

**General Scheme of the Companies and  
Industrial and Provident Societies (Covid-19)  
(Amendment) Bill 2020**

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## ***Part 1 Amendments to the Companies Act 2014***

### **HEAD 1 - Citation and commencement**

Provide that:

- (1) This Act may be cited as the Companies and Industrial and Provident Societies (Covid-19) (Amendment) Act 2020.
- (2) 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 or with respect to any particular type of company and different days may be so appointed for different purposes or different provisions.

#### **Explanatory note:**

This Head is a standard provision.

## HEAD 2

Provide for the insertion of the following new section 2A into the Companies Act 2014:

### 2A. Interim period

#### (1) *Defined expressions*

In this Act –

“**Covid-19**” has the meaning ascribed to it by the Emergency Measures in the Public Interest (Covid-19) Act 2020;

“**interim period**” means the period commencing on the date of commencement of this section and expiring on 31 December 2020, as may be extended under subsection (2);

“**interim provision**” means any provision of this Act expressed:

- (i) to be operative during the interim period; or
- (ii) to relate to things done or omitted to be done during the interim period;

“**interim regulation**” means any regulation made under an interim provision.

#### (2) *Potential extension of interim period*

- (a) The Minister may from time to time, after consulting with the Minister for Health and taking into account any legal or practical restrictions in the State on travel or meetings arising from the prevalence or threat of Covid-19, by regulations, for the purposes of one or more interim provisions, extend the interim period to expire on any date or dates no later than 30 June 2021.
- (b) Such regulations may provide for different interim periods for different interim provisions.

#### (3) *Ministerial Regulations effective when signed by Minister*

Every interim regulation shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the interim regulation is passed by either House within the next 21 days on which that House has sat after the interim regulation is laid before it, the interim regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

### **Explanatory Note:**

This section defines the period during which the amending provisions are to apply as “the interim period” with consequent definitions of “interim provision” and “interim regulation” being measures and regulations that apply during that period.

### **HEAD 3**

Provide for the insertion of the following new subsection 43A into the Companies Act 2014

#### **43A. Sealing by companies during the interim period**

- (1) This section shall remain in operation during the interim period.
- (2) Notwithstanding any provision in a company's constitution, any instrument to which its common seal (as provided by section 43) or official seal (as provided by section 44) is to be affixed may consist of any number of counterparts with each of the common seal or official seal, as the case may be, and one or more of the signatures of the different signatories on separate counterparts, each of which when executed and delivered shall constitute an original, all such counterparts together constituting one and the same instrument.

#### **Explanatory note:**

With the dislocation of the management of companies, e.g. with the company seal in one location and the directors, secretary and registered persons in other locations, this head is aimed at enabling documents under seal to be executed in different counterparts, with the aggregate of the documents to be considered to be the one instrument.

## HEAD 4

Provide for the insertion of the following new section 175A into the Companies Act 2014

### **175A. General meetings convened and held during the interim period**

(1) *Section to apply only until end of interim period*

This section shall remain in operation during the interim period.

(2) *Extension of time for AGM to the end of 2020*

Notwithstanding subsections (1) and (2) of section 175 and subsection (2) of section 341 or any provision of its constitution, a company need not hold an annual general meeting within the period required under this Act or the company's constitution, provided that the meeting is held by 31 December 2020 at the latest.

(3) *General meetings may be conducted by electronic means*

(a) In this subsection, "general meeting" shall mean any of the following:

- (i) an annual or extraordinary general meeting of a company;
- (ii) a general meeting of holders of shares in a company of a particular class;
- (iii) a scheme meeting, as defined by section 449.

(b) A general meeting, during the interim period, whether or not authorised by its constitution and notwithstanding any provision in its constitution to the contrary, shall not be required to be held at a physical venue or venues but may be fully conducted by electronic means provided all those entitled to attend have a reasonable opportunity to participate.

(c) Subsection (5) of section 181 shall apply to general meetings to be held by electronic means, with the substitution in paragraph (a) of that subsection of "the methodology of participation" for "the place".

(d) The Minister may by regulations make further provision for the convening and conduct of, quorum at, access to and participation in general meetings to be held by electronic means.

(4) *Change of location and date of general meetings*

(a) Notwithstanding any provision to the contrary in a company's constitution:

- (i) a general meeting (to include any rescheduled meeting) may be cancelled;
- (ii) the venue or venues of a general meeting (to include any rescheduled meeting) or the means of holding and participating in such general meeting by electronic means may be changed;
- (iii) a general meeting (to include any rescheduled meeting) may be changed from a physical meeting to a meeting held by electronic means and vice versa;

in each case by or under the authority of the directors of the company at any time up to 5 business days prior to the time scheduled for commencement of the meeting, if

deemed necessary by the directors in order to comply with the Government's public health guidance or restrictions on movement.

