



STATUTORY INSTRUMENTS.

S.I. No. 399 of 2013



EUROPEAN COMMUNITIES (MERGERS AND DIVISIONS OF
COMPANIES) (AMENDMENT) REGULATIONS 2013

EUROPEAN COMMUNITIES (MERGERS AND DIVISIONS OF COMPANIES) (AMENDMENT) REGULATIONS 2013

I, RICHARD BRUTON, Minister for Jobs, Enterprise and Innovation, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Directive No. 2009/109/EC of the European Parliament and of the Council of 16 September 2009¹, hereby make the following regulations:

Citation, construction and commencement

1. (1) These Regulations may be cited as the European Communities (Mergers and Divisions of Companies) (Amendment) Regulations 2013.

(2) The Companies Acts and these Regulations shall be construed together as one.

(3) These Regulations come into operation on 1 November 2013.

Interpretation

2. In these Regulations—

“Regulations of 1987” means the European Communities (Mergers and Divisions of Companies) Regulations 1987 (S.I. No. 137 of 1987);

“Regulations of 2011” means the European Communities (Mergers and Divisions of Companies) (Amendment) Regulations 2011 (S.I. No. 306 of 2011).

Amendment of Regulations of 1987

3. The Regulations of 1987 are amended—

(a) in Regulation 9, in paragraph (7) (inserted by Regulation 5(c)(ii) of the Regulations of 2011), by substituting “of each of the merging companies” for “of the company”,

(b) in Regulation 13—

(i) by deleting paragraph (4)(c), and

(ii) by inserting the following paragraphs after paragraph (4):

“(4A) In the case of an operation to which paragraph (8) of this Regulation applies, approval of the draft terms of merger by means of a special resolution shall not be required in the case

¹OJ No. L 259, 2.10.2009, p.14.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 22nd October, 2013.

of each of the merging companies provided that the following conditions are fulfilled—

- (a) the provisions of Regulations 11 and 12 are complied with by each of the merging companies at least one month before the date fixed for the hearing under Regulation 19 by the court referred to in that Regulation in relation to the making of the order confirming the merger, and
- (b) one or more members of the acquiring company holding paid up share capital amounting in total value to not less than 5% of such of the paid up share capital as confers a voting right, whether or not the shares held confer a voting right, shall be entitled, under the articles of association of the acquiring company, to require the convening of a general meeting of the company to consider the draft terms of merger.”,
- (c) in Regulation 29, in paragraph (6) (inserted by Regulation 5(j)(ii) of the Regulations of 2011), by substituting “Regulation 31” for “Regulation 12”, and
- (d) in Regulation 32—
 - (i) in paragraph (4A)(b) (inserted by Regulation 5(m)(iii) of the Regulations of 2011), by substituting “date fixed for the hearing under Regulation 19 by the court referred to in that Regulation in relation to the making of the order confirming the merger” for “earlier of the dates specified in sub-paragraphs (e) and (f) of Regulation 26(2)”, and
 - (ii) by inserting the following paragraph after paragraph (4A):

“(4B) For the purposes of paragraph (4A)(b), Regulation 28(1) does not apply if all the holders of shares and other securities conferring the right to vote in general meetings of each of the companies involved in the division have so agreed. ”.



GIVEN under my Official Seal,
17 October 2013.

RICHARD BRUTON,
Minister for Jobs, Enterprise and Innovation.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations, together with the European Communities (Mergers and Divisions of Companies) (Amendment) Regulations 2011, S.I. No. 306 of 2011, give effect to Directive 2009/109/EC of the European Parliament and of the Council of 16 September 2009.

Directive 2009/109/EC amends Council Directives 77/91/EEC, 78/855/EEC and 82/891/EEC, and Directive 2005/56/EC as regards reporting and documentation requirements in the case of mergers and divisions.

The present Regulations clarify certain aspects of S.I. No. 306 of 2011.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
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