Changes to Legislation: as of 12 March 2024, this Act is up to date with all changes known to be in force.

Number 46 *of* 2013

COMPANIES (MISCELLANEOUS PROVISIONS) ACT 2013

REVISED

Updated to 1 January 2019

This Revised Act is an administrative consolidation of the *Companies (Miscellaneous Provisions) Act 2013*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Central Bank (National Claims Information Database) Act 2018* (42/2018), enacted 27 December 2018, and all statutory instruments up to and including *Criminal Justice (Suspended Sentences of Imprisonment) Act 2017 (Commencement) Order 2019* (S.I. No. 1 of 2019), made 3 January 2018, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 46 *of* 2013

COMPANIES (MISCELLANEOUS PROVISIONS) ACT 2013

REVISED

Updated to 1 January 2019

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ACTS REFERRED TO

Bankruptcy Act 1988	(No. 27)
Companies (Amendment) Act 1986	(No. 25)
Companies (Amendment) Act 1990	(No. 27)
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Number 46 *of* 2013

COMPANIES (MISCELLANEOUS PROVISIONS) ACT 2013

REVISED

Updated to 1 January 2019

An Act to amend the Companies (Amendment) Act 1990 with respect to the jurisdiction of the courts in examinerships, to amend sections 7, 17 and 18 of the Companies (Amendment) Act 1986 and section 128 of the Companies Act 1963, to make further provision about the duties and powers of designated officers in circumstances where search warrants have been issued under section 20 of the Companies Act 1990, to amend the Company Law Enforcement Act 2001 by substituting a new section for section 18 thereof, to amend the Personal Insolvency Act 2012 in relation to sections 25, 26, 27, 43 and 44 of that Act, to amend the Bankruptcy Act 1988 in relation to sections 17(2), 105(2), 130, 140A, 140B and 141 of that Act, to enable levies to be imposed on statutory auditors and audit firms with respect to the external quality assurance of certain of their activities in the field of statutory audits, to enable the State to make provision in respect of a matter that Article 2(4) of Commission Decision 2011/30/EU of 19 January 2011 permits Member States to make provision in respect of and to provide for related matters.

[24*th December*, 2013]

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act "Minister" means the Minister for Jobs, Enterprise and Innovation.

Amendment of Companies (Amendment) Act 1990

2.—F1**[**...**]**

Annotations

Amendments:

F1 Repealed (1.06.2015) by *Companies Act 2014* (38/2014), s. 4(1) and sch. 2 pt. 1, S.I. No. 169 of 2015.

Amendment of sections 7, 17 and 18 of Companies (Amendment) Act 1986

3.— F2**[**...**]**

Annotations

Amendments:

F2 Repealed (1.06.2015) by *Companies Act 2014* (38/2014), s. 4(1) and sch. 2 pt. 1, S.I. No. 169 of 2015.

Amendment of section 128 of Companies Act 1963

4.— F3**[**...**]**

Annotations

Amendments:

F3 Repealed (1.06.2015) by *Companies Act 2014* (38/2014), s. 4(1) and sch. 2 pt. 1, S.I. No. 169 of 2015.

Designated officers: provision for certain contingencies that may arise in relation to them

5.— F4**[**...**]**

Annotations

Amendments:

F4 Repealed (1.06.2015) by *Companies Act 2014* (38/2014), s. 4(1) and sch. 2 pt. 1, S.I. No. 169 of 2015.

Disclosure of information to Director of Corporate Enforcement or his or her officers

6.— F5**[**...**]**

Annotations

Amendments:

F5 Repealed (1.06.2015) by *Companies Act 2014* (38/2014), s. 4(1) and sch. 2 pt. 1, S.I. No. 169 of 2015.

Amendment of Companies (Auditing and Accounting) Act 2003

7.— F6**[**...**]**

Annotations

Amendments:

F6 Repealed (1.06.2015) by *Companies Act 2014* (38/2014), s. 4(1) and sch. 2 pt. 1, S.I. No. 169 of 2015.

Provision in respect of certain discretion afforded by Commission Decision 2011/30/EU

8.—F7**[...]**

Annotations

Amendments:

F7 Repealed (1.06.2015) by *Companies Act 2014* (38/2014), s. 4(1) and sch. 2 pt. 1, S.I. No. 169 of 2015.

Amendment of Personal Insolvency Act 2012

9. The Personal Insolvency Act 2012 is amended—

(a) in section 25, by substituting the following definition for the definition of "debt":

" 'debt', in relation to a debtor, means a debt for a liquidated sum that, on the application date, is payable either immediately or at some certain future time;",

(b) in section 26, by deleting subsection (4),

(c) in section 27(6), by substituting the following for paragraph (a):

"(a) the information contained in the debtor's Prescribed Financial Statement is true and accurate in all material respects, and",

(d) in section 43(3)(b), by substituting the following for subparagraph (v):

"(v) the procedural requirements specified in this Chapter were not complied with;

(vi) the specified debtor, by his or her conduct within the period of 6 months ending on the application date, arranged his or her financial affairs primarily with a view to being or becoming eligible for the issue of a Debt Relief Notice.",

and

(e) in section 44(3), by substituting the following for paragraph (f):

"(f) the procedural requirements specified in this Chapter were not complied with;

(g) the specified debtor, by his or her conduct within the period of 6 months ending on the application date, arranged his or her financial affairs primarily with a view to being or becoming eligible for the issue of a Debt Relief Notice.".

