

# Covid-19 and the Management of Companies

8 April 2020



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## Introduction

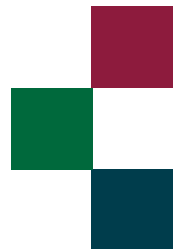
- We will consider:
  - The statutory duties of directors
  - How these might be affected by the Covid-19 pandemic and the restrictions imposed in response to it
  - Business continuity in the current circumstances
  - Meetings of directors and members
  - Executing and sealing documents
  - Financial reporting
  - CRO filings

# Directors' duties

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## Statutory duties

- Duty to act in good faith
- Duty to act honestly and reasonably
- Duty to act in accordance with the constitution and law
- Duty not to use company property, information or opportunities for own benefit
- Duty to exercise independent judgement
- Duty to avoid conflicts of interests
- Duty to exercise care, skill and diligence and
- Duty to have regard to the interests of the company's members.



# Directors' duties

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## Statutory duties

- Directors of a company have a general duty to ensure compliance by the company with the Companies Act 2014.
- These duties include:
  - Duty to maintain proper books of account
  - Duty to prepare and approve annual accounts
  - Duty to have an annual audit performed (unless exempt)
  - Duty to maintain certain registers and other documents\*
  - Duty to file certain documents with the Registrar of Companies\* – recent CRO policy of prosecuting companies and their directors for late filings of annual returns and accounts
  - Duty to convene general meetings of shareholders\* and
  - Duty to comply with company law rules on dealings between companies and their directors (e.g. loans to directors).

Certain duties (marked \*) are often delegated to the company secretary.

# Business continuity

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## Minutes of board meetings

- Legal requirement: all appointments of officers, the names of directors present at each meeting and all resolutions and proceedings
- Best practice: time and date, place of the meeting, record of the names of the members present and “in attendance” and the name of the director taking the chair
- Best practice: accurate, clear and unambiguous, well structured, concise, record the essential elements of the discussion on each item, generally speaking avoid expressions of opinion
- Amendment: board minutes that have been signed by the chairperson can only be amended by resolution of the board
- Form: can be retained in hard or soft copy once they are capable of being produced for inspection

# Meetings

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## Board meetings

- Notice: must be reasonable
- Board pack: should be issued well in advance of the board meeting to allow sufficient time to review the documents
- Quorum: any resolutions passed at an inquorate meeting are void – constitution
- Resolutions: directors determine issues arising at a meeting by way of majority votes. In the event of an equality of votes, the chairman *may* have a second or casting vote
- Written resolutions: directors may pass resolution in writing signed by all the directors of the company\*
- “Virtual” meetings: directors may hold board meetings by video, telephone or other electronic means provided all participants can hear and speak to each other\*

\* There are tax considerations where directors conduct the business of the company by way of resolution passed in writing or at a virtual meeting.

# Questions

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Claire Lord

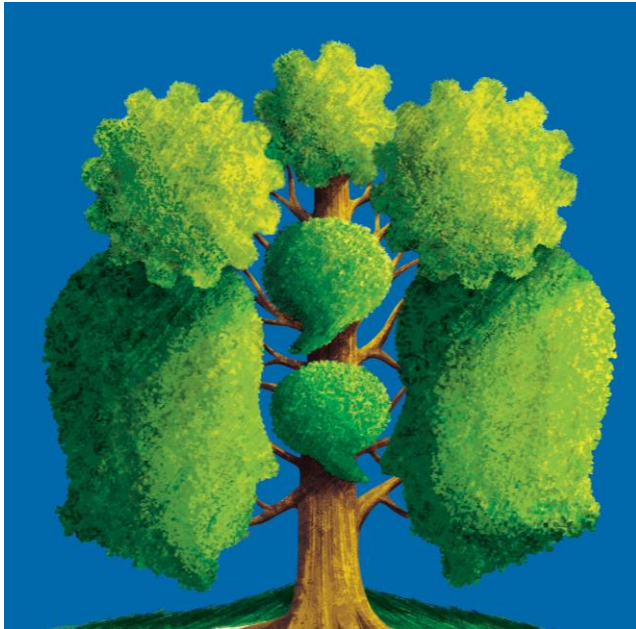
[clord@mhc.ie](mailto:clord@mhc.ie)



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# Thank you



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