	213258
Norvale Developments Limited	291685
Noted Marketing & Design Limited	257905
Old Mill Manufacturing Limited	186572
O'Melia & Curran Limited	127877
OSIM Ireland Limited	350506
Otech Solutions (Ireland) Limited	264494
P C Heating Limited	276009

## Appendix 4.2.1 (continued)

### Cases Granted 'Full Relief' by the ODCE in 2004 pursuant to Section 56

Company Name	Company Number
P J Mushrooms Limited	267202
Paint 'N' Paper Limited	97631
Pat Droney (Formworks) Limited	287647
Pembroke Electrical Limited	121845
Pentacolour International Limited	118214
Phoenix Recruitment Services (IRL) Limited	275922
Planit Cable Limited	317496
Poole's Tools and Tyres Accessories Limited	348659
Poundland Limited	245519
Powerstation Limited	259633
Premier Bar Refurbishers Limited	170914
Premier Vacations (IRL) Limited*	290659
Prestige Contract Services Limited	301909
Product Recovery Systems Limited	222808
Production Automation Limited	238341
Professional Tiling Services Limited	273600
Quest Surveyor Services Limited	323684
R. & D. Graphics Limited	167536
Radisson Limited	224638
Redgewood Trading Limited	130141
Redshot Limited	300829
Reflex Action Limited	282155
Richer Sounds Limited	167478
Ridgeway Trading Limited	204152
RMC Design & Advertising Limited	156461
Rocha Rentals Limited*	184384
Rochline International Limited	299945



## Appendix 4.2.1 (continued)

### Cases Granted ‘Full Relief’ by the ODCE in 2004 pursuant to Section 56

Company Name	Company Number
Roscosah Limited	318476
Ruane Conservatories and Windows Limited	252664
S.I.R.T. Restaurant Limited	361243
Saints & Scholars Limited	189332
Samuel Davis Limited	46161
San Magno Limited	300163
Sareo Healthcare Limited	298216
Saturn Fulfilment Services Limited	216041
Savana Peanuts Limited	138522
Schauenberg International Limited	87158
Sean Kelly Tiles Limited	127452
Search Enquiries “Talk to the Web” Limited	346145
Securit Limited	305621
Security Extra Services Limited	221407
Select Fashions Limited*	300555
Sheehy McBride Plastering Limited	290561
Shemac Limited	308393
Siesta Bedding Sales Limited	200019
Silkdale Limited	261137
SKS Builders Limited	341044
Slattery P & P & Sons Limited	98157
Slatterys’ Farm Machinery Limited	93887
Smartmart Ireland Limited	353511
Solepark Limited	242239
Solv Group Limited	331746
Sonas Design Limited	235193
Southern Excavations Limited	240525
Southern Sales (Retail Systems) Limited	137518

## Appendix 4.2.1 (continued)

### Cases Granted 'Full Relief' by the ODCE in 2004 pursuant to Section 56

Company Name	Company Number
Spelmond Limited	288654
Stepian Limited	333770
Streamline Accountancy Services Limited	346374
Sullivan Bros. Eng. Limited	337562
Sunrise Motors Limited	305708
Superior Blinds Limited	334760
Supermarket Supplies Limited	190731
Sure Catering Limited	235115
Surelife Security Limited	73949
Suzbri Limited	236128
Syntech Electrical Limited	296087
T.I.F. Trans International Freight (Europe) Limited	234398
Taps Limited	286572
Teamworks Regional Support Agency Limited	335694
Tecnum Manufacturing Services Limited	301259
Tedcastles Development Capital Limited*	257233
Tenalo Limited	258979
Textured Masonry Systems (Ireland) Limited	240952
The Beauty Bar Ireland Limited	174066
The Commons Restaurant Limited	162567
The Complete Fit Out Company Limited	231025
The Dublin Daily News	361347
The Flower Store Limited	353757
The Gingerbread House Limited	163781
The Leader Newspaper Group Limited	244423
The Mystique Boat Limited	285960
The Peppercorn Restaurant Limited	306976
The Retail Stock Exchange Limited	314435
The Spring Valley Nursing Home Limited	265889

