

Is your Irish company Brexit ready?

On 31 January 2020 the UK left the EU in accordance with the terms of the withdrawal agreement and entered a period of transition that expired on 31 December 2020.

With effect from 1 January 2021, there are significant and permanent changes as a result of Brexit which will have an impact on some Irish registered companies particularly in respect of complying with Irish company law obligations as provided for under the Companies Act 2014 (the Act).

Key company law considerations for directors of Irish companies particularly where the Irish company is a subsidiary of a UK registered Company.

EEA Director Requirement	Financial Reporting	Irish Registered Branches of External companies	Employee Share Arrangements
<p>There is a requirement under the Act for Irish registered companies to have at least one director on the board who is resident in the European Economic Area (EEA).</p> <p>Where a company relied upon a UK resident director to fulfil this requirement, the company will have the following options to stay compliant with Irish company legislation:</p> <ul style="list-style-type: none"> ▪ Appoint an EEA resident director from another EEA member state; ▪ Put a Section 137 Bond in place; ▪ Apply for a Section 140 Certificate from the Irish Revenue Commissioners. 	<p>Where an Irish registered company has a UK registered parent company and has availed of filing exemptions available under the Act in the past, future filing arrangements must be reviewed and reconsidered. For example:-</p> <p>Exemption for an Irish subsidiary from filing financial statements where a guarantee is in place from the EEA registered parent company (Section 357 of the Act).</p> <p>Exemption for an Irish subsidiary from the preparation of group financial statements where it is a subsidiary undertaking of an entity registered in the EEA (Section 299 of the Act).</p>	<p>The registration and annual filing obligations for non-EEA external companies operating as a branch in Ireland remain similar to those imposed upon EEA external companies.</p> <p>There are additional share capital disclosures required to be included on the annual return of the branch of a non-EEA external company</p>	<p>Certain revenue approved employee share arrangements (the rules for which are set out in Section 128D of the Taxes Consolidation Act 1997) require that an EEA based trust be used as part of the structure.</p> <p>In certain instances, a UK trustee has been used by Irish companies to satisfy this requirement.</p>

A group of companies with both Irish and UK companies should review their operations in the areas of finance, taxation, corporate governance, audit etc. to ensure compliance post-Brexit.

If your company is affected by any of these issues arising from Brexit, either immediately or is likely to be affected at some point in the future, please feel free to contact us to ensure that your company is getting the correct advice to ensure compliance with the Act. For further information, please contact [Goodbody Secretarial Limited](#) or one of your usual contacts at A&L Goodbody.

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