

Company secretaries

Their duties and powers

A quick guide



Oifig an Stiúirthóra um
Fhorfheidhmiú Corparáideach
Office of the Director
of Corporate Enforcement

Plain 
English

Approved by NALA

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About the guide

We have produced this quick guide to explain some of the duties and responsibilities of a company secretary under the Companies Act.

What is a company secretary?

A company secretary is someone who carries out the administrative and legal duties of the company. These duties are explained later in this guide. Usually, the directors appoint the company secretary. A company secretary can be either a person or a company that specialises in providing such services to other businesses.

Do companies have to appoint a company secretary?

Yes, by law every company must have a company secretary.

What does the company secretary do?

The role of the company secretary is to:

- carry out the instructions of the company directors;
- help make sure that the company obeys both the law and the rules in its constitution; and
- prepare and maintain the company's legal documents.

Who can be a company secretary?

There are no formal qualifications needed to become the company secretary of a private company. However, the company secretary of a public limited company (PLC) must have either:

- a relevant qualification from the Institute of Chartered Secretaries and Administrators (ICSA); or
- at least 3 years' experience as a company secretary.

Directors must make sure that the person they appoint as company secretary has the skill to carry out their legal and other duties.

Who cannot be a company secretary?

To protect the public, the law does not allow some people to be company secretaries. They include:

- an **undischarged bankrupt** – this is someone who has filed for bankruptcy but has not received permission from the court to stop making payments on their debts;
- a **disqualified person** – this is someone that a court has found guilty of fraud or serious misconduct and has disqualified from acting as a company secretary for a certain time; and
- a **restricted person** – this is a person who fails to satisfy the court that they acted honestly and responsibly in relation to an insolvent company. This person can only act as a secretary in a company in which the members have invested a significant amount of money in the capital of the company.

How is the company secretary appointed?

When the company is set up, the directors appoint a company secretary and include that person's name in the constitution documents sent to the Companies Registration Office (CRO) to register the company.

If that company secretary is replaced later, the directors will appoint a new company secretary. When a company secretary is appointed, they must agree in writing to act as company secretary.

A company secretary may be one of the directors. However, if the company has only one director, it must appoint a separate company secretary.

What are the main duties of the company secretary?

A company secretary has several important duties.

Disclosure of personal information

When they are appointed, a company secretary must give the company:

- their name, address, nationality and occupation; and
- details of any shares or loans they have in the company or a related company in which they have an interest.

Administrative duties

These include:

- maintaining the company's registers including the:
 - register of members, and
 - registers of directors and company secretaries and their interests in shares and contracts in the company;
- arranging the company's annual general meeting (AGM) and extraordinary general meetings (EGMs), if needed, and sending the relevant documents for those meetings to the members;
- organising meetings of the board and its sub-committees and making sure that the directors have the documents they need so that they can consider the issues to be discussed;
- preparing the minutes of company general meetings and meetings of the board and its sub-committees. The minutes describe what was said and agreed at the meeting;
- making the company's registers, minute book and other relevant documents available for inspection by the board and the public;
- sending updated information and documents on time to the Companies Registration Office (CRO) and other relevant bodies;
- publishing legal notices in the media;
- keeping custody of the company seal – a device with the company's name engraved on it for stamping company documents; and
- giving the directors legal and administrative support.

Legal duties

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

- complete, sign and send the company's annual return to the Companies Registration Office (CRO);
- certify that the financial statements attached to the annual return are true copies of the originals; and
- prepare an accurate statement of the company's assets and liabilities (what it owns and what it owes) if the company goes into liquidation or receivership.

Liquidation is the process used to bring a company to a legal end. Receivership arises when a person, known as a receiver, is appointed by a bank or other lender to sell a company's assets to pay off a secured debt that the company cannot repay when repayments are due.

Personal standards

A company secretary must:

- act in good faith and in the company's interest; and
- act with due care, skill and diligence in the interests of the company and its members.

Company secretaries can be penalised if a court finds that they or the company have breached (disobeyed) the Companies Act. They can be made liable (responsible) for any loss resulting from their own negligence (carelessness).

What powers does a company secretary have?

The power of the company secretary is limited to a few legal powers and any other power the directors assign to them.