## Appendix 4.2.1 (continued)

### Cases Granted 'Full Relief' by the ODCE in 2004 pursuant to Section 56

Company Name	Company Number
The Stonehouse Collection Limited	337765
The Ventilation Centre Limited	338787
Thermo-Technic Limited	223189
Thomson Hydraulics Limited	199081
Thomson Industrial Maintenance Products Limited*	107356
Thornhill Regasketing Ireland Limited	298792
Tierney Management International Limited	312100
Tobin Timbers Limited	320636
Tony Cousins Flooring	310545
Tony Woods Construction Limited	223280
Toska Fashion Limited	228321
Transaer International Airlines Limited	167674
Trinity Group Limited	158942
TRP Limited	339311
Tuskar Resources PLC	84820
TVC Advance Learning Limited	303307
Tylord Limited	364590
Uniwood Machinery Limited	91052
Urbana Limited	307058
Videsti Limited	305362
Vigilant Security Company Limited	66011
Vistech Software Limited	239726
Voldare Trading Limited	250488
Wall Data Limited	207897
Waterford Design Limited	240870
Weldon Plastic Fabrication Limited	156789
Wexford Steel Fabrication Limited	265273

## Appendix 4.2.1 (continued)

### Cases Granted 'Full Relief' by the ODCE in 2004 pursuant to Section 56

Company Name	Company Number
Whartons Coach Tours Limited	152773
White Brothers (Electrical Contractors) Limited	300433
White Swan Products Limited	187018
Wilson Transport & Logistics Limited	107803
Wind River Energy Limited	340646
Wixford Limited	308834
Wolff Tower Cranes Limited	264736
World Telecom (Phone Cards) Ireland Limited	304493
Xedos Limited	217812
Xonen (Holdings) Limited	335107
Xonen Technologies Limited	339336
Zebra Packaging Limited	302046

Note: '\*' denotes that 'full relief' was granted during 2004 following receipt of a further report from the liquidator of the company where 'relief at this time' had previously been given to the liquidator.

## Appendix 4.2.2

### Cases Granted 'Relief at this time' by the ODCE in 2004 pursuant to Section 56

Company Name	Company Number
A.G.M. Construction Management Limited	286656
Aerospace Industries International Limited**	264165
Aerospace Industries Trading Limited**	279109
Alden Developments Limited**	209196
Ashgrove Parasols Limited	195214
BP - Alucolour Limited	41475
Cantier Services Limited**	344354
Centrepont Business Furniture Limited	316460
Cherby Limited**	181659
Cooke's Events Co. Limited**	355424
Croftpark Homes Limited**	255898
Crystal of Ireland (New Ross) Limited	192820
D.E.S. Limited**	112899
D.K. Displays Limited**	266834
D.R.H. Limited	353325
Diamond Engineering Company Limited	105717
Document Systems Group Limited**	316222
Doonsheen Enterprises Limited	207979
Draintec Plumbing Limited	239900
E & R Construction Limited**	289413
Elwinbrook Limited**	324678
Energy Saving Homes Limited**	115177
Enniscorthy Courier Services Limited**	294055
Eurofood IFSC Limited	274990

## Appendix 4.2.2 (continued)

### Cases Granted 'Relief at this time' by the ODCE in 2004 pursuant to Section 56

Company Name	Company Number
H. & H. Metal Fabrications Limited**	126140
Hammonette Enterprises Limited	273576
ILCUTECH Limited**	257712
Insulation Centres Limited	325113
Javerton Limited	270574
Jerry O'Driscoll and Company Limited**	107938
Jerry O'Driscoll Contracts Limited**	228937
Joseph McArdle (Exporting) Limited**	82045
Judith Carroll Network Archaeology Limited	355762
K.A. Smyth & Co. Limited**	151698
K9 Control Security Services Limited**	331502
Laserform (Ireland) Limited**	98065
Laserform Limited**	42790
Motogen (Electric) Limited**	109900
Motogen Holdings Limited**	280775
Motogen Services Limited**	123952
NAFTA Products Operators Limited **	230804
Premier Vacations (IRL) Limited**	290659
Redline Entertainments Limited	262401
Rocha Rentals Limited**	184384

## Appendix 4.2.2 (continued)

### Cases Granted 'Relief at this time' by the ODCE in 2004 pursuant to Section 56

Company Name	Company Number
Sadow Developments Limited	186527
Select Fashions Limited**	300555
Star Line Logistics Limited	270161
Sunworth Limited**	285253
Tedcastles Development Capital Limited**	257233
The Communications Interactive Agency Limited	300153
The Dublin Sports Café Limited	275236
Thomson Industrial Maintenance Products Limited**	107356
Time Trading Limited	232760

Note: '\*\*' denotes that a further decision issued in 2004 following receipt of a further report from the liquidator of the company where 'relief at this time' had previously been given to the liquidator. In relation to these further decisions 14 were 'full relief', six were 'partial relief' or 'no relief', and 13 were for a further granting of 'relief at this time'.



