

Exception to section 137 — companies having real and continuous link with economic activity in State

140. (1) Section 137 (1) shall not apply in relation to a company in respect of which there is in force a certificate under this section.

(2) The Registrar may grant to a company, on application in the prescribed form being made by it in that behalf, a certificate stating that the company has a real and continuous link with one or more economic activities that are being carried on in the State.

(3) The Registrar shall not grant such a certificate unless the company concerned tenders proof to him or her that it has such a link.

(4) A statement referred to in subsection (5) that is tendered by the applicant shall be deemed to be proof, for the purposes of subsection (3), that the applicant has such a link.

(5) That statement is a statement in writing that has been given to the company concerned by the Revenue Commissioners within the period of 2 months ending before the date on which an application is made under subsection (2) by the company and which states that the Revenue Commissioners have reasonable grounds to believe that the company has a real and continuous link with one or more economic activities being carried on in the State.

(6) If, in consequence of information that has come into the possession of the Registrar, the Registrar is of opinion that a company in respect of which a certificate under subsection (2) has been granted has ceased to have a real and continuous link with any economic activity being carried on in the State, he or she shall revoke that certificate.

(7) If, in consequence of information that has come into their possession, the Revenue Commissioners are of opinion that a company in respect of which a certificate under subsection (2) has been granted has ceased to have a real and continuous link with any economic activity being carried on in the State, the following applies—

(a) the Commissioners may give a notice in writing to the Registrar stating that they are of that opinion; and

(b) such a notice that is received by the Registrar shall constitute information in his or her possession for the purposes of subsection (6).

(8) Subsection (7)(a) has effect notwithstanding any obligations as to secrecy or other restrictions upon disclosure of information imposed by or under statute or otherwise.

(9) For the purposes of this section a company has a real and continuous link with an economic activity that is being carried on in the State if one or more of the following conditions are satisfied by it—

(a) the affairs of the company are managed by one or more persons from a place of business established in the State and that person or those persons is or are authorised by the company to act on its behalf;

(b) the company carries on a trade in the State;

(c) the company is a subsidiary or a holding company of a company or other body corporate that satisfies either or both of the conditions specified in paragraphs (a) and (b);

(d) the company is a subsidiary of a company, another subsidiary of which satisfies either or both of the conditions specified in paragraphs (a) and (b).