



Údarás um Fhorfheidhmiú Corparáideach  
Corporate Enforcement Authority

## **The Corporate Enforcement Authority: There is no such thing as director-lite**

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## **The Corporate Enforcement Authority: directors' duties and responsibilities**

Companies are governed by the Companies Act 2014, an enormous piece of legislation containing 1,648 sections. The Corporate Enforcement Authority (CEA) is Ireland's independent statutory body responsible for enforcing any breach of the Companies Act 2014 by companies, and by extension, the directors of companies.

Michael Dillon, CEA's Director of Legal explained: "A director is typically an individual appointed by the company's members to manage the business of the company on their behalf. The Companies Act makes clear that the term 'director' encompasses anyone 'occupying the position of director by whatever name called.' The focus is on the function they perform, emphasizing 'substance rather than form'."

### **A Company as a Separate Legal Entity**

A company is a legal person, officially registered with the Companies Registration Office (CRO), and has the following characteristics:

- It can sue and be sued in its own name.
- It can own assets and incur liabilities, separate from its shareholders or members.
- It enjoys limited liability protection for its members.

### **Restrictions on Directors**

Certain individuals are prohibited from acting as directors. These restrictions include:

A body corporate or unincorporated body of persons, anyone under the age of 18, an undischarged bankrupt, the statutory auditor of the company and a person disqualified from acting as a director.

### **Duties of Directors**

‘All directors share the same legal responsibilities under the Companies Act, *there is no such thing as director –lite; you either are or are not a director,*’ said Michael Dillon.

Directors have both statutory and fiduciary duties to the company. These include:

### **Fiduciary Duties**

- Act in good faith in the best interests of the company.
- Act honestly and responsibly in the conduct of the affairs of the company.
- Follow the company’s constitution and exercise only the powers granted by it.
- Do not use the company’s assets, information, or opportunities for personal gain, except as permitted by section 228(1)(d).
- Exercise independent judgement, avoiding conflicts of interest.
- Act with due care, skill, and diligence, taking into account the interests of the company’s members and creditors, and avoid conduct that may jeopardize the company’s solvency.

### **Statutory Duties**

- Ensure compliance with the Companies Acts.
- If a breach occurs, directors may be held accountable if they knowingly allowed or permitted the breach.
- Directors must respond to inquiries and provide reports, certificates, and other documents as required by law.

Failure to comply with these duties can result in severe penalties, such as director restriction or disqualification.

Michael Dillon confirmed that, ‘directors are required to make various disclosures to ensure transparency and accountability. These include disclosure of personal information in the Register of Directors, such as their name, date of birth, address, nationality and any other directorships. A director must disclose interests in the company’s shares and related entities, or any payments made in connection with share transfers.

### **Compliance and Responsibilities**

To ensure compliance with the Companies Act, directors must also:

- Maintain accurate accounting records.
- Prepare and file financial statements.
- Maintain company registers.
- File necessary documents with the CRO.
- Convene and hold meetings such as AGMs and EGMs.
- Comply with regulations when transacting with the company.
- Co-operate with a liquidator in the event of winding up the company.

## **Consequences of Non-Compliance**

Failure by director to discharge these duties can lead to serious consequences, including investigation and enforcement actions by the CEA. The CEA has significant powers to restrict or disqualify directors, particularly in cases involving companies that have been struck off the Register, but which still have outstanding liabilities. Please see the guidance on the CEA website for more information on acting as director, in particular the peril of accepting a directorship of a company without appreciating the duties and responsibilities of being a director.

For further information on the Corporate Enforcement Authority visit [cea.gov.ie](http://cea.gov.ie) or email [info@cea.gov.ie](mailto:info@cea.gov.ie)