



Údarás Forfheidhmithe Corparáideach
Corporate Enforcement Authority

Information Note 2022/2

Rights of access to the Register of Members
and

company obligations under section 216 of the Companies Act 2014

Introduction

Complaints relating to gaining access to companies' Registers of Members feature regularly in the CEA's engagements with the public. One aspect of these complaints that has featured increasingly is the operation of the data protection regime, including the Data Protection Act 2018 and the General Data Protection Regulation ("GDPR") and, specifically, assertions by companies that they cannot provide access to their Register of Members on data protection grounds.

The purpose of this Information Note is to clarify that specific issue and, more generally, to provide clarity around individuals' right to inspect companies' Registers of Members. For a broader overview of companies' obligations and members' and other parties' rights under company law, this document can be read in conjunction with the CEA's Frequently Asked Questions, which are available at [CEA > FAQs](#)

Companies' obligation to maintain a Register of Members

Members of the company

Members of a company are those that:

- subscribe to the company's constitution,
- are shareholders also registered as a member, or
- are admitted as members of the company after its incorporation.

The company's constitution may set out rules on who can be a member, how they become a member and/or how they cease to be a member of the company.

Register of Members

Every company is required by law to maintain a Register of the company's past and present members¹. The Register of Members should include the following information:

- name, address and (where applicable) shares held by each member;
- date on which each member was entered on to the Register, and
- date on which the person/entity ceased to be a member of the company.

Location of Register

The Register of Members should be kept at the company's registered office, its principal place of business within the State, or another place within the State². Another person may keep the Register of Members on the company's behalf but, where this is the case, the place at which the Register is kept by that person must be within the State³. Further, where the Register is kept anywhere other than at the company's registered office, a notice must be filed with the Registrar of Companies stating where the Register is kept.

¹ See s. 169 of the Companies Act 2014.

² See s. 216(3) of the Companies Act 2014.

³ See s. 216(4) of the Companies Act 2014.

Offences

If a company fails to comply with any of the above requirements, the company, and any officer of it who is in default, shall be guilty of a category 3 offence⁴. A category 3 offence carries a penalty, on summary conviction, of up to 6 months imprisonment and/or a fine of up to €5,000.

Inspection of the Register of Members

Members

Members of a company are entitled to inspect the Register of Members without charge⁵.

Non-members

Any person who is not a member of the company, i.e., any member of the public, may inspect the Register of Members on payment of the relevant fee (further details of the relevant fee are provided below)⁶.

Requirement to make the Register available for inspection

The Register of Members should be open for inspection during business hours (unless the Register has been closed (see below for further details regarding closure of the Register of Members)).

Offences

It is a category 3 offence (i.e., carries a penalty, on summary conviction, of up to 6 months imprisonment and/or a fine of up to €5,000) for a company, and any officer of the company who is in default, to fail to make the Register of Members available for inspection by a member of the company without charge or by any other person upon payment of the relevant fee (further details of the relevant fee are provided below)⁷.

Obtaining copies of the Register of Members

Any member of the company may request a copy, or a copy of any part of, the Register of Members⁸. Similarly, any other person who is not a member of the company, i.e., a member of the public, may request a copy, or a copy of any part of, the Register of Members⁹.

Within 10 days of receipt of a request, and upon payment of the relevant fee (further details of the relevant fee are provided below), a company shall send/cause to be sent to the requested the requested copy of the Register of Members or part thereof¹⁰.

Offences

It is a category 3 offence (i.e., carries a penalty, on summary conviction, of up to 6 months imprisonment and/or a fine of up to €5,000) for a company, and any officer of the company who is in default, to fail to comply with the requirement to provide a copy of the Register of Members to a requester within 10 days¹¹.

⁴ See s. 217(3) of the Companies Act 2014.

⁵ See s. 216(8) of the Companies Act 2014.

⁶ See s. 216(9) of the Companies Act 2014.

⁷ See s. 217(3) of the Companies Act 2014.

⁸ See s. 216(11)(c) of the Companies Act 2014.

⁹ See s. 216(12)(c) of the Companies Act 2014.

¹⁰ See s. 216(13) of the Companies Act 2014.

¹¹ See s. 217(3) of the Companies Act 2014.