- (b) Save where all the members of a company agree in writing, notice of the matter referred to in paragraph (a) shall be given in the same way as the meeting was first notified to members provided that where that is not possible or practicable, notice shall be given:
  - (i) where the company has a website, by notice on that website;
  - (ii) by email to all members for whom the company has email addresses; and
  - (ii) by notice in a national newspaper.
- (c) Where any notice of a matter referred to in paragraph (a) specifies:
  - (i) a rescheduled date, time and place for the meeting;
  - (ii) electronic means or changed electronic means for participation in the meeting; or
  - (iii) record date (within the meaning of paragraph (d)) being the time and date for determining a member's eligibility to participate in the meeting;

section 181 is disapplied to the extent necessary to give effect to this subsection.

- (d) In paragraph (d) the "record date" shall be:
  - (i) save where subparagraph (ii) applies, the commencement of the meeting;
  - (ii) the time specified by the company in accordance with regulation 14 of the Companies Act, 1990 (Uncertificated Securities) Regulations 1996 (SI 68 of 1996).

(5) *Withdrawal or amendment of dividend resolutions*

Where:

- (a) the directors of a company have recommended the declaration of a dividend at a general meeting of the company; and
- (b) subsequent to convening the general meeting the directors form the opinion, due to the actual or perceived consequences of Covid-19 on the affairs of the company, that the dividend ought to be cancelled or reduced to a particular amount; and
- (c) save where all the members of a company agree in writing, notice of the formation of that opinion and consequent proposed cancellation or reduction is given no later than 3 business days before the general meeting in the manner provided in paragraph (c) of subsection (4);

notwithstanding any provision to the contrary in the constitution of the company, the directors may withdraw the resolution to approve a dividend or as the case may be, put an amended resolution to the meeting to approve a dividend less than that originally proposed.

**Explanatory note:**

Subsection (1) states that this is to apply during the interim period only.

Subsection (2) disapplies the requirement for the first AGM to take place within 18 months and for no more than 15 months must elapse between AGMs and provides that the 2020 AGM can be held up to the end of 2020. It also disapplies the requirement that the financial statements to be laid before the meeting are made up to a date no earlier than 9 months before the date of the AGM.

This is aligned with Article 1 of the Council Regulation 2020/699 on temporary measures concerning the general meetings of European companies (SE) and of European Cooperative Societies (SCE) adopted on 25 May 2020: “Where, in accordance with Article 54(1) of Regulation (EC) No 2157/2001, a general meeting of an SE is to be held in 2020, the SE may, by way of derogation from that provision, hold the meeting within 12 months of the end of the financial year, provided that the meeting is held by 31 December 2020.” (OJ 27.05.2020 L165 p 25).

Subsection (3) explicitly enables companies to hold general meetings by electronic means and empowers the Minister to make regulations to give further effect to this provision.

Subsection (4) permits the cancellation, rescheduling and relocation of general meetings. In light of the closing down of venues and the uncertainty surrounding venues, it enables companies to cancel and reschedule meeting without the need to have a formal technical meeting to adjourn to another date.

Subsection (5) permits a company’s directors to withdraw a dividend resolution or to reduce the dividend proposed to be declared by resolution at a general meeting, due to a change of opinion on their part following the issue of the notice of general meeting.

**Note regarding entities authorised and /or regulated by the Central Bank of Ireland:**

The Central Bank of Ireland has requested that the implementation of this provision is effected in such a way as does not relieve entities authorised and/or regulated by it from their obligations that they may have under the laws for which it is competent authority, such as obligations which require timely reporting of information laid before AGMs.

Regulation 58(1) of the European Union (Insurance and Reinsurance) Regulations 2015 (SI 485/2015) (Solvency II Regulations) requires an insurance undertaking or reinsurance undertaking to forward to the Bank “each year” 2 copies of the financial statements and reports “laid before its annual general meeting”. Thus, an extension of time for AGMs without adjusting for this requirement may create a risk that such an undertaking would fail to provide this information to the Central Bank if for whatever reason an AGM were not held within the year. See also European Communities (Life Assurance) Framework Regulations, 1994 (SI 360/1994), Regulation 17; European Communities (Non-Life Insurance Accounts) Regulations, 1995 (SI 202/1995), Regulation 7.

In addition, there are a number of requirements of financial services law which require the preparation of annual audited financial reports and their delivery to the Central Bank without reference to the annual general meeting. For example, under Regulation 4 of the Transparency (Directive 2004/109/EC) Regulations 2007, an issuer whose securities are admitted to a regulated market must make public its annual audited financial report at the latest 4 months after the end of each financial year and ensure that it remains publicly available for at least 10 years. Although this proposal is not intended to impact upon these requirements, it is highlighted for the benefit of Parliamentary Counsel when drafting the legislation.



