



COMPANY SECRETARIAL AND CORPORATE GOVERNANCE

Restoring a Company to the Register: High Court Procedure

by **Colm Hanley**

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A company that has been struck off the Register of Companies for a period longer than one year and less than 20 years, must apply to the High Court for restoration to the Register of Companies.

A company that has been dissolved for less than one year can opt for an administrative restoration, which is simpler and less expensive.

Why Restore a Company to the Register?

A company may seek to be restored to the Register of Companies (Register) to release assets held by company, pursue recovery of debts or litigation claims, claim tax refunds, or commence trading under the same legal entity. If there is any requirement to retrieve assets or to pursue debts or claims, a company must be restored to the Register.

High Court Restoration – Section 738

An application to the High Court to restore a company is made under section 738 of the Companies Act 2014. A Notice of Motion must be served on the Registrar of Companies (Registrar), the Minister for Public Expenditure and Reform and the Revenue Commissioners, each of whom must issue a letter of no objection to the restoration to be presented to the High Court.

The application may be made by the company, a creditor of the company, a member or officer of the company, or a person who had entitlement as a member of the company.

Procedure

The following is an overview of the High Court restoration procedure:

1. All outstanding annual returns with audited financial statements must be delivered to the Companies Registration Office (CRO) with a request for a letter of no objection to the restoration from the Registrar.
2. All tax returns and statements which may be outstanding for the period prior to dissolution and the period the company was dissolved must be delivered to the Revenue Commissioners together with payment of any associated tax liabilities.
3. An affidavit and petition must be signed and sworn by the applicant.
4. Motion papers are lodged at the court offices and a date for hearing granted.
5. Copies of the motion papers must be served on the Registrar of Companies, the Minister for Public Expenditure and Reform, the Chief State Solicitor's Office and the Revenue Commissioners, each of whom must issue a letter of no objection to the restoration.
6. A barrister and solicitor attend the High Court to present the affidavit and petition to the court.
7. A certified copy of the court order, together with the filing fee of €15, must be filed at the CRO within 28 days after the date of perfection of the order. In the event this is not complied with, the company will remain dissolved.
8. Following the lodgment of the court order in the CRO, the company's designation will be changed

from “Dissolved” to “Normal”.

9. Notice of restoration will be published in the CRO Gazette.

Timeframe

The High Court restoration process typically takes three to six months from the initial filing of outstanding annual returns to the lodgment of the certified court order and the restoration of a company.

We Can Help

Our experienced Company Secretarial team can provide advice and assistance with restoring your company and all areas of company law in Ireland.

About the Author



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