Amendment of Bankruptcy Act 1988

10. The Bankruptcy Act 1988 is amended—

(a) in section 17 by the substitution of the following for subsection (2):

"(2) The Court shall cause notice of the adjudication to be given as soon as may be in the prescribed manner in the *Iris Oifigiúil*, and—

(a) in at least one daily newspaper circulating in the State, or

(b) by the publication of the notice on the website of the Insolvency Service of Ireland.",

(b) in section 105, by the substitution of the following for subsection (2):

"(2) On an adjudication under subsection (1) the Court shall proceed as in bankruptcy and cause notice of the adjudication to be given forthwith in the prescribed manner in the *Iris Oifigiúil*, and—

(a) in at least one daily newspaper circulating in the State, or

(b) by the publication of the notice on the website of the Insolvency Service of Ireland,

and the petitioner shall be subject to the jurisdiction of the Court in the same manner as any other bankrupt, and any proposal which may have been made or accepted or approved shall be void.",

(c) by the substitution of the following for section 130:

"Arranging publication of notice without authority

130. A person who—

(a) arranges for or causes the publication of a notice under this Act—

(i) in the *Iris Oifigiúil*,

(ii) in a newspaper, or

(iii) on the website of the Insolvency Service of Ireland,

without authority under this Act, or

(b) arranges or causes the publication of such a notice, knowing that the contents of such notice are false in a material respect,

shall be guilty of an offence.",

(d) in section 140A—

(i) by the insertion after subsection (1) of the following subsection:

"(1A) The register referred to in subsection (1) may be kept in electronic format.",

(ii) in subsection (3) by the substitution of the following for paragraph (c):

"(c) any fee prescribed for that purpose by the Insolvency Service of Ireland.",

and

(iii) by the substitution of the following for subsection (5):

"(5) The register shall be open to public inspection on payment of such fee (if any) as may be prescribed for that purpose by the Insolvency Service of Ireland.",

(e) in section 140B(1) by the substitution of—

"in the prescribed manner—

(i) in the *Iris Oifigiúil*, and

(ii) in either—

(I) at least one daily newspaper circulating in the State, or

(II) on the website of the Insolvency Service of Ireland."

for

"in the prescribed manner in *Iris Oifigiúil* and in at least one daily newspaper circulating in the State.",

and

(f) by the substitution of the following for section 141:

"Publication of certain notices to be evidence

141. A notice published pursuant to this Act—

(a) in the *Iris Oifigiúil*,

(b) in a daily newspaper circulating in the State, or

(c) on the website of the Insolvency Service of Ireland,

shall be evidence of the matters contained in the notice.".

Short title, construction and commencement

11. (1) This Act may be cited as the Companies (Miscellaneous Provisions) Act 2013.

(2) The Companies Acts and this Act shall be read together as one.

(3) Subject to *subsections (4)* and *(5)*, this Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.

(4) *Sections 1*, *5*, *6*, *9* and *10* shall come into operation on the date of the passing of this Act.

(5) *Section 7* shall come into operation on such day as the Minister appoints by order (not being a day earlier than the day specified in *subsection(6)*).

6) The last-mentioned day in *subsection (5)* is the day on which the following function stands transferred, by virtue of an enactment or an instrument thereunder, to the Irish Auditing and Accounting Supervisory Authority, namely the function of having in place a system of quality assurance, being the system—

(a) referred to in Regulation 83(1) of the Regulations of 2010 (within the meaning of *section 8*), and

(b) in so far as it relates to the activities of statutory auditors and audit firms in auditing the accounts of public-interest entities (within the meaning of those Regulations).

Annotations

Editorial Notes:

E1 Power pursuant to section exercised (14.08.2014) by *Companies (Miscellaneous Provisions) Act 2013 (Section 2) (Commencement) Order 2014* (S.I. No. 285 of 2014).

2. The 14th day of July 2014 is appointed as the day on which section 2 of the Companies (Miscellaneous Provisions) Act 2013 (No. 46 of 2013) shall come into operation.

E2 Power pursuant to section exercised (10.03.2014) by *Companies (Miscellaneous Provisions) Act 2013 (Commencement) Order 2014* (S.I. No. 121 of 2014).

2. The 10th day of March 2014 is appointed as the day upon which sections 3 and 4 of the Companies (Miscellaneous Provisions) Act 2013 (No. 46 of 2013) shall come into operation.

Number 46 *of* 2013

COMPANIES (MISCELLANEOUS PROVISIONS) ACT 2013

REVISED

Updated to 1 January 2019

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Personal Insolvency Acts 2012 to 2015: this Act is one of a group of Acts included in this collective citation (*Personal Insolvency (Amendment) Act 2015* (32/2015), s. 27(2)). The Acts in this group are:

- *Personal Insolvency Act 2012* (44/2012)
- *Finance Act 2013* (8/2013), s. 100(3)
- *Courts and Civil Law (Miscellaneous Provisions) Act 2013* (32/2013), ss. 37 to 40, s. 41(4), Part 8 and s. 1 (insofar as it relates to those sections and that Part)
- *Companies (Miscellaneous Provisions) Act 2013* (46/2013), s. 9
- *Personal Insolvency (Amendment) Act 2015* (32/2015)

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1978, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

• *Companies Act 2014* (38/2014)

All Acts up to and including *Central Bank (National Claims Information Database) Act 2018* (42/2018), enacted 27 December 2018, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

• *Companies (Miscellaneous Provisions) Act 2013 (Section 2) (Commencement) Order 2014* (S.I. No. 285 of 2014)
• *Companies (Miscellaneous Provisions) Act 2013 (Commencement) Order 2014* (S.I. No. 121 of 2014)

All statutory instruments up to and including *Criminal Justice (Suspended Sentences of Imprisonment) Act 2017 (Commencement) Order 2019* (S.I. No. 1 of 2019), made 3 January 2019, were considered in the preparation of this revision.