

PART 22 UNREGISTERED COMPANIES AND JOINT STOCK COMPANIES

CHAPTER 1 Application of Act to unregistered companies

Application of certain provisions of Act to unregistered companies

1312. (1) Subject to subsections (2) to (7), the provisions specified in Schedule 14 shall apply to all bodies corporate incorporated in and having a principal place of business in the State as if they were companies registered under this Act.

(2) The foregoing provisions shall not apply by virtue of this section to any of the following bodies—

(a) any body corporate incorporated by or registered under any public general statute,

(b) any body corporate not formed for the purpose of carrying on a business which has for its objects the acquisition of gain by the body or by the individual members thereof,

(c) any body corporate which is prohibited by statute or otherwise from making any distribution of its income or property among its members while it is a going concern or when it is being wound up, and

(d) any body corporate for the time being exempted by a direction given by the Minister for the purposes of this section,

each of which is referred to in this section as an “excluded body”.

(3) The foregoing provisions shall apply also in like manner in relation to any unincorporated body of persons entitled by virtue of letters patent to any of the privileges conferred by the Chartered Companies Act 1837 and not registered under any other public general statute but subject to the like exceptions as are provided for in the case of bodies corporate by paragraphs (b), (c) and (d) of subsection (2) (and any such incorporated body that is the subject of any of those exceptions is also referred to in this section as an “excluded body”).

(4) Subsections (5) and (6) operate to—

(a) extend the effect of a certain provision (being a provision that excludes the application of provisions of this Act to public limited companies), or

(b) exclude the application of certain provisions of this Act,

to a body depending on whether it has, or, as the case may be, has not the status of a body that has securities admitted to trading on a regulated market in an EEA state (and a body that has securities admitted to such trading is referred to in those subsections as a “traded body”).

(5) The provisions of section 1004 that exclude the application of a provision of Parts 1 to 14 to a public limited company shall (in so far as that provision would otherwise apply to a traded body by virtue of this section) operate to exclude the application of that provision to a traded body.

(6) In addition to the exceptions contained in subsection (2), the following provisions specified in Schedule 14, namely—

(a) the several provisions of Part 17, and

(b) Part 23, shall not apply to a body unless it is a traded body.

(7) This section shall not repeal or revoke, in whole or in part, any enactment, charter or other instrument constituting or regulating any body in relation to which the foregoing provisions are applied by virtue of this section, but in relation to any such body, the operation of any such enactment, charter or instrument shall be suspended in so far as it is inconsistent with any of the foregoing provisions as they apply for the time being to that body.

(8) A body referred to in this section (other than an excluded body or one to which subsection (9) applies) and which has not already done so, shall forthwith deliver to the Registrar a certified copy of the charter, statutes, memorandum and articles or other instrument constituting or defining the constitution of the body.

(9) A body referred to in this section (other than an excluded body) and which comes into existence on or after the commencement of this section shall, within 3 months after the date of its coming into existence, deliver to the Registrar a certified copy of the charter, statutes, memorandum and articles or other instrument constituting or defining the constitution of the body.

(10) If default is made by a body in complying with subsection (8) or (9), the body and any officer of it who is in default shall be guilty of a category 3 offence.

(11) In this section “public general statute” means an Act (1) of the Interpretation Act 2005) that either—

(a) was passed after 6 December 1922, not being—

(i) a private Act of the Oireachtas of Saorstát Éireann, or

(ii) a private Act of the Oireachtas;

or

(b) was passed on or before 6 December 1922, not being—

(i) a private Act, or

(ii) a local and personal Act,
of the parliament concerned.