## Appendix 4.2.3

### Cases where 'Restriction Orders' were made against Directors by the High Court in 2004 pursuant to Section 56

Company Number	Company Name	Restricted Directors		Date Restricted From	Court Outcome (See Explanatory Note at the end of this Table)
		Surname	First Name		
306307	360atlantic (Ireland) Limited	Coughlan	Patrick	21/12/2004	Full Restriction
		Heiss	Herbert	21/12/2004	Full Restriction
		Hoar	George	21/12/2004	Full Restriction
		Lede	David	21/12/2004	Full Restriction
323179	360networks (Ireland) Limited	Coughlan	Patrick	21/12/2004	Full Restriction
		Lake	Steven	21/12/2004	Full Restriction
248948	A & D Controls Limited	Anderson	Colum	05/07/2004	Full Restriction
		Dunne	Daniel	05/07/2004	Full Restriction
342714	Africa One Services Limited	Heather	Charles	24/05/2004	Full Restriction
		Roy	Joseph	24/05/2004	Full Restriction
238289	Allat Limited	Canavan	John	10/12/2004	Partial Restriction
		Quinn	Oliver Pascal	10/12/2004	Partial Restriction
325552	Altcove Limited	Moore	Martin	26/04/2004	Full Restriction
		Moore	Leona	26/04/2004	Full Restriction
320055	Ashford Food & Wines Limited	O'Loughlin	Deborah	01/11/2004	Full Restriction
		O'Loughlin	Darragh	01/11/2004	Full Restriction
263781	Atlas Mechanical Handling Limited	Mackle	John	23/03/2004	Full Restriction
		Seaver	Lorna	23/03/2004	Full Restriction
		Seaver	John	23/03/2004	Full Restriction
255396	Bastion Security Limited	Pierce	James	13/12/2004	Full Restriction
		Pierce	Anthony	13/12/2004	Full Restriction
290542	Belgrove Cleaning Services Limited	Lynch	David	29/01/2004	Partial Restriction
149839	BGN Services Limited	Connolly	Sheila	05/07/2004	Full Restriction
		Connolly	Brendan	05/07/2004	Full Restriction
331813	Brenmar Publications Limited	Lambert	Aisling	13/12/2004	Partial Restriction
		McPadden	Brenda Mary	13/12/2004	Partial Restriction
238003	Brooklord Limited	O'Reilly	Eamonn	24/05/2004	Full Restriction

## Appendix 4.2.3 (continued)

Cases where 'Restriction Orders' were made against Directors by the High Court in 2004 pursuant to Section 56

Company Number	Company Name	Restricted Directors		Date Restricted From	Court Outcome (See Explanatory Note at the end of this Table)
268208	Built In Stone Limited	Casey	Colm	29/03/2004	Full Restriction
		Casey	Bridget	29/03/2004	Full Restriction
178712	Burke Doors Limited	Burke	Colm	24/05/2004	Full Restriction
		Burke	Helen	24/05/2004	Full Restriction
296572	Cable And Utilities Limited	Fallon	Francis	22/10/2004	Partial Restriction
		Fallon	Mary	22/10/2004	Partial Restriction
341377	Cahill Brothers Security & Cleaning Contractors Limited	Cahill	James	14/06/2004	Full Restriction
350533	Cahill Property Management Company Ltd	Cahill	James	14/06/2004	Full Restriction
161560	Careca Investments Limited	Farrell	Peter	08/11/2004	Partial Restriction
156557	Clou-East Limited	Mullins	Lorna	17/05/2004	Full Restriction
		Mullins	Owen	17/05/2004	Full Restriction
353795	Club Tivoli Limited	May	Peter	01/11/2004	Partial Restriction
307637	Coast To Coast Couriers Limited	Ralph	John	22/03/2004	Full Restriction
176712	Cork Potato and Vegetable Producers Ltd	Aherne	John	07/12/2004	Full Restriction
		Day	Liam	07/12/2004	Full Restriction
		Griffin	James	07/12/2004	Full Restriction
206873	Countryside Tours Limited	Becker	Nicholas	07/12/2004	Full Restriction
		Becker (nee Garde)	Rosie	07/12/2004	Full Restriction
172620	Courtown Limited	Roche	Olive	19/07/2004	Full Restriction
		Roche	John	19/07/2004	Full Restriction
		Roche	Adrian	19/07/2004	Full Restriction
		Roche	Philip	19/07/2004	Full Restriction
249219	Cristeeg Catering Limited	Daly	Charles	18/10/2004	Full Restriction
		Gross	Kent	18/10/2004	Full Restriction
327050	CTS Electrical Limited	Dunne	Susan	08/11/2004	Full Restriction
		Dunne	Colm	08/11/2004	Full Restriction
274968	DGD Property Services Limited	Doyle	Catherine	21/06/2004	Full Restriction
		Doyle	David	21/06/2004	Full Restriction
		Gardner	David	21/06/2004	Full Restriction
266834	D.K. Displays Limited	Kelly	Dermot	11/10/2004	Partial Restriction
290065	Direct Link Security Limited	Caffrey	Sandra	07/07/2004	Partial Restriction

