



STATUTORY INSTRUMENTS.

S.I. No. 426 of 2010



COMPANIES ACT 1990 (SECTION 256F) (REGISTRATION
DOCUMENTS) REGULATIONS 2010

(Prn. A10/1311)

COMPANIES ACT 1990 (SECTION 256F) (REGISTRATION DOCUMENTS) REGULATIONS 2010

I, BILLY KELLEHER, Minister of State at the Department of Enterprise, Trade and Innovation, in exercise of the powers conferred on me by sections 3(3) and 256F (inserted by paragraph (j) of section 3 of the Companies (Miscellaneous Provisions) Act 2009 (No. 45 of 2009)) of the Companies Act 1990 (No. 33 of 1990) (as adapted by the Enterprise, Trade and Employment (Alteration of Name of Department and Title of Minister) Order 2010 (S.I. No. 185 of 2010)) and the Enterprise, Trade and Innovation (Delegation of Ministerial Functions) (No. 3) Order 2010 (S.I. No. 334 of 2010), hereby make the following regulations:

1. These Regulations may be cited as the Companies Act 1990 (Section 256F) (Registration Documents) Regulations 2010.

2. In these Regulations—

“Act of 1990” means the Companies Act 1990 (No. 33 of 1990);

“document” means, in relation to a company to which section 256F (inserted by paragraph (j) of section 3 of the Companies (Miscellaneous Provisions) Act 2009 (No. 45 of 2009)) applies—

- (a) the certificate of registration or equivalent certificate or document issued with respect to the company, or
- (b) the memorandum and articles of association or equivalent constitutive document of the company;

“Hague Convention” means the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents done at the Hague on the 5th day of October 1961;

“EC Convention” means the Convention Abolishing the Legalisation of Documents in the Member States of the European Communities of the 25th day of May 1987;

“European Convention” means the European Convention on the Abolition of Legalisation of Documents Executed by Diplomatic Agents or Consular Officers of the 7th day of June 1968.

3. (1) The manner of certification and authentication specified in the subsequent provisions of this Regulation is prescribed for the purposes of

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paragraphs (a) and (b) of the definition of “registration documents” in subsection (1) of section 256F of the Act of 1990.

(2) A copy of a document to which paragraph (a) or (b) of the definition of “registration documents” in subsection (1) of section 256F of the Act of 1990 applies shall, in the relevant jurisdiction, be certified as a true copy of the document of which it purports to be a copy—

- (a) by a person designated for that purpose in accordance with the law of the relevant jurisdiction,
- (b) by a person authorised to perform the functions of notary in the relevant jurisdiction, or
- (c) on oath, by an officer of the company, before such person as in the relevant jurisdiction has authority to administer an oath.

(3) The signature, stamp or seal of the person referred to in subparagraph (a), (b) or (c) of paragraph (2) and the capacity in which he or she acts, shall, subject to paragraph (4), be authenticated by an Irish diplomatic or consular officer unless—

- (a) the relevant jurisdiction is a state in relation to which the EC Convention is in force, or
- (b) in case the relevant jurisdiction is a state in relation to which the EC Convention is not in force but is a state in relation to which the European Convention is in force, the person is a diplomatic or consular officer of the relevant jurisdiction acting in his or her official capacity.

(4) If the relevant jurisdiction is a state in relation to which the Hague Convention is in force, paragraph (3) shall not apply and the matters in respect of which authentication under that paragraph is required shall instead be authenticated by the issuing of a certificate referred to in Article 4 of that Convention in accordance with that Convention.

(5) This Regulation shall not operate to prevent the registrar from requesting verification of the signature, stamp or seal of the person referred to in subparagraph (a), (b) or (c) of paragraph (2) in accordance with Article 4 of the EC Convention, Article 4 of the European Convention or Article 7 of the Hague Convention, as may be appropriate, where he or she, on reasonable grounds, doubts the authenticity of the signature, stamp or seal.

(6) A reference in paragraph (3) to a relevant jurisdiction in relation to which the EC Convention is in force shall be construed as including a reference to a relevant jurisdiction in relation to which that Convention applies by virtue of Article 6(3) of that Convention.

GIVEN under my hand,
7 September 2010.

BILLY KELLEHER,
Minister of State at the Department of Enterprise, Trade
and Innovation.

EXPLANATORY NOTE

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

These Regulations prescribe the method for certifying and authenticating certain documents that an applicant under section 256F of the Companies Act 1990 must send to the Companies Registration Office. This section was inserted into the Companies Act 1990 Act by section 3(j) of the Companies (Miscellaneous Provisions) Act 2009.

An applicant under this section would be seeking to migrate the registered office of a certain type of collective investment fund entity to Ireland from a prescribed jurisdiction without firstly having to wind up in that jurisdiction.

The documents in question are those referred to in paragraphs (a) and (b) of Regulation 2 of these regulations.

BAILE ÁTHA CLIATH
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