



# CEA

---

**Údarás Forfheidhmithe Corparáideach**  
**Corporate Enforcement Authority**

**INFORMATION NOTE 2023/3**

**GUIDANCE TO THE PUBLIC REGARDING  
ACCEPTING COMPANY DIRECTORSHIPS UNDER CERTAIN CIRCUMSTANCES**



## The Corporate Enforcement Authority (“CEA”)

The CEA is Ireland’s company law enforcement agency. The CEA’s statutory functions include encouraging compliance, and investigating and enforcing non-compliance, with the Companies Act 2014.

### Context

The purpose of this Information Note is to provide high-level guidance to members of the public that might be approached to become directors of companies about which they know little or nothing. Accepting an appointment as company director in such circumstances carries significant risks, which are elaborated upon in this Information Note.

### Purpose of company law

The primary purpose of company law is to facilitate continuity and encourage entrepreneurial activity. It does so by providing for separate corporate legal personality, perpetual succession, and limited liability, thereby circumscribing personal exposure to financial risk. In return for these privileges, company law sets down an accountability framework within which:

- companies and their directors are expected to operate,
- certain transparency requirements must be complied with,
- certain protections are afforded to shareholders, creditors and the wider public, and
- sanctions, both civil and criminal, are provided for in respect of certain non-compliance.

### Accepting appointment as a company director

A person must consent to act as a company director.

While it is unwise, there is nothing unlawful in consenting to become a director of a company about which a person knows little or nothing. However, from the moment that a person consents to become a director of any company, that person assumes significant legal responsibilities.

#### *Company directors’ duties*

Under Irish company law, company directors are conferred with significant legal duties and obligations. Those duties and obligations include to:

- act in good faith in what the director considers to be the interests of the company,
- act honestly and **responsibly** in relation to the conduct of the affairs of the company (emphasis added),
- act in accordance with the company’s constitution and exercise the director’s powers only for the purposes allowed by law,
- exercise the applicable level of care, skill, and diligence<sup>1</sup>,
- ensure that the company maintains adequate accounting records<sup>2</sup>,
- prepare financial statements for the company in respect of each financial year<sup>3</sup>, and

<sup>1</sup> Section 228 of the Companies Act 2014.

<sup>2</sup> Section 286(2) of the Companies Act 2014.

<sup>3</sup> Section 290 of the Companies Act 2014.

- ensure that certain statutory registers, and other documentation, are maintained by the company, including:
  - a register of members<sup>4</sup>,
  - a register of directors and secretaries<sup>5</sup>,
  - a register of directors' and secretaries' interests<sup>6</sup>,
  - a register of debenture holders<sup>7</sup>,
  - minute books<sup>8</sup>, and
  - directors' service contracts<sup>9</sup>.

**THESE OBLIGATIONS ARE ONGOING. IN THAT CONTEXT, ACTING RESPONSIBLY INCLUDES KEEPING ONESELF INFORMED ABOUT THE AFFAIRS OF THE COMPANY.**

**A PERSON WHO TAKES LITTLE, IF ANY, ACTIVE ROLE IN THE MANAGEMENT OF A COMPANY OR, FOR EXAMPLE, ACTS MERELY AS A POST BOX OR AS A SIGNATORY OF COMPANY DOCUMENTS IS LIKELY TO ENCOUNTER, POTENTIALLY SIGNIFICANT, DIFFICULTIES IN SATISFYING A COURT THAT THEY HAVE ACTED RESPONSIBLY.**

### **Risks**

#### *Risk of civil enforcement action*

A company director who fails to adhere to their obligations under company law risks being held personally liable for the debts of a company if the company becomes insolvent (i.e., is unable to pay its debts).

A further risk is that of disqualification. If disqualified, a person is precluded from acting as a company director for whatever period is determined appropriate by the court. In the recent past, a number of disqualifications for periods in excess of ten years have been imposed by the courts.

