

Exemption from filing with Registrar financial statements, etc.

1220. (1) Without prejudice to subsections (4) to (6) (which contain transitional provisions), sections 347 and 348 shall not apply to a CLG if it satisfies the following conditions:

(a) it has been formed for charitable purposes; and

(b) it stands exempted from those sections by an order made by the relevant authority (which order the relevant authority is, by virtue of this section, empowered to make),

and the exemption provided by that order may, as the relevant authority considers appropriate, be either for an indefinite or a limited period.

(2) The following provisions have effect in relation to a CLG referred to in subsection (1)—

(a) unless the CLG is entitled to and has availed itself of the audit exemption conferred by Chapter 15 or 16 of Part 6, the statutory auditors of the CLG shall prepare a separate report to the directors which—

(i) confirms that they audited the relevant statutory financial statements for the relevant financial year, and

(ii) includes within it the report made to the members of the CLG pursuant to section 391,

and

(b) a copy of the report prepared under paragraph (a) shall be annexed to the annual return delivered by the CLG to the Registrar.

(3) The reference in subsection (2) to a copy of the report prepared under paragraph (a) of it is a reference to a copy that satisfies the following conditions:

(a) it is a true copy of the original save for the difference that the signature or signatures on the original, and any date or dates thereon, shall appear in typeset form on the copy; and

(b) it is accompanied by a certificate of a director and the secretary of the company, that bears the signature of the director and the secretary in electronic or written form, stating that the copy is a true copy of the original (and the foregoing statement need not be qualified on account of the difference permitted by paragraph (a) as to the form of a signature or of a date).

(4) Sections 347 and 348 shall not apply to an existing guarantee company that, immediately before the commencement of this section, stood exempted from the requirements of section 128 of the Act of 1963 by virtue of subsection (4)(c) or (5) of that section, but this is subject to subsections (5) and (6).

(5) If, by reason of a change of circumstances set out in section 128(4) of the Act of 1963 relating to the company concerned (were that section 128(4) to remain in force after the commencement of section 4 (repeals and revocations)), an existing guarantee company would no longer comply with that section 128(4), then, thereupon, sections 347 and 348 shall apply to that company.

(6) If—

(a) circumstances arise affecting an existing guarantee company that stood exempted, immediately before the commencement of this section, from the requirements of section 128 of the Act of 1963 by virtue of subsection (5) of the latter, and

(b) those circumstances are such as would, but for the repeal of that section 128, warrant the relevant authority exercising the power of revocation that but, for that repeal, would have been available to them in relation to the particular order that had subsisted, under that subsection (5), in relation to that company,

then the relevant authority shall, by virtue of those circumstances, be empowered to declare in writing that sections 347 and 348 shall, on and from a date specified in the declaration, apply to that company and, where the relevant authority so declares, sections 347 and 348 shall apply to that company on and from the date so specified.

(7) In subsection (8)—

“electronic means” means those provided for under the Electronic Commerce Act 2000 and effected in compliance with any requirements of the Registrar of the kind referred to in sections 12(2)(b) and 13(2)(a) of that Act;

“required documents” means the copy of the report referred to in paragraph (a) of subsection (3), accompanied by the certificate referred to in paragraph (b) of that subsection;

“required period” means the period referred to in section 343 (2) or (3), as the case may be, or, where that period stands extended in accordance with section 343 (5) and (6), that period as it stands so extended.

(8) Where a CLG makes its annual return by electronic means to the Registrar within the required period then, notwithstanding that the required documents have not been annexed to the annual return, the annual return shall be deemed to have been delivered to the Registrar within the required period with the foregoing documents annexed to it if those documents are delivered to the Registrar within 28 days after the date on which the annual return has been delivered to the Registrar by electronic means.

(9) In this section—

“existing guarantee company” has the same meaning as it has in section 1189;

“relevant authority” means—

(a) before the establishment day ), the Commissioners of Charitable Donations and Bequests for Ireland;

and

(b) on or after the foregoing day, the Charities Regulatory Authority.