



# Companies Act 2014

## Conversions - Decisions to be made

With the transition period coming to an end, companies need to make decisions about their future and soon.

Existing private limited companies will have to decide whether to become a Company Limited by Shares (new simplified entity) or a Designated Activity Company. During the course of the 18 month transition period, commenced on 1 June 2015, companies will have to convert and factors to consider include reviewing existing Articles of Association and the provisions of the Companies Act 2014 to determine what provisions your company's new constitution should contain.

The necessary conversion steps then need to be taken for each company, which would include adoption of a new constitution and may include a change of name.

Failure to take action may be deemed to be a breach of directors' duties and may result in a corporate form not suitable to the activities of your company.

Our diagram sets out some of the factors to consider to assist you in the decision making process.

Other company types may also be required to change their name or their constitutional documents within the transition period.



# Existing Private Limited Company

## Questions you need to ask

1

Does the existing private limited company perform a designated activity?

5

Does the existing private limited company lend money?

2

Is the existing private limited company governed by a shareholders agreement?

6

Is the existing private limited company in a joint venture arrangement?

3

Does the existing private limited company have banking covenants restricting its activities?

7

Is there a requirement for an objects clause?

4

Have members holding more than 25% served notice requiring conversion to a DAC?

8

Does the existing private limited company have listed debt?

## Next Step

If you answered

**Yes**  
to any

Consider conversion to a Designated Activity Company or 'DAC' by 31 August 2016

**No**  
to any

Convert to a Company Limited by Shares or 'LTD' within 18 months of commencement

# Other Principal Company Types

## **Private Unlimited Liability Company having a share capital**

The name of the company must end with the words 'Unlimited Company'.

A company may voluntarily pass a resolution to change its corporate name during the Transition Period. If not, the CRO will issue a new Certificate of Incorporation stating the company's revised name at the end of the Transition Period.

## **Public Limited Company ('PLC')**

The Act will not change the corporate character or corporate name of public limited companies.

## **Company Limited by Guarantee without a Share Capital**

The suffix 'Limited' or 'LTD' will need to be replaced with the suffix 'Company Limited by Guarantee' or 'CLG'.

A company may voluntarily pass a resolution to change its corporate name during the Transition Period. If not, the CRO will issue a new Certificate of Incorporation stating the company's revised name at the end of the Transition Period.

## **Constitutions**

Unlimited companies, PLCs and CLGs should review and adopt new constitutions to ensure that their existing constitutions are not inconsistent with mandatory company law provisions introduced by the Act.

## **After Transition**

From 1 December 2016, the CRO will reject documents for filing that contain the incorrect suffix to the company name. This is particularly relevant for unlimited companies and companies limited by guarantee. These companies also need to be careful that they do not give an impression that they are a type of company other than an unlimited company or a CLG. The change of their name, whether done voluntarily or by the CRO, will require updates to letterheads, invoices, websites etc.

Additionally the conversion to a DAC and therefore the change to the name will also require updates to letterheads etc.



## KPMG Legal Services

We understand the need for quality and efficiency to help you meet your obligations under the Act.

We have a dedicated team of Chartered Secretaries and Lawyers that can advise you on the Act, the steps to be taken, the timeframes to be met and who can provide you with required documentation.



## Contact us

For more information on the Act and how it will affect your company, please contact.



**Francis Hackett**  
**Chairman of Legal Services**

**T:** +353 1 700 4462

**E:** francis.hackett@kpmg.ie



**Salvador Nash**  
**Director, Legal Services &  
Head of Company Secretarial**

**T:** +353 1 410 1226

**E:** salvador.nash@kpmg.ie



© 2016 KPMG, an Irish partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in Ireland.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name and logo are registered trademarks of KPMG International Cooperative ("KPMG International"), a Swiss entity.

If you've received this publication directly from KPMG, it is because we hold your name and company details for the purpose of keeping you informed on a range of business issues and the services we provide. If you would like us to delete this information from our records and would prefer not to receive any further updates from us please contact us at (01) 410 1995 or e-mail [nicole.gallagher@kpmg.ie](mailto:nicole.gallagher@kpmg.ie).

Produced by: KPMG's Creative Services. Publication Date: July 2016. (1385)