



STATUTORY INSTRUMENTS.

S.I. No. 256 of 2015



DISTRICT COURT (COMPANIES ACT 2014) RULES 2015

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The District Court Rules Committee, in exercise of the powers conferred on them by section 91 of the Courts of Justice Act 1924, section 72 of the Courts of Justice Act 1936, section 34 of the Courts (Supplemental Provisions) Act 1961, and section 24 of the Interpretation Act 2005, and of all other powers enabling them in this behalf, do hereby, with the concurrence of the Minister for Justice and Equality, make the following rules of court.

Dated this 11th day of May 2015.

Rosemary Horgan Chairperson

Mary C Devins

Brian Sheridan

Anne Watkin

Fiona Twomey

Grainne Larkin

Roy Pearson

Noel A Doherty

Michelle Johnston

I concur in the making of the following rules of court.

Dated this 17th day of June, 2015.

FRANCES FITZGERALD,
Minister for Justice and Equality.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 23rd June, 2015.*

S.I. No. 256 of 2015

DISTRICT COURT (COMPANIES ACT 2014) RULES 2015

1. (1) These Rules, which shall come into operation on the 1st day of July, 2015, may be cited as the District Court (Companies Act 2014) Rules 2015.

(2) These Rules shall be construed together with the District Court Rules 1997 (S.I. No. 93 of 1997) and all other District Court Rules.

(3) The District Court Rules as amended by these Rules may be cited as the District Court Rules 1997 to 2015.

2. The District Court Rules 1997 (S.I. No. 93 of 1997) are amended by the insertion immediately following Order 93A of the following Order:

“Order 93B

Applications to extend time for delivery of annual return under section 343 of the Companies Act 2014

1. *In this Order,*

the “Act” means the Companies Act 2014 (No. 38 of 2014);

the “Registrar” means the Registrar of Companies.

2. (1) An application to the Court for an order under section 343(5) of the Act by a company for an order extending the time for the purposes of section 343(2) or section 343(3) of the Act in which the annual return of the company in relation to a particular period may be delivered to the Registrar shall be preceded by the issue by the applicant of a copy of a notice of application in the Form 93B.1, Schedule C.

(2) An application under this Order may be heard and determined on affidavit, which may be in the Form 93B.2, Schedule C, modified to the circumstances of the case.

(3) The notice of application shall-

(a) *set out the name, registered number and location of the registered office of the applicant (and that the registered office is within the court district in which the application is made);*

(b) *set out the company’s annual return date;*

(c) *specify the date up to which the Court is asked to extend the time in which the annual return of the company in relation to a particular period may be delivered to the Registrar of Companies;*

(d) *include a statement that no previous order has been made by the District Court under section 343(5) of the Act in respect of the*

applicant as respects the period to which the annual return which is the subject of the application relates.

(4) An affidavit relied on in an application under this Order shall be sworn by a director or secretary of the applicant and shall-

(a) verify the facts set out in the notice of application;

(b) where the annual return proposed to be delivered has been prepared, exhibit a copy of same (including both the annual return in the form for the time being prescribed by the Registrar of Companies and any financial statements of the company required to be delivered to the Registrar of Companies), or explain why it has not been possible to prepare same;

(c) set out, and verify any facts supporting, the reasons why the annual return was not delivered to the Registrar within the time permitted by section 343(2) or section 343(3) of the Act and set out, and verify any facts supporting, any additional reasons why it is alleged that it would be just to make an order extending time;

(d) exhibit any correspondence between the applicant and the Registrar concerning the application, including in particular any correspondence from the applicant notifying the Registrar of its intention to make the application and any response by the Registrar.

3. (1) The applicant shall serve on the Registrar a copy of the notice of application and copies of any affidavit and exhibits relied on not later than 21 days before the date fixed for hearing the application.

(2) In every case, the original notice of application shall be lodged with the Clerk not later than four days before the date fixed for the hearing of the application.

(3) The applicant shall, when lodging the original notice of application with the Clerk, also lodge a statutory declaration as to service on the Registrar.

4. Notwithstanding rule 2-

(a) the applicant shall be obliged to produce at the hearing of the application any correspondence received from the Registrar which has not been exhibited to any affidavit;

(b) the Court may allow, or may direct, that evidence on the application be given viva voce and on oath by an officer of the applicant or another person in addition to, or in lieu of, evidence on affidavit.

5. An order extending time in accordance with section 343(5) of the Act shall be in the Form 93B.3, Schedule C, and the applicant shall cause a certified copy of the order to be served upon the Registrar in accordance with

section 343(6) of the Act, and on any other person whom the Court directs should be served with a copy of the order.

6. An application under this Order may be brought, heard and determined at any sitting of the court for the court district wherein the registered office of the applicant company is situated.”

3. The Forms numbered 93B.1, 93B.2 and 93B.3 in Schedule 1 shall be added to the Forms in Schedule C of the District Court Rules 1997 (S.I. No. 93 of 1997).

Schedule 1

Schedule C
O. 93B, r. 2(1)

No. 93B.1

COMPANIES ACT 2014, Section 343(5)

**NOTICE OF APPLICATION FOR ORDER EXTENDING THE TIME IN
WHICH ANNUAL RETURN MAY BE DELIVERED TO THE
REGISTRAR OF COMPANIES**

District Court Area of

District No.