#### *Risk of criminal enforcement action*

In addition, acting as a director of a company about which a person knows little or nothing can expose that person to criminal liability, i.e., to being charged with a criminal offence. Examples of potential criminal liability under company law include:

- liability for providing false information (e.g., where information filed with the Companies Registration Office or elsewhere, having been signed/submitted by a director, proves to be false or misleading and a company director knows that information to be false or is reckless as to whether it is or not<sup>10</sup>), and
- liability under numerous '*officer in default*' offence provisions under company law (i.e., where a director has been in default in ensuring that a company complies with its legal obligations).

<sup>4</sup> Section 169 of the Companies Act 2014.

<sup>5</sup> Section 149 of the Companies Act 2014.

<sup>6</sup> Section 367 of the Companies Act 2014.

<sup>7</sup> Section 1121 of the Companies Act 2014.

<sup>8</sup> Section 199 of the Companies Act 2014.

<sup>9</sup> Section 154 of the Companies Act 2014.

<sup>10</sup> Section 876 of the Companies Act 2014.

## **Consequences**

Any of the foregoing enforcement actions have the potential to seriously impact a person's reputation, and/or their ability to work in a responsible position, to obtain credit, and to obtain directors' and officers' insurance in the future. Any person convicted of a criminal offence, in addition to the risk of monetary fine and/or imprisonment, will likely face limitations on their ability to obtain employment and travel abroad.

## **Personal bank records**

It is not a requirement under Irish company law to produce bank details to be appointed as a director of a company. If asked to furnish personal bank details (e.g., bank account numbers, bank statements etc.), a person should be satisfied as to who they are dealing with, and why such records are required, before handing over any such personal information.

## **Company bank accounts**

If asked to open a bank account for a company about which a person knows little or nothing, a person should exercise a high degree of caution and should satisfy themselves as to, amongst other things, the nature of the company's business before taking any such step.

## **Conclusion**

In light of the responsibilities that attach to being a company director – including the duty to act responsibly - and the risks of enforcement action in the event of non-compliance, any person approached to act as a director of a company about which they know little or nothing should be very cautious about consenting to such an appointment. It is recommended that, before agreeing to become a director of a company, a person should, at a minimum, gain an understanding of:

- their duties as a company director (details of which are available on the CEA website<sup>11</sup>),
- who the other directors of the company are,
- who the shareholders of the company are,
- who the company's ultimate beneficial owners are,
- the nature of the company's business,
- the company's arrangements for maintaining adequate accounting records,
- the arrangements in place for directors' meetings, and
- the arrangements in place for maintaining the company's statutory registers and other statutorily required documentation.

If advised that a person who it is proposed would be appointed as a director of a company will not need to have any involvement in the day to day running of the company but, rather, will, for example, only have to sign documents from time to time, that should immediately put the prospective director on alert that further enquiries may be necessary.

## **Status of this document**

This document is not, and does not purport to be, legal advice. Rather, it is high level guidance that should prove useful, in the circumstances referenced above, in mitigating certain risks. If in any doubt as to the appropriateness of accepting an appointment as a company director, consideration should be given to obtaining independent professional advice.

---

<sup>11</sup> <https://cea.gov.ie/en-ie/Publications/Information-Guidance>

### Further information

The CEA has prepared a full suite of documents setting out the:

- principal duties and responsibilities of certain actors under company law (e.g., companies, company directors, and company secretaries),
- principal rights of certain actors under company law (e.g., company members, shareholders, and creditors), and
- principal roles and duties of auditors, liquidators, and receivers under company law.

The above-referenced guidance is available at <https://cea.gov.ie/en-ie/Publications/Information-Guidance>.

The CEA has also prepared a comprehensive set of Frequently Asked Questions on company law matters, which can be accessed at <https://cea.gov.ie/FAQs>.

**CORPORATE ENFORCEMENT AUTHORITY**  
**18 JULY 2023**

[info@cea.gov.ie](mailto:info@cea.gov.ie)

<https://cea.gov.ie>

<https://linkedin.com/company/cea-ireland>

[@cea\\_ireland](#)