## **HEAD 5**

Provide for modified provisions for public limited companies

Section 1103 of the Companies Act 2014 is amended as follows:

(2) Notice of a general meeting shall set out—

(a) when and where the meeting is to take place and the proposed agenda for the meeting, and if fully conducted by electronic means, the means of holding and participating in the meeting;

### **Explanatory note:**

This head is intended to modify section 1103 of the Companies Act to provide that a notice for a general meeting being conducted by fully electronic means must outline how the meeting shall be held and how members can participate.

## Head 6

Provide for the insertion of the following new section 570A into the Companies Act 2014

### **570A. Circumstances in which company deemed to be unable to pay its debts during the interim period and consequential matters**

(1) *Section to apply only until end of interim period*

This section shall be operative during the interim period.

(2) *Disapplication of €10,000 and €20,000 thresholds*

For the purposes of section 569(1)(d) paragraphs (a) and (b) of section 570 shall not apply during the interim period and will be substituted by the following section 570A(3). Paragraphs (c) and (d) of section 570 shall continue to apply.

(3) *€50,000 threshold*

For the purposes of this Act, a company shall be deemed to be unable to pay its debt if:

- (a) one or more creditors, by assignment or otherwise, to whom, in aggregate, the company is indebted in a sum exceeding €50,000 then due, have served on the company (by leaving it at the registered office of the company) a demand in writing requiring the company to pay the sum so due, and
- (b) the company has, for 21 days after the date of the service of that demand, neglected to pay the sum or to secure or compound for it to the reasonable satisfaction of each of the creditors.

#### **Explanatory Note:**

This increases the debt threshold for the commencement of a winding up by the Court under section 569(1)(d) from an individual debt of €10,000 or aggregate debts of €20,000 to €50,000.

In general section 570 defines a range of circumstances where a company is deemed to be unable to pay its debts. This definition is cross referenced in other sections of the Companies Act 2014, for example section 509(3)(c) – power of court to appoint an examiner; 610(4)(a) – liability for fraudulent and reckless trading; and section 818(2)(a) and (b) – definition of insolvency relating to restriction of directors of insolvent companies.

The changes proposed by section 570A relate only to the threshold amounts in at which a creditor(s) can make demands for the purposes of section 569(1)(d) – where a company can be wound up by the court.

## Head 7

Provide for the insertion of the following new section 688A into Chapter 13 of Part 11 of the Companies Act 2014

### **688A. Convening of creditors' meetings virtually and by electronic means during the interim period.**

(1) *Section to apply only until end of interim period*

This section shall be operative during the interim period.

(2) *Creditors' meetings may be conducted by electronic means*

(a) In this subsection, "creditors' meeting" shall mean any meeting of creditors convened under any provision of Parts 9, 10 or 11 that is held during the interim period.

(b) A creditors' meeting, notwithstanding any provision to the contrary in this or other enactment, shall not be required to be held at a physical venue or venues but may be fully conducted by electronic means provided all those entitled to attend have a reasonable opportunity to participate.

(c) Where a physical meeting is held, members must be afforded the opportunity to participate by electronic means.

(d) Without prejudice to the terms of this provision, creditors' meetings shall in all other respects be conducted in accordance with the provisions of this Act, with due regard to the requirements therein being practicably adjusted to the holding and conduct of meetings by electronic means.

(e) The Minister may by regulations make further provision for the convening and conduct of, quorum at, access to and participation in creditors' meetings to be held by electronic means.

### **Explanatory Note:**

This head is intended to facilitate the virtual holding of creditors' meetings in voluntary and other liquidations, examinerships, statutory schemes of arrangement under Part 9 of the Act and other insolvency processes. The different types of meetings were too numerous to mention specifically, hence the reference to meetings in Parts 9, 10 and 11.

The structure of the Companies Act 2014 is such that in each Chapter of a Part of the Act referring to a particular insolvency process, for example Chapter 4 of Part 11 on creditors' voluntary winding up, the provisions are stated to apply to the particular process 'save to the extent that the provision expressly provides otherwise'. Thus, for example in Chapter 4 of Part 11 s. 585 makes this statement regarding the following provisions which includes s. 587 which therefore applies to creditors' meetings in a creditors' voluntary winding up only.

It was decided to move this provision to *before* s. 689 in Chapter 13 of Part 11 of the Companies Act 2014 on the grounds that this would be the most appropriate home for the section. However, as this Chapter refers exclusively to *General rules as to meetings of members, contributories and creditors of*

*company in liquidation*. It does not refer to examinerships under Part 10 or Schemes under Part 9 and therefore, the statement in s. 688A(2)(a) (i) is still necessary.

