

EEIG-Regulation Statutory Instruments No. 191 of 1989 (vom 27.7.1989)

European Communities (European Economic Interest Groupings) Regulations, 1989.

Arrangement of Regulations

Regulation

Preliminary

1. Citation and commencement.
2. Interpretation.

Part I

Formation and Registration of Groupings

3. Formation of a grouping.
4. Name of grouping.
5. Designation of registrar and registry.
6. Registration of a grouping.
7. Effect of registration.
8. Time for filing documents and other particulars.
9. Publication of information by grouping.
10. Groupings registered outside the State.
11. Notification of information by registrar.
12. Transfer of official address outside the State.

Part II

Membership of Groupings

13. Permissible number of members.
14. Disqualification from membership.
15. Expulsion of member of grouping.
16. Reduction of number of members below two.
17. Cessation of membership of a grouping.

Administration, Activities etc.

18. Manager of a grouping.
19. Annual return.
20. Prohibition on invitation of investment from the public.
21. Winding-up of grouping.
22. Provisions of Companies Acts applied to groupings.
23. Activity contrary to public interest.
24. Furnishing false information.

25. Destruction, mutilation or falsification of documents.
26. Fees.
27. Forms.
28. Offences and penalties.

First Schedule

Council Regulation (EEC) No. 2137/85 of 25 July 1985 on the European Economic Interest Grouping.

Second Schedule

Forms relating to EEIGs.

S. I. No. 191 of 1989

European Communities (European Economic Interest Groupings) Regulations, 1989.

I, DESMOND O'MALLEY, Minister for Industry and Commerce, 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 full effect to the provisions of Council Regulation (EEC) No. 2137/85 of the 25th day of July, 1985 on the European Economic Interest Grouping (EEIG), hereby make the following Regulations:

Preliminary

1. Citation and commencement

- (1) These Regulations may be cited as the European Communities (European Economic Interest Groupings) Regulations, 1989.
- (2) These Regulations shall come into operation on the 1st day of August, 1989.

2. Interpretation

- (1) In these Regulations, unless the context otherwise requires:

"the Companies Acts" means the Companies Act, 1963, and every enactment which is to be construed as one with that Act;

"the Council Regulation" means Council Regulation (EEC) No. 2137/85 of 25 July, 1985 on the European Economic Interest Grouping, being the Regulation set out in the First Schedule to these Regulations;

"the court" means the High Court;

"director" includes any person occupying the position of director by whatever name called;

"grouping" means a European Economic Interest Grouping, whether formed and registered in the State or elsewhere;

"the Minister" means the Minister for Industry and Commerce;

"officer" in relation to a body corporate includes a director or company secretary;

"registry" has the meaning assigned to it under Regulation 5 (1) of these Regulations;

"registrar" means the registrar of groupings, within the meaning of Regulation 5 (2) of these Regulations.

- (2) A word or expression that is used in these Regulations and is also used in the Council Regulation shall, unless the contrary intention appears, have the same meaning in these Regulations as it has in the Council Regulation.

Part I

Formation and Registration of Groupings

3. Formation of a grouping

A grouping shall be formed upon the terms, in the manner and with the effects laid down in the Council Regulation and these Regulations.

4. Name of grouping

- (1) The name of a grouping registered in the State shall include –

- (a) the words "European Economic Interest Grouping" or the initials "EEIG", or
 - (b) the words "Grúpail Eorpach um Leas Eacnamaíoch" or the initials "GELE", unless those words or initials already form part of the name.
- (2) Every invoice, order for goods or business letter issued by or on behalf of a grouping shall include the name of the grouping referred to in paragraph (1) of this Regulation.
 - (3) No grouping shall be registered under these Regulations by a name which, in the opinion of the Minister, is undesirable but an appeal shall lie to the court against a refusal to register on such a ground.
 - (4) A grouping registered under these Regulations may, subject to the approval of the Minister signified in writing, change its name.

5. Designation of registrar and registry

- (1) The Companies Registration Office, being the office maintained for the purpose of the registration of companies under the Companies Acts, is hereby designated as the registry for the purposes of Articles 6, 7, 10 and 39 of the Council Regulation.
- (2) For the purposes specified in paragraph (1) of this Regulation, the person for the time being holding the office of registrar of companies under the Companies Acts shall also have the function of registrar of groupings under the Council Regulation and these Regulations and is referred to in these Regulations as "the registrar".

6. Registration of a grouping

- (1) Where the official address of a grouping is in the State, the contract for the formation of the grouping shall be delivered to the registrar.
- (2) The registrar shall retain and register in a register maintained by him for that purpose any contracts for the formation of groupings delivered to him.

7. Effect of registration

- (1) On the registration of a contract forming a grouping the registrar shall certify under his hand that the grouping is incorporated as a European Economic Interest Grouping.
- (2) A grouping, from the date of its registration under these Regulations, shall:
 - (a) be a body corporate,

- (b) have perpetual succession and a common seal, and
- (c) have legal personality.

8. Time for filing documents and other particulars

Where a document or particular is to be filed at the registry pursuant to Article 7 of the Council Regulation, it shall be so filed within 14 days of the amendment, decision or other event giving rise to the requirement under that Article.