## Appendix 4.2.3 (continued)

Cases where 'Restriction Orders' were made against Directors by the High Court in 2004 pursuant to Section 56

Company Number	Company Name	Restricted Directors		Date Restricted From	Court Outcome (See Explanatory Note at the end of this Table)
341141	Disque Ireland Records Limited	Davis	Edmund	21/06/2004	Full Restriction
		Winder	Ben Ambrose	21/06/2004	Full Restriction
298631	EPPA Investments Public Limited	Hamilton	Malcolm	22/04/2004	Partial Restriction
		Spencer	Elizabeth	22/04/2004	Partial Restriction
		Spiteri	Patrick	22/04/2004	Partial Restriction
		Utterback	Per	22/04/2004	Partial Restriction
253869	Fabric Finders Galway Limited	Dale	Henry	12/02/2004	Full Restriction
		Marshall	Harry	12/02/2004	Full Restriction
259075	Fabric Finders Limerick Limited	Dale	Henry	12/02/2004	Full Restriction
		Marshall	Harry	12/02/2004	Full Restriction
245200	Fabric Finders Limited	Dale	Henry	12/02/2004	Full Restriction
		Marshall	Harry	12/02/2004	Full Restriction
352266	Fergal Walsh Building Contractors Ltd	Walsh	Fergal	15/12/2004	Full Restriction
		Walsh	Paula	15/12/2004	Full Restriction
233304	Fluskey Freight Limited	Fluskey	Arthur	21/06/2004	Full Restriction
		Fluskey	Maria	21/06/2004	Full Restriction
340973	Freightaway Limited	Rice (Junior)	Richard	08/12/2004	Partial Restriction
304022	Galmark Interactive (Ireland) Limited	Looby	Alan	12/02/2004	Partial Restriction
265443	GL Transport Limited	Cahill	Joy	08/12/2004	Partial Restriction
		Cahill	Hugh	08/12/2004	Partial Restriction
213793	Glen Agricultural Services Limited	Fitzgerald	Mary	13/02/2004	Full Restriction
		Fitzgerald	Sean	13/02/2004	Full Restriction
330956	Glenshee Linehaul Services Limited	Cody	Donnacha	05/07/2004	Full Restriction
		Cody	Marcelline	05/07/2004	Full Restriction
47910	Grand (Gorey) Limited	Redmond	John	22/10/2004	Full Restriction
		Redmond (Hammel)	Margaret	22/10/2004	Full Restriction
215638	Greenlodge Limited	Fitzgerald	James	10/12/2004	Full Restriction
		O'Brien	Michael	10/12/2004	Full Restriction
		O'Brien	Sheelagh	10/12/2004	Full Restriction
265859	Harmar Stoneworks Limited	Bennett	Mark Gerard	21/06/2004	Full Restriction
		Bennett	Harold Patrick	21/06/2004	Full Restriction

## Appendix 4.2.3 (continued)

Cases where 'Restriction Orders' were made against Directors by the High Court in 2004 pursuant to Section 56