The “*relevant fee*”

The “*relevant fee*”, as referenced above, is as follows:

| Right | Relevant provision of the Companies Act 2014 | Relevant Fee |
|---|--|---|
| <i>Right to inspect the Register of Members – members of the company</i> | s. 216(8) | No charge. |
| <i>Right to inspect the Register of Members – any other member of the public</i> | | |
| <ul style="list-style-type: none">• where one company Register is inspected | s. 217(1)(a)(i) | €10.00, or such lesser sum as the company may determine. |
| <ul style="list-style-type: none">• where more than one company Register is inspected | s. 217(1)(a)(ii) and 217(2) | €15.00, or such lesser sum as the company may determine (subject, however, to certain conditions ¹²). |
| <i>Right to obtain a copy, or a copy of any part of, the Register of Members (applies to both company members and any other member of the public)</i> | s. 217(1)(b) | €10.00 <u>per copy</u> , or such lesser sum as the company may determine. |

The Minister for Enterprise, Trade and Employment can order these fees be altered. For arrangements as to how to pay relevant fee(s) etc., contact should be made directly with the company in question.

Closure of the Register of Members

A company may close its Register of Members on one or more occasions in any given year provided that:

- in total, the Register is not closed for more than 30 days in the year, and
- closure is advertised in some newspaper circulating in the district of the company’s registered office¹³.

¹² See s. 217(2) for details of the conditions that apply.

¹³ See s. 174 of the Companies Act 2014.

Data protection and the Register of Members

Article 4(2) of the GDPR defines “*processing*” of personal data. “*Processing*” under Article 4(2) includes “*disclosure*” of personal data. By permitting inspection, or providing copies of, its Register of Members, a company is processing personal data, i.e., company members’ personal details as required to be included by law in the Register.

The question arises, therefore, as to whether companies are permitted to provide access to their Register of Members or whether, by doing so, they are breaching data protection law. As referenced in the introduction to this Information Note, this issue has featured increasingly in complaints received by the CEA from members of the public, i.e., where companies have refused access the Register of Members of data protection grounds.

The processing of personal data requires a lawful basis under Article 6 of the GDPR. Specifically, Article 6(1)(c) of the GDPR permits the processing of data where it is “*necessary for compliance with a legal obligation to which the controller is subject*”. This includes compliance with the obligations under the Companies Act 2014, which, as detailed above, imposes a legal obligation on every company to provide access to, and copies of, its Register of Members (on payment of the relevant fee, where applicable).

Therefore, it is the view of the CEA that providing access to a company’s Register of Members is not a breach of data protection law and, as such, is not a legitimate basis upon which to refuse access to the Register of Members or to provide copies of the Register, as is required by company law.

As detailed above, failure to comply with the company law requirements relating to the Register of Members can expose both a company and any officer in default to the risk of criminal prosecution.

The Data Protection Commission has published guidance relating to data protection considerations that apply in the context of management companies (i.e., companies associated with apartments and housing developments). That guidance can be accessed [here](#).

Enforcement options if a company fails to provide access to and/or copies of the Register of Members

In addition to the enforcement options available to the CEA (which include criminal prosecution), members of the public are conferred with certain rights of enforcement under the Companies Act 2014.

Under s. 217(4), the High Court may, upon application to it,

- in the case of a failure to provide access to the Register of Members, make an order compelling inspection,
- in the case of a failure to provide a copy of the Register, make an order directing that the copy requested be sent to the requester.

Under s. 797, a member or creditor of the company can apply to the High Court for an order requiring a company, or an officer of it in default, to remedy the default within such time as the court specifies. This right, however, only comes into existence after a notice has been served on the company or officer requiring the company or officer to remedy the relevant default and giving at least 14 days within which to effect such remedial action.

Making a complaint to the CEA

Should you wish to make a complaint to the CEA regarding an alleged failure on the part of a company to provide access to, or a copy of, the Register of Members, you should complete the CEA's Complaint Form, which is available at <https://cea.gov.ie/en-ie/What-We-Do/Complaints-Concerns-Protected-Disclosures>

If you are making a complaint, the CEA will want to see your correspondence with the company and any other documentation that supports your assertion that the company has failed to comply with its obligations.

**CORPORATE ENFORCEMENT AUTHORITY
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