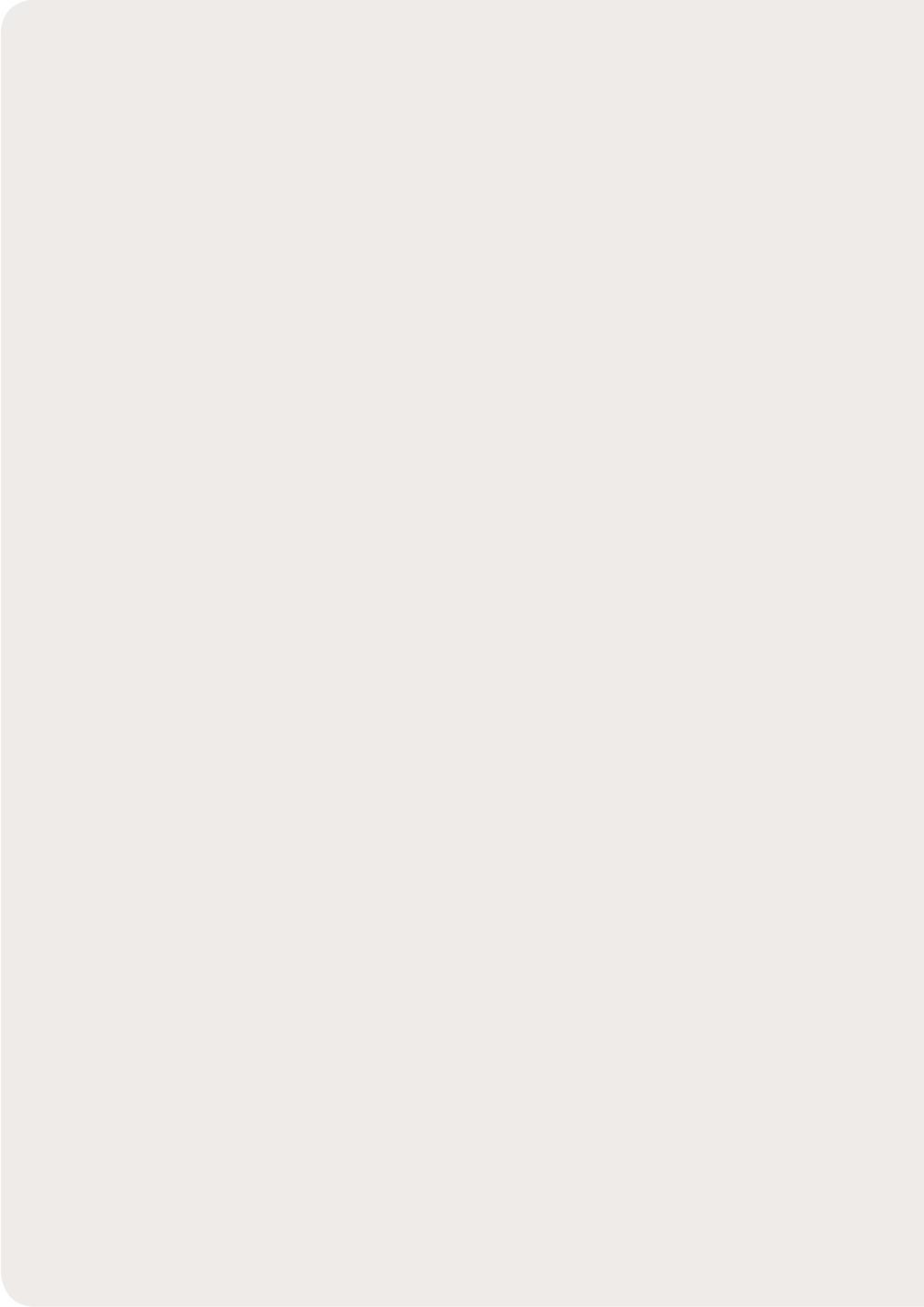
They can:

- enter into contracts relating to the day-to-day running of the company;
- enter into other contracts that are approved by the directors; and
- use whatever other powers the directors delegate to them.

Where can I get more information?

You can find more detailed information about company secretaries on our website, www.odce.ie.

If you are unsure about company secretaries and what you need to do under the law, you should get independent professional advice.



Disclaimer

This Quick Guide sets out some of the basic legal duties of a company secretary. It is not a legal interpretation of any part of the Companies Act. The Director of Corporate Enforcement accepts no responsibility or liability for any errors, inaccuracies or omissions in this guide.



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An Irish version of this booklet is available*