Company Number	Company Name	Restricted Directors		Date Restricted From	Court Outcome (See Explanatory Note at the end of this Table)
332612	HCS IT Solutions (Irl) Limited	Cullen	Graham	24/03/2004	Full Restriction
		Hamill	Bernard	24/03/2004	Full Restriction
154456	Hi-Tech Refrigeration Limited	Keith	David	08/12/2004	Full Restriction
		Reilly	Mary	08/12/2004	Full Restriction
316168	Hollyford Wood & Sawmills Limited	O'Grady	Eileen	22/11/2004	Full Restriction
		O'Grady	Sean	22/11/2004	Full Restriction
90273	Home and Design Limited	Eckhardt	Hildegard	14/06/2004	Full Restriction
		Eckhardt	Dietrich	14/06/2004	Full Restriction
151042	I.C. Marketing Limited	Gilmore	Siobhan	25/03/2004	Full Restriction
		Gilmore	Michael	25/03/2004	Full Restriction
154669	I.C. Manufacturing Limited	Gilmore	Siobhan	25/03/2004	Full Restriction
		Gilmore	Michael	25/03/2004	Full Restriction
243732	Irish Joinery Company Limited	Dennehy	Patrick	22/11/2004	Full Restriction
		Dennehy	Tim	22/11/2004	Full Restriction
		Dennehy	Maurice	22/11/2004	Full Restriction
		Dennehy	Noel	22/11/2004	Full Restriction
236750	J & M Marshbrook Limited	Donoghue	Marie	22/10/2004	Full Restriction
		Donoghue	John	22/10/2004	Full Restriction
331502	K9 Control Security Services Limited	Blake	Joe	29/11/2004	Full Restriction
267241	Kimmist Limited	Kelly	Anthony	19/01/2004	Full Restriction
262407	Lacethorn Limited	Heuston	Robert	22/11/2004	Full Restriction
		Lane	Denis	22/11/2004	Full Restriction
234272	Lynwood Publications Limited	Kelly	Dermot	11/10/2004	Full Restriction
326384	Mandalow Construction Limited	Fleming	John	29/03/2004	Full Restriction
		Fleming	Elaine Carol	29/03/2004	Full Restriction
292584	Marnoch Ventures Limited	Hawkes	David	21/06/2004	Full Restriction
		Hawkes	Zara-Jane	21/06/2004	Full Restriction
232489	Market Asia Limited	Balfe	Anne	30/01/2004	Partial Restriction
162926	Meckfield Construction Limited	Murphy	Brendan	19/10/2004	Disqualified
		Murphy	Mary	19/10/2004	Restricted

## Appendix 4.2.3 (continued)

Cases where ‘Restriction Orders’ were made against Directors by the High Court in 2004 pursuant to Section 56

Company Number	Company Name	Restricted Directors		aDate Restricted From	Court Outcome (See Explanatory Note at the end of this Table)
253229	Millenium Solutions 400 Limited	Bray	Manus	23/08/2004	Full Restriction
		Chisholm	Bill	23/08/2004	Full Restriction
333389	Morrissey Haulage Limited	Morrissey	Tony	08/11/2004	Full Restriction
		Morrissey	Veronica	08/11/2004	Full Restriction
261241	Old Church Company Limited	Jackson	Julien Charles	22/11/2004	Full Restriction
		O'Donovan	Sally (Sarah)	22/11/2004	Full Restriction
		Rennie	Peter William	22/11/2004	Full Restriction
237889	O.N.C. Contract Personell Limited	Collie	Russell	13/12/2004	Full Restriction
256792	Oska Moore Ireland Limited	Martin	Michael	21/06/2004	Full Restriction
113367	Pagos Limited	Guilfoyle	Georgina	22/11/2004	Full Restriction
		Guilfoyle	Padraig Gerard	22/11/2004	Full Restriction
277791	Park West Security Limited	Behan	Brian	19/01/2004	Full Restriction
		Behan	Jonathan	19/01/2004	Full Restriction
		O'Reilly	Christopher	19/01/2004	Full Restriction
193061	Pericom Limited	Hartung	Erwin	16/02/2004	Partial Restriction
		Hartung	Dieter	16/02/2004	Partial Restriction
254739	Peter Downey Construction Limited	Treacy	Stephen	27/01/2004	Partial Restriction
325071	Pirahna Construction Limited	McAleer	Frank	22/03/2004	Full Restriction
107214	PMG Steel & Engineering Supplies Ltd	McGonigle	Patrick	26/04/2004	Full Restriction
		McGonigle	Margaret	26/04/2004	Full Restriction
187908	PMG Steel & Engineering Supplies (Cork) Limited	Cummins	David	14/06/2004	Full Restriction
		McGonigle	Patrick	26/04/2004	Full Restriction
83377	Portlaoise Refrigeration Limited	Hutton	Jennifer	17/05/2004	Full Restriction
		Hutton	Chris	17/05/2004	Full Restriction
314284	Power and Civil Engineering International Limited	Desmond	Sean	20/07/2004	Full Restriction
		Desmond	Cornelius	20/07/2004	Full Restriction
245204	Progressive Promotions Limited	Keane	Frank	19/10/2004	Partial Restriction
		Travers	Stephen	19/10/2004	Partial Restriction
309096	Proline Plastering Limited	Keyes	Olive	18/10/2004	Full Restriction
		Keyes	Michael	18/10/2004	Full Restriction