The provisions as to the conduct of meetings mirror those proposed for general meetings during the interim period. However, some differences are necessary, for example publication on the company's website of information was not deemed appropriate and issued as to change of venue and dividends also were not relevant. Some specific principles needed to be addressed differently regarding documentation and identification of creditors. Because the notice of creditors' meetings must also be advertised in newspapers (see for example s. 587(6)), the issue of providing access details is to be addressed in the regulations.

A second principle is that the provision should not be mandatory but permissive with due regard for facilitation of creditors who wish to participate virtually at a meeting which was being held physically, hence section 688A(2)(c).

A third principle is to reiterate that all of the relevant provisions of the Companies Act 2014 as applicable to the holding of creditors' meetings generally continue to apply, hence section 688A(d).

## Head 8

Provide for the insertion of the following new section 534A into the Companies Act 2014

### **534A Power of the Court to extend the period in which the examiner can present a report to the Court**

- (1) This section shall be operative during the interim period.
- (2) This section shall apply to companies under the protection of the Court under Part 10 following the commencement of this section.
- (3) Where, on the application of the examiner, the court is satisfied that the examiner would be unable to report in accordance with the provisions of section 534 and within the period described under subsections (2) and (3) of section 520 or within the extended period provided for in section 534(3), the court may, in exceptional circumstances, allow for an extension of the period in which an examiner may submit his or her report by an additional 50 days, with the consequent extension of the periods provided in subsections (2) and (3) of section 520.
- (4) The exceptional circumstances referred to in subsection (3) may concern, but shall not be limited to, procedures to implement the provision of new finance to the company and adverse effects of Covid-19.

#### **Explanatory note:**

This head is designed to enable the examiner of companies that go into examinership during the interim period to have a longer period in which to make a report to the court under section 534 of the Companies Act in exceptional circumstances. Currently the examiner has up to 70 days to present a report to the court under the operation of section 520(2) but section 534(3) allows for an extension of that period by 30 days on application to the court. The head provides for the possibility of an additional extension of 50 days (i.e. 80 days in total) to be granted by the court in exceptional circumstances. Accordingly, the maximum period of examinership may, in exceptional circumstances, extend from 100 to 150 days.

## Head 9

Provide for the insertion of the following new section 224A into the Companies Act 2014.

### **224A Directors of insolvent company to have regard to interests of creditors**

(1) The directors of a company who believe, or who have reasonable cause to believe, that a company is unable or likely to be unable to pay its debts as they fall due, shall—

(a) have regard to the interests of the company's creditors; and (b) preserve the company's property.

(2) The duty in subsection (1) shall be owed to the company (and the company alone) and shall be enforceable in the same way as any other fiduciary duty owed to a company by its directors.

(3) Where a director of a company acts in breach of his or her duty under subsection (1) and the company goes into insolvent liquidation then the director shall be liable to indemnify the company for any loss or damage resulting from that breach.

(4) For the purposes of subsection (3), a company shall be taken to have suffered loss or damage where, upon its insolvent liquidation, its creditors do not recover the sums which they would have received had there been no breach of the duty in subsection (1).

### **Explanatory note**

This head provides for the insertion of a new section 224A into the Companies Act which codifies a director's duty to creditors as the company approaches insolvency. The duty exists at common law and it is considered appropriate for it to be put on a statutory footing following the recommendation of the Company Law Review Group in its Report on the Protection of Employees and Unsecured Creditors.

## **HEAD 10**

Provide for an amendment to section 678(2) of the Companies Act 2014.

Delete 'Employment Appeals Tribunal' after 'taking of proceedings before the', and

Replace with 'Workplace Relations Commission'

### **Purpose of amendment**

Section 678 provides for a general stay for legal action against a company where a winding up order has been made; a provisional liquidator has been appointed or a resolution for a voluntary wind up has been made. Before any legal action can be taken against such a company prior approval must be sought from the High Court. Subsection (2) provides for an exemption of this requirement in relation to proceedings before the Employment Appeals Tribunal.

The Workplace Relations Act was commenced on 1 October 2015. It has subsumed the operation of the EAT in addition to other functions in accordance with the Government's decision to streamline the employment rights enforcement fora. While the EAT has not been formally dissolved in accordance with section 64(3) of the WRC Act (because it still must hear legacy cases that have been before it before the commencement of the WRC Act) section 66 of the WRC provisions (transfer of the functions of the EAT) cannot apply.

Thus, any worker seeking to enforce their employment rights complaint against a company with the scope of section 682(1) of the Companies Act 2014 ought to seek prior approval from the High Court. This is not in accordance with established policy and practice and may result in undesirable and costly applications having to be lodged with the High Court. This may have the undesirable result of employees not seeking their rights enforced in the normal manner as no effective remedy for them to do so is no longer available. This is particularly unwelcome in the contemporary context of Covid-19 related disruptions to business and the workplaces.