..... Applicant

.....Registrar of Companies Respondent

TAKE NOTICE that the above-named applicant company (the “company”), whose registered number is will apply to the District Court sitting at on the day of 20 ata.m./p.m. under section 343(5) of the Companies Act 2014 for an order extending the time for the purposes of *section 343(2) *section 343(3) of the Companies Act 2014 in which the annual return of the company in relation to the period may be delivered to the Registrar of Companies.

1. The registered office of the company is situated at in the court *(area and) district aforesaid.

2. The company’s annual return date is

3. If an order is made extending time, the annual return which is the subject of this application is intended to be made up to

4. No previous order has been made by the District Court under section 343(5) of the Act in respect of the company as respects the period mentioned at 3 above.

*5. The company will apply to the Court to allow a period longer than 28 days after the date on which an order under section 343(5) of the Act is made for delivery of a certified copy of the order to the Registrar, being a period of

Dated this day of 20

Signed
Applicant/solicitor for the Applicant

To District Court Clerk
District Court Office
At

To the Registrar of Companies
At

*Delete where inapplicable

No. 93B.2

COMPANIES ACT 2014, Section 343(5)

AFFIDAVIT SUPPORTING APPLICATION FOR ORDER EXTENDING
THE TIME IN WHICH ANNUAL RETURN MAY BE DELIVERED TO
THE REGISTRAR OF COMPANIES

District Court Area of

District No.

..... Applicant

..... Registrar of Companies Respondent

I, of , a *director *secretary of the applicant company, aged eighteen years and upwards MAKE OATH and say as follows:

1. I beg to refer to the contents of the notice of application herein. The statements of fact contained in the said notice of application which are within my own knowledge are true. I honestly believe that the information contained in the said notice of application which is not within my own knowledge is true.

2. *[I beg to refer to a print of the company’s annual return in the form for the time being prescribed by the Registrar of Companies covering the period to *and to a copy of the company’s financial statements up to upon which marked “A” I have signed my name prior to the swearing hereof.] or *[It has not been possible to date to prepare the company’s annual return covering the period to because (*set out reasons*)]

3. The reasons why the annual return was not delivered to the Registrar of Companies within the time permitted by section 343(2) or section 343(3) of the Companies Act 2014 are (*set out reasons and verify any facts relied on*). *It would additionally be just to make an order extending time for delivery of the company’s annual return because (*set out reasons and verify any facts relied on*).

*4. (*Where the applicant will apply to the Court to allow a period longer than 28 days after the date on which an order is made for delivery of a certified copy of the order to the Registrar*) The reasons why a longer period than 28 days should be allowed for delivery of a certified copy of the order to the Registrar are (*set out reasons and verify any facts relied on*);

*5. I beg to refer to the entire sequence of correspondence between the applicant and the Registrar concerning this application, upon which pinned together and marked “B” I have signed my name prior to the swearing hereof.

6. I accordingly request an order in the terms set out in the notice of application.

SWORN before me [name in capitals] at in the County of on the day of 20, by the said

*[who is personally known to me], *[who is identified to me by who is personally known to me]

*[whose identity has been established to me before the taking of this affidavit by the production to me of

†passport no. issued on the day of by the authorities of, which is an authority recognised by the Irish Government,

†national identity card no. issued on the day of by the authorities of which is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement

†Aliens Passport no. issued on the day of by the authorities of which is an authority recognised by the Irish Government

†refugee travel document no. issued on the day of by the Minister for Justice and Equality

† travel document (other than refugee travel document) issued on the day of by the Minister for Justice and Equality]

..... Deponent

..... *Commissioner for Oaths/ *Practising Solicitor

*Delete if inapplicable

†Where relevant, select appropriate option and delete others.

This affidavit is filed with the District Court Clerk at.....on theday of20... byon behalf of the applicant in the above proceedings.

No. 93B.3

COMPANIES ACT 2014, Section 343(5)

ORDER EXTENDING THE TIME IN WHICH ANNUAL RETURN MAY
BE DELIVERED TO THE REGISTRAR OF COMPANIES

District Court Area of

District No.

..... Applicant

.....Registrar of Companies..... Respondent

WHEREAS UPON APPLICATION made to the Court today by the above-named applicant company (the “company”), whose registered number is and whose registered office is situated at in the court *(area and) district aforesaid and whose annual return date is , under section 343(5) of the Companies Act 2014 for an order extending the time for the purposes of *section 343(2) *section 343(3) of the Companies Act 2014 in which the annual return of the company in relation to the period to may be delivered to the Registrar of Companies.

THE COURT

*HAVING READ THE AFFIDAVIT of grounding the application

*HAVING HEARD what was offered on behalf of the company *and the Registrar

*BEING SATISFIED THAT notice of the application was duly served

BEING SATISFIED THAT no previous order has been made by the District Court under section 343(5) of the Act in respect of the company as respects the period concerned

BEING SATISFIED THAT it would be just to do so

HEREBY ORDERS pursuant to section 343(4) of the Companies Act 2014 that the time within which the annual return of the company in relation to the period to may be delivered to the Registrar of Companies be and is hereby extended up to

A certified copy of this order is to be delivered by the company to the Registrar of Companies *within 28 days *[insert longer period if ordered]

Dated this day of 20.....

Signed
Judge of the District Court

*Delete where inapplicable

EXPLANATORY NOTE

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

These Rules insert a new Order 93B and associated forms to the District Court Rules to prescribe the procedure for applications under section 343 of the Companies Act 2014 to extend time for delivery of an annual return.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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