## Appendix 4.2.3 (continued)

Cases where 'Restriction Orders' were made against Directors by the High Court in 2004 pursuant to Section 56

Company Number	Company Name	Restricted Directors		Date Restricted From	Court Outcome (See Explanatory Note at the end of this Table)
82620	R.M.F. (Ireland) Limited	Bushe	Ray	28/01/2004	Partial Restriction
		Riedler	Joseph	28/01/2004	Partial Restriction
		Weissmann	Jurgan	28/01/2004	Partial Restriction
249018	Railalong Limited	Casserly	Mary	01/11/2004	Full Restriction
		Casserly	Eamon	01/11/2004	Full Restriction
198646	Redken Limited	Redmond	John	22/10/2004	Full Restriction
		Redmond (Hammel)	Margaret	22/10/2004	Full Restriction
279869	Reynolds Industrial & Commercial Roofing Limited	Reynolds	Harold	07/12/2004	Full Restriction
		Reynolds	Sean	07/12/2004	Full Restriction
312937	S. Mc Gahon Limited	McGahon	Shane	08/11/2004	Full Restriction
167568	Sealion Services Limited	Farrell	Frank	08/11/2004	Full Restriction
		Matthews	Shane	08/11/2004	Full Restriction
216425	Selwyn Limited	Birmingham	James	21/06/2004	Full Restriction
		Birmingham	John	21/06/2004	Full Restriction
345746	Shamrock Language School Limited	Hoang	Soi Ming	08/11/2004	Full Restriction
		Liu	Hui	08/11/2004	Full Restriction
123552	Silken Construction Limited	O'Donoghue	Donal	22/06/2004	Full Restriction
		O'Donoghue	Mary	22/06/2004	Full Restriction
352868	T & A Walls and Ceilings Limited	Arten	Jean	26/07/2004	Full Restriction
		Arten	Varten (Anthony)	26/07/2004	Full Restriction
211820	Tailor Made Kitchen Limited	McGonagle	Deirdre	16/02/2004	Full Restriction
		McGonagle	Charles	16/02/2004	Full Restriction
300551	Teenwear Limited	Callan	Liam	26/07/2004	Full Restriction
		Callan	Jaqueline	26/07/2004	Full Restriction
313275	Teroni Restaurants Limited	Macari	Fiore	22/04/2004	Full Restriction
		Macari	Anna	22/04/2004	Full Restriction
245118	The Kitchen Factory Limited	Foley	Barry	18/10/2004	Full Restriction
		Maycock	Nicholas	18/10/2004	Full Restriction
287320	The Premium Printing Company Limited	Saunders	Robert	01/03/2004	Partial Restriction
		Saunders	Bernard	01/03/2004	Partial Restriction
281178	Thompson Contracts Limited	Thompson	Laurence	12/01/2004	Full Restriction
312601	Tile Xtra Limited	Kavanagh	Alan	18/10/2004	Partial Restriction

## Appendix 4.2.3 (continued)

Cases where ‘Restriction Orders’ were made against Directors by the High Court in 2004 pursuant to Section 56