The amendment will also broaden the exemption to include complaints pursuant to equality legislation. This is a desirable policy outcome as Ireland has a community law duty to ensure effective remedies for alleged breaches of same.

## PART 2

### Industrial and Provident Societies

#### HEAD 11 Amendment of Industrial and Provident Societies Act 1893

The Industrial and Provident Societies Act 1893 is amended by the insertion of the following sections after section 14:

#### **“Interim period**

14A(1) In this Act –

**“Covid-19”** has the meaning as it has in section 2 of the Emergency Measures in the Public Interest (Covid-19) Act 2020;

**“interim period”** means the period commencing on the date of commencement of this section and expiring on 31 December 2020, as may be extended under subsection (3);

**“interim provision”** means any provision of this Act expressed:

- (i) to be operative during the interim period; or
- (ii) to relate to things done or omitted to be done during the interim period;

**“interim regulation”** means any regulation made under an interim provision.

- (2) This section shall remain in operation during the interim period.
- (3) (a) The Minister may from time to time, after consulting with the Minister for Health and taking into account any legal or practical restrictions in the State on travel or meetings arising from the prevalence or threat of Covid-19, by regulations, for the purposes of one or more interim provisions, extend the interim period to expire on any date or dates no later than 30 June 2021.  
  
(b) Such regulations may provide for different interim periods for different interim provisions.
- (4) Every regulation made by the Minister under any interim provision shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

#### **Explanatory Note:**

This section defines the period during which the amending provisions are to apply as “the interim period” with consequent definitions of “interim provision” and “interim regulation” being measures and regulations that apply during that period.



### **General meetings convened and held during the interim period**

14B(1) This section shall remain in operation during the interim period.

(2) Notwithstanding sections 14(1) and (2) of this Act and sections 30(1) and (2) of the Industrial and Provident Societies (Amendment) Act 1978 or any provision of its rules, a registered society need not hold an annual general meeting within the period required under those sections or the rules of the registered society, provided that the meeting is held by 31 December 2020 at the latest.

(3) In this section, “general meeting” shall mean an annual general meeting or a general meeting of a registered society.

(4) (a) A general meeting, during the interim period, whether or not authorised by its rules and notwithstanding any provision in its rules to the contrary-

(i) shall not be required to be held at a physical venue but may be fully conducted by the use of electronic communications that provides members, as a whole, entitled to attend, with a reasonable opportunity to participate, or

(ii) may be held in one or more physical venues at the same time and, if necessary, include the use of electronic communications that provides members entitled to attend, not in those physical venues and members, as a whole, with a reasonable opportunity to participate

(b) The Minister may by regulations make further provision for the convening and conduct of, quorum at, access to and participation in general meetings to be held in accordance with paragraph (a).

(5) (a) Notwithstanding any provision to the contrary in the rules of a registered society:

(i) a general meeting (to include a rescheduled meeting) may be postponed;

(ii) the venue or venues of a general meeting (to include any meeting postponed and rescheduled under paragraph (a)(i)) or the means of electronic communication used for holding and participating in such general meeting may be changed;

(iii) a general meeting (to include any meeting postponed and rescheduled under paragraph (a)(i)) may be changed from a physical meeting to a meeting held in accordance with subsection 4(a)(i) or (ii) and vice versa;

in each case, by or under the authority of the committee of management of the registered society at any time up to 3 working days prior to the time scheduled for commencement of the meeting, if considered necessary by the committee of management for public health reasons arising from Covid-19.

(b) A registered society shall notify members of any changes to the holding of a general meeting pursuant to paragraph (a) as soon as practicable. “

**Explanatory note:**

Subsection (1) states that this is to apply during the interim period only.

Subsection (2) disapplies the requirements of the Industrial and Provident Societies Acts 1893-2018 and any provisions of the rules of registered societies regarding time frame for holding AGMs, and provides that a registered society need not hold an annual general meeting within the period required under these Acts or the rules of the registered society, provided that the AGM is held by the end of 2020.

This is aligned with Article 2 of the Council Regulation 2020/699 on temporary measures concerning the general meetings of European companies (SE) and of European Cooperative Societies (SCE) adopted on 25 May 2020: “Where, in accordance with Article 54(1) of Regulation (EC) No 1435/2003, a general meeting of an SCE is to be held in 2020, the SCE may, by way of derogation from that provision, hold the meeting within 12 months of the end of the financial year, provided that the meeting is held by 31 December 2020.” (OJ 27.05.2020 L165 p 25).

Subsection (3) clarifies the meaning of a general meeting for the purposes of section 14B.

While the industrial and provident societies legislation is silent in relation to holding fully electronic meetings or hybrid meetings (meetings where some of the members attend at the venue specified in the notice of the meeting while others participate by electronic means), given that the rules of industrial and provident societies may specify that general meetings are held at a physical venue, subsection (4) explicitly enables industrial and provident societies to hold general meetings using these two options and empowers the Minister to make regulations to give further effect to this provision.

