

ARTHUR COX

**Strike Off and Restoration:
Part 12 of the Companies Bill**

Contents of Presentation

- 1. Part 12: Strike off and Restoration**
- 2. Chapter 1 – Strike off of company**
- 3. Chapter 2 – Restoration of company to register**
- 4. Chapter 3 – Miscellaneous**

Part 12 – Strike Off and Restoration

- All law relating to the striking-off from the register, and restoration to the register, of companies will be codified in Part 12.
- Consists of 3 Chapters,
- Contain 21 sections of law.
- Contains recommendations of CLRG reports – including the First Report, the Heads of Bill Report and the subsequent 2009 and 2011 Annual Reports.

Chapter 1 – Strike off of company

Chapter 1 contains 11 sections (ss 726 – 736):

- Section 726 distinguishes between involuntary and voluntary strike-off, and makes clear that the Registrar may only strike a company off the register where one or more of the relevant grounds exist, and the appropriate procedure is followed.
- Previously the grounds for strike-off were spread across more than enactment, and there was no distinction between involuntary and voluntary strike-off.

Chapter 1 – Strike off of company

Involuntary Strike-off

- Section 727 sets out the grounds for involuntary strike-off.
- Section 728 requires the Registrar to notify the company of its intention to strike it from the register.
- Sections 729-730 set out the contents of the notice, which shall include the 'remedial step' which the company must take to avoid strike-off; and specify what shall constitute a 'remedial step' under each ground for strike-off.
- If that remedial step is not taken by the specified date, section 731 provides that the Registrar may give public notice (in the CRO Gazette) of its intention to strike-off the company on a date not less than 28 days later.

Chapter 1 – Strike off of company

Voluntary Strike-off

- Section 732 sets out the conditions which a company must meet, for it to be allowed to apply for voluntary strike-off. Previously, there was no express provision for voluntary strike-off.
- Section 733 requires the Registrar to give public notice (in the CRO Gazette) of its intention to strike off the company.

Chapter 1 – Strike off of company

Provisions applying to Strike-off generally

- Section 734 states that if the relevant procedure has been followed and no steps taken to prevent the strike off, the company may be struck off; on publication in the CRO Gazette of the strike-off, the company is dissolved.
- Section 735 sets out the effect of removal and dissolution.
- Section 736 provides that where a company has been struck off, the Director of Corporate Enforcement may require the directors of the company to produce a statement of affairs of the company.

Chapter 2 – Restoration of company

Chapter 2 contains 9 sections (*ss 737 – 745*):

- Section 737 notes that this chapter applies to companies that have been struck off the register under Chapter 1.
- As was the case previously, this chapter provides for restoration in certain cases on application to the Registrar, and in other cases on application to court.
- However the chapter brings together provisions which were previously spread across more than one enactment.

Chapter 2 – Restoration of company

Restoration on application to the Registrar

- Section 738 sets out the circumstances whereby a member or officer may apply to the Registrar, within 12 months of dissolution, to have the company restored to the register.

Chapter 2 – Restoration of company

Restoration on application to court

- Section 739 sets out the circumstances whereby the company, a member or officer of it, a creditor of it, or certain other persons, may apply to court, within 20 years of dissolution, to have the company restored to the register.
- Section 740 lists the parties who must be notified of such an application.
- Section 741 sets out the conditions which shall generally apply where the court makes a restoration order.

Chapter 2 – Restoration of company

Restoration on application to court

- Section 742 allows the court to make a restoration order on application by the Registrar.
- Section 743 allows the court to make certain supplementary orders in relation to a restored company.
- Section 744 specifies which court a restoration application must be made to.
- Section 745 sets out transitional provisions for companies struck off the register before the commencement of this chapter.

Chapter 3 – Miscellaneous

- Section 746 allows the Revenue Commissioners to disclose to the Registrar any information required for the Registrar to determine whether the company has now delivered to the Revenue Commissioners a statement that it had previously failed to deliver, notwithstanding any restrictions that would otherwise preclude the disclosure of that information.

For Further Information Contact

Dr Tom Courtney, Partner

tom.courtney@arthurcox.com

Direct line – 01 618 0584

Dáibhí O'Leary, Associate

daibhi.oleary@arthurcox.com

Direct line – 01 618 1120

or your usual Arthur Cox contact

This document contains a general summary of developments and is neither a complete nor definitive statement of the law. Specific legal advice should be obtained before taking action.

Thank You.

Dublin

Earlsfort Centre, Earlsfort Terrace, Dublin 2, Ireland
tel: +353 (0)1 618 0000 | **fax:** +353 (0)1 618 0618
email: dublin@arthurcox.com

London

12 Gough Square, London EC4A 3DW, England
tel: +44 (0)20 7832 0200 | **fax:** +44 (0)20 7832 0201
email: london@arthurcox.com

Belfast

Capital House, 3 Upper Queen Street, Belfast BT1 6PU, Northern Ireland
tel: +44 (0)28 9023 0007 | **fax:** +44 (0)28 9023 3464
email: belfast@arthurcox.com

New York

300 Park Avenue, 17th Floor, New York NY 10022, USA
tel: +1 (1)212 705 4288 | **fax:** +1 (1)212 572 6499
email: newyork@arthurcox.com

www.arthurcox.com