Company Number	Company Name	Restricted Directors		Date Restricted From	Court Outcome (See Explanatory Note at the end of this Table)
136751	Tipperary Fresh Foods Limited	O'Connor	Joseph C.	11/10/2004	Partial Restriction
		O'Connor	Donal	11/10/2004	Partial Restriction
71286	Torose Construction Limited	Keegan	Laurence	29/01/2004	Partial Restriction
254355	Tralee Beef and Lamb Limited	Delany	Patricia	27/07/2004	Full Restriction
		Delany	John	01/11/2004	Full Restriction
		Dunne	Terry	27/07/2004	Full Restriction
57367	United Transport Services Limited	Martin	Glen	15/03/2004	Full Restriction
		Whelton	David	15/03/2004	Full Restriction
303173	Vickers Ikon Limited	Tipper	Rebecca	29/01/2004	Full Restriction
		Vickers	Robert	29/01/2004	Full Restriction
205223	Vintenna Trading Limited	Harding	Joan	12/07/2004	Full Restriction
		Harding	Kevin	12/07/2004	Full Restriction
64290	Wexford Weaving Of Ireland Limited	Nehlsen	Jim	05/07/2004	Full Restriction
		Nehlsen	Karen	05/07/2004	Full Restriction
		Strange	Gerry	05/07/2004	Full Restriction
311880	Whiteglen Taverns Limited	Egan	Gregory	30/01/2004	Full Restriction
		Egan	Mark	30/01/2004	Full Restriction
290934	Wokstation Limited	Kelly	Liam (William)	05/07/2004	Full Restriction
		O'Donohoe	Kieran	05/07/2004	Full Restriction
327788	Worldlink Information Technology Systems (Ireland) Limitedv	Gorman	Niall	20/04/2004	Full Restriction
		Kotonou	Angelos	20/04/2004	Full Restriction
		Riches	Neil	20/04/2004	Full Restriction
202159	Wycliffe Limited	Boyle	Norma	26/04/2004	Full Restriction
		Boyle	David	26/04/2004	Full Restriction
121066	Wyndecroft Investments Limited	Redmond	John	22/10/2004	Full Restriction
		Redmond (Hammel)	Margaret	22/10/2004	Full Restriction
241210	Xnet Information Systems Limited	Higgins	Aidan	06/05/2004	Partial Restriction
		Moore	Kevin	06/05/2004	Partial Restriction
279364	Yates Steel Erection Limited	Yates	Simon	08/03/2004	Full Restriction
		Yates	Gina	08/03/2004	Full Restriction
264408	Zelfi Limited	Woods (McGowan)	Eileen	11/10/2004	Full Restriction
		Woods	Noel	11/10/2004	Full Restriction

\*Note: The terms “Full Restriction” and “Partial Restriction” used in this Appendix 4.2.3 are solely meant to relate to the following:

“Full Restriction” relates to a court outcome where the Court restricted all the directors against whom restriction applications were taken by the liquidator of the company pursuant to section 150 of the Companies Act 1990 where the liquidator had not been relieved by the ODCE pursuant to section 56 of the Company Law Enforcement Act 2001.

“Partial Restriction” relates to a court outcome where the Court restricted one or more but not all the directors against whom restriction applications were taken by the liquidator of the company pursuant to section 150 of the Companies Act 1990 where the liquidator had not been relieved by the ODCE pursuant to section 56 of the Company Law Enforcement Act 2001.



## Appendix 4.2.4

Cases where 'Restriction Orders' were not made against any Director in 2004 pursuant to Section 56

Company Name	Company Number
Active Data Limited	287045
Asia IT Limited	313836
Ballintubber Heights Limited	324647
Belldene Construction Services	322867
Colm O'Neill Engineering Services	49421
Durapak International Limited	174201
E Host Europe Limited	311845
E Host Group Limited	315327
First Class Toy Traders Limited	333335
First Fonetics Limited	224725
Flooring Excellence Limited	300573
Gaelic Seafoods (Ireland) Limited	118389
Gig Guard Limited	260200
I S I Interact Services Ireland Limited	241382
Intel Limited	110846
Irish Box Print & Packaging Limited	70012
Irish Slate & Roofing Systems Limited	252533
Jim O'Connell Aluminium & P.V.C.	119079
McAnenly Transport Limited	306386
Midland Quarries Limited	196448
O'Hagan Packaging Limited	225262
Olvedo Limited	284336

## Appendix 4.2.4 (continued)

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Cases where 'Restriction Orders' were not made against any Director in 2004 pursuant to Section 56

Company Name	Company Number
Paparazzi Catering Limited	292849
PD Marketing Limited	235151
Rainelle Services Limited	238229
Reynor Services (Ireland) Limited	292915
Shawville Company Limited	317686
Soloist Limited	313581
Telecommunications Broker	318100
The Computer Learning Centre	176486
Titan Transport and Logistics Limited	264462
V. Keary Construction Company Limited	316118

## Appendix 5.1.1

### Approved versus Actual Staffing Complement by Grade at end-2004

Grade	Approved	Actual
Accountant Grade I <sup>50</sup>	2	3
Accountant Grade III	1	0
Assistant Principal <sup>51</sup>	4	3.8
Clerical Officer <sup>52</sup>	5	6.1
Corporate Compliance Manager	1	0
Detective Garda	4	4
Detective Inspector	1	1
Detective Sergeant	2	2
Director	1	1
Executive Officer	4	4
Higher Executive Officer/Systems Analyst	4	3.1
Legal Adviser	3	3
Principal Officer	2	2
Principal Solicitor	1	1
Solicitor	2	2
<b>Totals</b>	<b>37</b>	<b>36</b>

<sup>50</sup> An Accountant is employed on a contract basis.