Subsection (5) permits the postponement and relocation of general meetings. In light of the closing down of venues and the uncertainty surrounding venues, it enables registered societies to postpone and reschedule meeting without the need to have a formal technical meeting to adjourn to another date.

**PART 3**  
**Regulations**

**Draft Heads of**  
**Companies Act 2014 (General Meetings) Regulations 2020**

I, Leo Varadkar, Minister for Business, Enterprise and Innovation, in exercise of the powers conferred on me by section 2A and 175A(3) of the Companies Act 2014 (No. 38 of 2014) hereby make the following regulations:

1. *Title and commencement*

- (1) These Regulations may be cited as the Companies Act 2014 (General Meetings) Regulations 2020.
- (2) These Regulations shall come into operation on [--] June 2020.

2. *Interpretation*

In these Regulations—

“**the Act of 2014**” means the Companies Act 2014;

“**attende**” means, in relation to a company, a person entitled to attend a general meeting who is a member, a proxy appointed by a member, an authorised person appointed as provided by section 185 of the Act by a member of the company that is a body corporate, the auditor of the company and any other person entitled to attend a general meeting of the company;

“**company**” means the company convening the general meeting;

“**general meeting**” means a meeting convened by electronic means as provided by section 175A(3) of the Act of 2014.

3. *Notice of general meeting*

The notice of a general meeting shall include:

- (a) details of the electronic platform to be used to hold the meeting;
- (b) details of any relevant website, access software and access telephone details;

- (c) if access to the meeting is to be restricted to those attendees entitled to attend who communicate their prior intention to attend, that fact, and the time by and manner in which such intention must be received by the company;
- (d) any requirements or restrictions which a company puts in place in order to identify those who plan to attend;
- (e) the procedure for attendees to communicate questions and comments during the meeting; and
- (f) the procedure to be adopted for voting on resolutions proposed to be passed at the meeting.

4. *Electronic platform for general meeting*

- (1) A general meeting shall be held by common access to an electronic platform which:
  - (a) enables real time transmission of the meeting; and
  - (b) provides attendees the opportunity to participate by audio and audio-visual means or any other electronic technology that provides attendees as a whole with a reasonable opportunity to participate in the meeting.
- (2) A company shall ensure that such technology enables attendees participating in the meeting:
  - (a) to hear what is said by the chairperson of the meeting and by any person introduced by the chairperson;
  - (b) to the extent entitled under the constitution of the company, during the meeting to speak and to submit questions and comments orally to the chairperson;
  - (c) a mechanism for casting votes, whether before, or during, the meeting;

provided that where, by reason of the large number of attendees proposing to attend the meeting the electronic platform will not enable those in attendance to submit questions orally, provision shall be made to enable questions to be submitted by audience response software, text messaging or similar messaging applications.
- (3) A company shall ensure, as far as practicable, that such participation by attendees at a meeting:
  - (a) guarantees the security of any electronic communication by the attendee;
  - (b) minimises the risk of data corruption and unauthorised access;
  - (c) provides certainty as to the source of the electronic communication;

and, in the case of any failure or disruption of such means, that failure or disruption is remedied as soon as practicable,

provided that the company shall not be responsible for any technological failure or disruption relating to the equipment used by an attendee that prevents or interferes with the attendee's participation at the meeting.

(4) Any temporary disruption to the meeting caused by any technical failure shall not invalidate the meeting or the proceedings held thereat.

5. *Attendance at the general meeting*

(1) Each member and proxy appointed by a member shall be counted in the quorum where they participate in a general meeting.

(2) A company may restrict access to the meeting to those attendees who communicate their intention to attend the meeting no later than the time stated in section 183(6) of the Act of 2014.

(3) The holding of a general meeting may be made subject only to such requirements as are necessary to ensure the identification of those taking part in the meeting, to the extent that such requirements are proportionate to the achievement of those objectives.

(4) Attendees shall not permit a person not entitled to attend to participate, listen or view the proceedings of a meeting unless authorised by the Chairperson.

6. *Voting on resolutions proposed*

(1) Where a company has included notice of intention to require voting on a poll on all resolutions in the notice of the meeting:

(a) all resolutions at the general meeting shall be conducted by a poll;

(b) subsections (1), (2), (3) and (7) of section 189 shall not apply.

(2) Where a general meeting is conducted by audio visual means, a vote on a resolution by a show of hands may be conducted by the Chairperson, where he or she is satisfied that the Chairperson can identify and see all persons entitled to vote and can correctly discern their votes for or against the resolution.

(3) Where an attendee is participating in a meeting by audio or by text-based audience participation software, that attendee may communicate his or her vote on a resolution being taken on a show of hands by that audio or software, provided the Chairperson is satisfied as to the identity of the attendee and their entitlement to vote.

