

CHAPTER 2 Incorporation and consequential matters

Way of forming a DAC and the 2 types of DAC

965. (1) A DAC may be formed for any lawful purpose by any person or persons subscribing to a constitution and complying with the relevant provisions of—

(a) Chapter 2 of Part 2, as applied by this Part, and

(b) this Part,

in relation to registration of a DAC.

(2) If the memorandum of the DAC contains the statement referred to in—

(a) section 967 (2)(b)(i), the DAC shall have the status of a private company limited by shares registered under this Part), or

(b) section 967 (2)(b)(ii), the DAC shall have the status of a private company limited by guarantee, and having a share capital.

(3) Without prejudice to the means by which a DAC may be formed under the relevant provisions referred to in subsection (1), a company may be registered as a DAC by means of—

(a) re-registration as a DAC (but only as one limited by shares) pursuant to Chapter 6 of Part 2,

(b) the re-registration, or registration, as a DAC of a body corporate pursuant to Part 20 or Part 22,

(c) the merger of 2 or more companies pursuant to Chapter 3 of Part 9,

(d) the division of a company pursuant to Chapter 4 of Part 9, or

(e) the merger operation provided for by the European Communities (Cross-Border Mergers) Regulations 2008).

(4) The liability of a member of a DAC at any time shall be limited—

(a) in the case of a DAC limited by shares, to the amount, if any, unpaid on the shares registered in the member's name at that time,

(b) in the case of a DAC limited by guarantee, to—

(i) the amount undertaken, as mentioned in section 967 (2)(f), to be contributed by him or her to the

assets of the DAC in the event of its being wound up, and

(ii) the amount, if any, unpaid on the shares registered in the member's name at that time.

(5) Subsection (4) is without prejudice to any other liability to which a member may be subject as provided by this Act.

(6) The number of members of a DAC shall not exceed 149 but, in reckoning that limit, there shall be disregarded any of the following persons.

(7) Those persons are—

(a) a person in the employment of the DAC who is a member of it,

(b) a person who, having been formerly in the employment of the DAC, was, while in that employment, and has continued after the termination of the employment to be, a member of it.

(8) Where 2 or more persons hold one or more shares in a DAC jointly, they shall, for the purposes of this section, be treated as a single member.

(9) Any registration of a person as a member of a DAC in excess of the limit provided by subsection (6) shall be void.

(10) The certificate of incorporation issued under section 25 (1) shall state that the company is a designated activity company limited by shares or, as the case may be, a designated activity company limited by guarantee.