<sup>51</sup> One Assistant Principal on work-sharing. The fractional figures here and elsewhere in this table are due to work-sharing arrangements.

<sup>52</sup> A Legal Secretary is employed on a contract basis.






## Appendix 5.1.2

### Breakdown of Expenditure against Allocation in 2004

Source of Allocation/Expenditure	€000s	€000s
<b>Allocation</b>		
Exchequer Grant	<u>4,250.00</u>	
<b>Total Allocation</b>		<b>4,250.00</b>
<b>Expenditure</b>		
Salaries, Wages and Allowances	1,682.5	
Advertising and Publicity	168.8	
Office Premises	236.2	
Legal Expenses	135.7	
Consultancy Services	374.3	
Computerisation	95.3	
Printing	103.1	
Incidental Expenses	24.4	
Travel and Subsistence	34.6	
Telecommunications	27.1	
Postal/Courier Services	59.5	
Photocopying	5.7	
Human Resource Development	<u>119.8</u>	
<b>Total Expenditure</b>		<b><u>3,067.00</u></b>
<b>Amount Surrendered</b>		<b>1,183.00</b>

## Appendix 5.2.1

### Principal Relationships between ODCE Staff and Functional Areas

Director – Personal Assistant				
Administrative Staff 	Legal Advisers 	Accountants 	Garda Síochána 	Solicitors 
Compliance	Compliance	Compliance		
Detection	Detection	Detection	Detection	
Enforcement	Enforcement	Enforcement	Enforcement	Enforcement
Insolvency	Insolvency	Insolvency	Insolvency	Insolvency
Corporate Services				

## Appendix 5.3.1

Most Popular Document Downloads from the ODCE Website in 2004 (relative to 2003 where relevant)	2003	2004
Inspectors' Report into NIB/NIBFS (in whole or in part)	-	7,783
Information Book 2 (Company Directors)	2,120	2,454
Draft Guidance on Directors' Compliance Statement Obligations	-	2,112
Guide to Transactions involving Directors	983	1,637
Information Book 1 (Companies)	1,503	1,598
Consultation Paper C/2004/1 - Directors' Compliance Statements	-	1,467
Press Statement – First Disqualification/Restriction of the Directors of a 'Struck-Off' Company	-	1,310
Composite List of Insolvent Companies in Liquidation for 2002	1,872	1,019
Information Book 3 (Company Secretaries)	833	1,018
Information Book 5 (Auditors)	1,051	1,000
Revised Guidance on Directors' Compliance Statements	-	952
Information Book 4 (Members/Shareholders)	800	932
Information Note on the Companies (Auditing and Accounting) Act 2003	-	916
Composite List of Insolvent Companies in Liquidation for 2003	-	784
Companies (Auditing and Accounting) Act 2003	-	739
Consultation Paper C/2003/2 - Transactions involving Directors	418	739
Complaint Form	829	700
Press Statement – Consultation Paper C/2004/1 on Directors' Compliance Statement Obligations	-	682
List of Insolvent Companies in Liquidation, Jan./Feb. 2004	-	682
List of Insolvent Companies in Liquidation, March/April 2004	-	640
List of Insolvent Companies in Liquidation, July 2002	2,626	629
Press Statement – NIB/NIBFS Report	-	622
Information Book 7 (Examiners, Liquidators and Receivers)	778	607
Press Statement – First Fraudulent Trading Conviction	-	545
List of Insolvent Companies in Liquidation, Jan./Feb. 2003	1,514	544
Companies Registration Office – B1 Form	-	537
Press Statement - Revised ODCE Guidance on Directors' Compliance Statements	-	535
Duties of Auditors to Report to the Director of Corporate Enforcement	2,410	508
Indictable Offences Report Form	226	504
Press Statement – ODCE Annual Report for 2003	-	492
Liquidator's Report Form	734	488
Press Statement – End-of-Year Statement by the Director of Corporate Enforcement on 2003	-	465
Press Statement – First Restriction of a Director of an Unliquidated Insolvent Company	-	457
High Court Judgement in the matter of Eurofood IFSC Ltd.	-	451
Information Book 6 (Creditors)	405	420
List of Insolvent Companies in Liquidation, Sep./Oct. 2003	128	404
Greenbury Recommendations	-	400