GIVEN under my Official Seal,

[--] xxx 2020

Leo Varadkar,

Minister for Business, Enterprise and Innovation.

## EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The purpose of these Regulations is to make further provision for the convening and conduct of, access to and participation in general meetings to be held by electronic means by reason of the Covid-19 outbreak.

## Draft Heads of Companies Act 2014 (Creditors Meetings) Regulations 2020

I, Leo Varadkar, Minister for Business, Enterprise and Innovation, in exercise of the powers conferred on me by section 2A and 688A(2)(e) of the Companies Act 2014 (No. 38 of 2014) hereby make the following regulations:

1. *Title and commencement*

- (1) These Regulations may be cited as the Companies Act 2014 (Creditors' Meetings) Regulations 2020.
- (2) These Regulations shall come into operation on [--] June 2020.

2. *Interpretation*

In these Regulations—

“**the Act of 2014**” means the Companies Act 2014;

“**attendee**” means, in relation to a company, a person entitled to attend a creditors meeting;

“**company**” means the company convening the creditors' meeting;

“**creditors meeting**” means a meeting convened by electronic means as provided by section 688A(2)(a) of the Act of 2014.

3. *Notice of creditors' meeting*

- (1) Notice of the creditors' meeting and other documents normally distributed at the creditors' meeting shall be given:
  - (a) by post; and
  - (b) by electronic mail to all creditors for whom the company has email addresses,and shall state clearly that the meeting is being convened under the terms of this provision.
- (2) The notice of a creditors meeting shall include:
  - (a) details of the electronic platform to be used to hold the meeting;
  - (b) details of any relevant website, access software and access telephone details;
  - (c) if access to the meeting is to be restricted to those attendees entitled to attend who communicate their prior intention to attend, that fact, and the time by and manner in which such intention must be received by the company;

- (d) any requirements or restrictions which a company puts in place in order to identify those who plan to attend;
  - (e) the procedure for attendees to communicate questions and comments during the meeting; and
  - (f) the procedure to be adopted for voting on resolutions proposed to be passed at the meeting.
- (3) Information referred to in (2) shall not be included in any advertisement of any notice of a meeting in daily newspapers, where this required under the provisions of this Act.

#### 4. *Electronic platform for creditors' meeting*

- (1) A creditors' meeting shall be held by common access to an electronic platform which:
- (a) enables real time transmission of the meeting; and
  - (b) provides attendees the opportunity to participate by audio and audio-visual means or any other electronic technology that provides attendees as a whole with a reasonable opportunity to participate in the meeting.

- (2) A company shall ensure that such technology enables attendees participating in the meeting:
- (a) to hear what is said by the chairperson of the meeting and by any person introduced by the chairperson;
  - (b) to the extent entitled under the constitution of the company, during the meeting to speak and to submit questions and comments orally to the chairperson;
  - (c) a mechanism for casting votes, whether before, or during, the meeting;

provided that where, by reason of the large number of attendees proposing to attend the meeting the electronic platform will not enable those in attendance to submit questions orally, provision shall be made to enable questions to be submitted by audience response software, text messaging or similar messaging applications.

- (3) A company shall ensure, as far as practicable, that such participation by attendees at a meeting:
- (a) guarantees the security of any electronic communication by the attendee;
  - (b) minimises the risk of data corruption and unauthorised access;
  - (c) provides certainty as to the source of the electronic communication;

and, in the case of any failure or disruption of such means, that failure or disruption is remedied as soon as practicable,

provided that the company shall not be responsible for any technological failure or disruption relating to the equipment used by an attendee that prevents or interferes with the attendee's participation at the meeting.

- (4) Any temporary disruption to the meeting caused by any technical failure shall not invalidate the meeting or the proceedings held thereat.



5. *Attendance at the creditors' meeting*

- (1) Each creditor and proxy appointed by a creditor shall be counted in the quorum where they participate in a creditors' meeting.
- (2) A company may restrict access to the meeting to those attendees who communicate their intention to attend the meeting no later than the time stated in section 183(6) of the Act of 2014.
- (3) The holding of a creditors' meeting may be made subject only to such requirements as are necessary to ensure the identification of those taking part in the meeting, to the extent that such requirements are proportionate to the achievement of those objectives.
- (4) Attendees shall not permit a person not entitled to attend to participate, listen or view the proceedings of a meeting unless authorised by the Chairperson.

6. *Voting on resolutions proposed*

- (1) Where a creditors' meeting is conducted by audio visual means, a vote on a resolution by a show of hands may be conducted by the Chairperson, where he or she is satisfied that the Chairperson can identify and see all persons entitled to vote and can correctly discern their votes for or against the resolution.
- (2) Where an attendee is participating in a meeting by audio or by text-based audience participation software, that attendee may communicate his or her vote on a resolution being taken on a show of hands by that audio or software, provided the Chairperson is satisfied as to the identity of the attendee and their entitlement to vote.

