

Guidance note

# Appointment/resignation of director

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# Appointment/resignation of director

## Introduction

All appointments and resignations involving a director should be properly minuted and the change should be filed at the Companies Registration Office within the required timeframe.

If you have any feedback on the content of these resources, or additional questions that you'd like to discuss, please contact the ICSA information centre: [informationcentre@icsa.org.uk](mailto:informationcentre@icsa.org.uk)

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# Appointment/resignation of director

## Appointment

- When a company is incorporated, the people named in the Incorporation papers (form A1 as filed with the Companies Registration Office ('CRO')) as directors and who have consented to act as such are deemed to be appointed on the date of incorporation. Every company is required to have a minimum of two directors;
- Following the appointment of these first directors, any further directors to be appointed should be appointed in accordance with regulations laid down in the articles of association (i.e. maximum number of director positions available, qualifications, if any, which are required to become a director of the company etc);
- Approval of the appointment as a director must be noted and recorded in the minutes of a meeting of directors. (Ensure there is a quorum of directors present for this meeting). In some companies, appointments of directors require the approval of members.

### Secretary's duties

- A B10 form should then (i) be completed giving certain details of the new director including current and past directorships held (in the past ten years), (ii) signed by the new director giving their consent to act as a director (iii) certified by either a current director or the company secretary, before; (iv) being filed, electronically in most cases, with the CRO within 14 days of the appointment being approved at the meeting.

### The secretary should then:

- update the register of directors and secretaries with the relevant details for the new director;
- update the register of share interests of directors and secretaries (if the new director holds an interest in any shares or Debentures of the company);
- update the register of directors interests in company contracts (if relevant) with the relevant details for the new director;
- give a letter of appointment and an induction pack, (normally signed by the chairman but co-ordinated by the secretary), including dates of forthcoming meetings, to the new director clearly outlining the roles and responsibilities of acting as a director;
- Ensure that for non-executive director appointments, a comprehensive induction training programme is put in place for the new director;
- Ensure that the new director's name appears on the company stationery and other relevant forms;
- Add the new director's name to the directors & Officers liability insurance policy;
- Change the bank mandate forms, if required.

# Appointment/resignation of director

## Public companies

For publically listed companies the secretary should inform the Stock Exchange and publish the appointment (by the close of the next business day) and the required declaration (within 5 business days) through an Regulatory Information system ('RIS') announcement.

## Notes

- Any director appointed during the year holds that office until the next annual general meeting where they automatically retire and must offer themselves for re-election;
- While standard articles allow for directors to retire by rotation, it has become good practice that all directors now offer themselves for re-election at each AGM;
- In general, the articles will allow existing directors to fill a casual vacancy in their number by themselves or by ordinary resolution;
- Except in limited circumstances, at least one of the directors must be resident in the EEA;
- A person may not hold any more than 25 directorships at any one time, subject to certain exceptions

## Resignation

Directors normally cease to hold office through resignation, disqualification, removal or death. A resignation normally infers a mutual agreement, usually with goodwill on both sides.

- A signed and dated copy of a letter of resignation should be obtained from the director and kept on file by the company;
- A resignation of a director should be noted in the minutes at a directors' meeting;
- A B10 form must be completed by the secretary and filed with the CRO within 14 days of the date of the resignation of the director. The form must be signed by the company secretary or a serving director;
- As in the case of an appointment of a director, the secretary should ensure that the registers are updated to reflect the fact that the person concerned is no longer a director of the company – (register of directors and secretaries, register of share interests of directors and secretaries, register of directors interests in company contracts);
- The secretary should remove the director's name from the company letterhead and amend the D&O policy and bank mandate (if required).

In the case of a death of a serving director, a B10 form should be completed by the company secretary and filed within 14 days with the CRO. In cases where this is not done, a B70 form can be filed with a copy of the death certificate.

# Appointment/resignation of director

## Public companies

For publically listed companies the secretary should inform the Stock Exchange and publish the resignation through a RIS announcement (by the end of the next business day).

## Disqualification or removal

- In cases where a resolution to remove a director is proposed, 28 days notice must be given to the company, in advance of the general meeting and to the director concerned. A copy of the notice should be sent to the director and the director is entitled to be heard at the meeting.
- Disqualification – there are various reasons why a director may be disqualified; including: High Court order declaring that as a director of an insolvent company they did not act honestly and responsibly, conviction for an indictable offence, failing to notify the CRO on appointment that they had been disqualified in another state or making a false or misleading statement, acting as a director while restricted, court order disqualifying a person from acting as a director or undischarged bankrupt.
- In cases of disqualification or removal you should seek legal advice before taking any further action.
- In cases where a director has been disqualified, the B10 form should be accompanied by a B74 form (statement of directors disqualifications) and filed with the CRO.
- As above, the secretary should ensure that the administration duties are fulfilled after a director is removed (minutes, filing B10, updating registers, company letterhead, D&O insurance, bank mandate, announcement if publically quoted etc).

## Central Bank Approval

The secretary may also need to inform the Central Bank of Ireland, should the entity be regulated, to obtain prior approval for the individual acting as director (PCF function) or secretary (CF function). If an entity is regulated by the Central Bank and wishes to make amendments to the board, an individual questionnaire needs to be submitted to the Central Bank for the individual in question in relation to the role that they are being appointed to. The Central Bank needs to approve this person being appointed to this position in advance of them actually being appointed under Fitness & Probity.



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