

Deadline looms for anti-white collar crime register

Failure to submit information on business ownership to a central register by next Friday (22 November) could result in fines or jail time for company owners.

The Beneficial Ownership Register opened for filing on 29th July 2019, but take up so far has been low

Only 21pc of Irish businesses have submitted information on beneficial owners to the new central register, according to law firm [Mason Hayes and Curran](#).

The new regulations have been in force, at least in part, since March. They form part of EU-wide measures against white collar crime and specifically to counter money laundering. They require compliance by the majority of businesses in Ireland who must collate and submit information on their beneficial owners or potentially face significant fines.

“A beneficial owner, for the purposes of this legislation, is a natural person who directly or indirectly owns or controls over 25pc of a relevant entity, or who controls that entity by other means. If an entity cannot identify any persons who own a sufficient percentage or who exercise a sufficient level of control, then it must collate and submit information of its senior managing officials instead.”

Under the regulations, companies and certain other types of bodies corporate which were incorporated on or before 22 June 2019 have until 22 November 2019 to submit information on their beneficial owners to the new central register, and newer bodies have five months from incorporation.

“Each body corporate to which the regulations apply is required to provide the Gardaí, the Revenue, the Criminal Assets Bureau and other competent authorities with timely access to information on its internal register,” explained Nick Metcalfe, Corporate Governance and Compliance partner, Mason Hayes and Curran.

“The Irish authorities can then also share that information with corresponding authorities in other member states of the EU. Competent authorities in this regard include the Central Bank, the Law Society and the Bar Council, among others.”

Crime and punishment

Fines for companies failing to properly keep a register, or to comply with requests from

authorities, will be up to a maximum of €500,000, and there is provision for custodial sentencing of up to 12 months for knowingly or recklessly providing false information to the Registrar. These punishments will also apply to an officer of a company in breach, where those breaches are with the officer's consent or connivance.

"Relevant entities are required to submit their beneficial owners' details (including each beneficial owner's name, residential address, nationality, date of birth, PPS number and the nature and extent of their ownership or control) to the central register. This is also the case where an entity's senior managing officials are included on an entity's internal register – although there is scope for noting that the senior managing official is being registered in that capacity.

"PPS numbers will be redacted and will not be made available for inspection. Individuals who don't have PPS numbers are required to verify their identity by completing a form and being sworn to it by a notary."

Customer due diligence

Under the new Register, the Gardaí, the CAB, the Financial Intelligence Unit (FIU) and other competent authorities (such as the Law Society or the Bar Council) will be entitled to all the information (except PPS numbers) on request. This is subject to the safeguard that the request must come from an individual who is of or above a specified position or rank and who is acting on the authority of a specified higher rank or position.

Organisations required to conduct customer due diligence (such as banks or law firms) will have a right of access to limited information, being an individual's name, country of residence, nationality, month and year of birth and the nature and extent of ownership and control.

Members of the public will also be entitled to inspect that limited information on the register. The public will not, therefore, have access to a beneficial owner's residential address.

Where the beneficial owner is a minor, the person conducting customer due diligence or member of the public must demonstrate to the Registrar that there is a public interest in them having the information.

Where an organisation is required to conduct customer due diligence, or a State body which accesses the central register forms the opinion that there is a discrepancy between the information on the central register and the information held internally by a company, they are required to advise the Registrar of that opinion. The Registrar will then ask the company in question to explain this discrepancy or correct it.

The Registrar is able to charge a fee to persons required to conduct customer due diligence and to members of the public. Custodial sentences of up to 12 months can be imposed on any person

who makes a statement to the Registrar which is false in a material particular, and does so knowingly or recklessly.

Main image: [Bill Oxford](#) on [Unsplash](#)

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