GIVEN under my Official Seal,

[--] xxx 2020

Leo Varadkar,

Minister for Business, Enterprise and Innovation.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The purpose of these Regulations is to make further provision for the convening and conduct of, access to and participation in creditors' meetings to be held by electronic means by reason of the Covid-19 outbreak.

## Draft Heads of

### Industrial and Provident Societies Act 1893 (General Meetings) Regulations 2020

I, Leo Varadkar, Minister for, Business, Enterprise and Innovation, in exercise of the powers conferred on me by sections 14A(3)A and 14B(4)(b) of the Industrial and Provident Societies Act 1893 ((56 & 57 Vict.) c. 39 ) (as adapted by the Business, Enterprise and Innovation (Alteration of Department and Title of Minister) Order 2020 (S.I. No. xx of 2020) hereby make the following regulations:

- 1.(1) These Regulations may be cited as the Industrial and Provident Societies Act 1893 (General Meetings) Regulations 2020.
- (2) These Regulations shall come into operation on [--]July 2020.
  
2. In these Regulations—
  - “attend” means to attend the meeting at a physical venue or participate by the use of electronic communications;
  - “the 1893 Act” means the Industrial and Provident Societies Act 1893;
  - “general meeting” means a meeting held in accordance with section 14B(4)(a)(i) or (ii) of the 1893 Act.
  
3. The notice of a general meeting, that includes the use of electronic communications to attend, given by the registered society shall include, at a minimum:
  - (1) details of the means of electronic communication to be used to hold the meeting;
  - (2) details of any relevant website, access software and access telephone details;
  - (3) if access to the meeting is to be restricted to those members entitled to attend who communicate their prior intention to attend, that fact, and the time by and manner in which such intention must be received by the registered society;
  - (4) any requirements or restrictions which a registered society puts in place in order to identify those who plan to attend;
  - (5) the procedure for members to communicate questions and comments before and during the meeting; and
  - (6) the procedure for voting on any resolution proposed for adoption at the meeting.
  
- 4.(1) A registered society shall ensure that a general meeting that includes the use of electronic communications to attend, shall at a minimum:
  - (a) enable real time transmission of the meeting;
  - (b) provide members with the opportunity to participate using technologies that provide audio and audio-visual communication; and

- (c) provides members, as a whole, with a reasonable opportunity to participate.
- (2) A registered society shall ensure that the use of electronic communications at a general meeting enables members participating -:
- (a) to hear what is said by the chairperson of the meeting and by any person introduced by the chairperson;
  - (b) to the extent entitled under the rules of the registered society
    - (i) to speak and to submit questions and comments orally, to the chairperson during the meeting;
    - (ii) where, a member will not be able to submit questions orally by reason of the large number of members proposing to attend the meeting by the use of electronic communications, to submit questions and comments by audience response software, text messaging or similar messaging applications;
  - (c) to vote on any resolution proposed for adoption at the meeting.
- (3) A registered society shall ensure, as far as practicable, that participation by means of electronic communication by members at a general meeting:
- (a) guarantees the security of any electronic communication by the member;
  - (b) minimises the risk of data corruption and unauthorised access;
  - (c) provides certainty as to the source of the electronic communication;
  - (d) in the case of matter being the subject of a vote, guarantees the accuracy and confidentiality of an individual vote in terms of it being communicated, recorded and counted;
  - (e) in the case of any failure or disruption of such means, remedies that failure or disruption as soon as practicable.
- (4) A registered society shall not be responsible for any technological failure or disruption relating to the equipment used by a member that prevents or interferes with that member's attendance at general meeting that includes the use of electronic communications.
- (5) Any temporary disruption to the general meeting caused by any technical failure shall not invalidate the meeting or the proceedings held thereat.
- 5.(1) Each member shall be counted in the quorum where they attend a general meeting.
- (2) A registered society may restrict access to the general meeting to those members who communicate their intention to attend the meeting no later than the time specified in the notice of the general meeting in accordance with regulation 3(3).
- (3) The holding of a general meeting may be made subject only to such requirements as are necessary to ensure the identification of those taking part in the meeting, to the extent that such requirements are proportionate to the achievement of those objectives.
- (4) Members entitled to attend a general meeting shall not permit a person not entitled to attend to participate, listen or view the proceedings of a meeting unless authorised by the Chairperson.

GIVEN under my Official Seal,

[--] July 2020

[Minister],

Minister for Business, Enterprise, and Innovation

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The purpose of these Regulations is to make further provision for the convening and conduct of, access to and participation in general meetings to be held by electronic means by reason of the Covid-19 outbreak.