9. Publication of information by grouping

- (1) A grouping registered in the State shall, within 21 days of its registration, cause to be published in the Iris Oifigiuil:
 - (a) the particulars referred to in Article 5 of the Council Regulation, and
 - (b) notice of the number, date and place of its registration.
- (2) A grouping registered in the State shall, within 21 days of delivery to the registrar of the documents referred to in Articles 7 (b) to (j) and 14.1 of the Council Regulation, cause to be published in the Iris Oifigiuil notice of such delivery.
- (3) A grouping registered in the State shall, within 21 days of the termination of its registration, cause to be published in the Iris Oifigiuil, notice of such termination.

10. Groupings registered outside the State

- (1) Any document delivered to the registrar, pursuant to Article 10 of the Council Regulation, by a grouping registered outside the State shall be certified, in the country in which the grouping is registered, as follows:
 - (a) certified as a true copy by an official of the registry to whose custody the original is committed, or
 - (b) certified as a true copy in accordance with the provisions of the Companies (Forms) Order, 1964.
- (2) Any such document shall, if it is not expressed in the Irish or English language, be accompanied by a certified translation thereof.
- (3) In this Regulation "certified translation" means a translation certified to be a correct translation by –
 - (a) if made outside the State, an Irish diplomatic or consular officer, or any person whom any such officer certifies to be known to him as competent to translate it into the Irish or English

- language;
- (b) if made within the State, a notary public, solicitor or barrister.

11. Notification of information by registrar

The duty of forwarding the information mentioned in Article 39.2 of the Council Regulation to the Office for Official Publications of the European Communities shall lie with the registrar.

12. Transfer of official address outside the State

- (1) Where a grouping registered in the State proposes to transfer its official address to a place outside the State, the registrar may, after consultation with any Minister of the Government, the Revenue Commissioners, the Attorney General or the Director of Public Prosecutions, refuse to terminate the registration of the grouping in the State if any such person indicates that it would be in the public interest to do so.
- (2) (a) Where the registrar refuses to terminate the registration of a grouping under paragraph (1) of this Regulation, the grouping may apply to the court in a summary manner to have such refusal reviewed.
- (b) Where an application to review a decision by the registrar is brought pursuant to subparagraph (a) of this paragraph, the court shall confirm the decision of the registrar unless it is satisfied that the procedures laid down by, or the requirements of, these Regulations or the Council Regulation have not been complied with in any material respect.
- (c) Where the court is satisfied that the procedures laid down by, or the requirements of, these Regulations or the Council Regulation have not been complied with in any material respect, the court may set aside the decision of the registrar and in such case shall remit the matter to the registrar who shall thereupon reconsider the matter and make a further decision in accordance with such procedures and requirements.

Part II Membership of Groupings

13. Permissible number of members

- (1) No grouping consisting of more than 20 members shall be registered in the State.

- (2) In this Regulation, "member" includes a partner in a partnership, but does not include a partner in a partnership exempted under section 13 of the Companies (Amendment) Act, 1982.

14. Disqualification from membership

- (1) The following persons shall be disqualified from membership of a grouping, namely –
 - (a) an undischarged bankrupt,
 - (b) a person convicted on indictment of any offence involving fraud or dishonesty,
 - (c) a person convicted on indictment of any offence in relation to a company formed and registered under the Companies Acts,
 - (d) a person to whom section 297 of the Companies Act, 1963, applies,
 - (e) a body corporate in respect of which winding-up or analogous proceedings have commenced.
- (2) A person who becomes disqualified under this Regulation shall, within five days of becoming disqualified, resign from membership of a grouping and shall not act as a member of a grouping when disqualified from doing so.

15. Expulsion of member of grouping

The jurisdiction to hear and decide on applications under Article 27.2 of the Council Regulation shall lie with the court.

16. Reduction of number of members below two

If at any time the number of members of a grouping is reduced below two, and it carries on any trade, activity or business for more than one month while the number is so reduced, the following persons shall, if they know that the grouping is carrying on business with less than two members, be severally liable for the payment of the whole debts of the grouping contracted during that time, and may be severally sued therefor, namely:–

- (a) if the remaining member is a natural person, that person,
- (b) if the remaining member is a partnership, every member of that partnership,
- (c) if the remaining member is a body corporate, every person who was a director or other officer of the body corporate during the period mentioned in this Regulation.

17. Cessation of membership of a grouping

- (1) Membership of a grouping by a person shall cease in the event of his being adjudged bankrupt, or if he makes any arrangement or composition with his creditors generally.
- (2) Membership of a grouping by a body (whether or not incorporated) shall cease on the commencement of the winding up of that body.

Administration, Activities etc.

18. Manager of a grouping

- (1) The manager of a grouping may be a natural person or a body corporate.
- (2) Where the manager is a body corporate:
 - (a) the grouping shall designate one or more natural persons as the representative of the manager,
 - (b) such representative shall have the same liability as if he were himself the manager, and
 - (c) the grouping shall deliver to the registrar particulars in relation to such representative as if he were the manager.

19. Annual Return

- (1) A grouping whose official address is in the State shall, not later than 1st July in every year, make a return to the registrar in the form set out in the Second Schedule to these Regulations.
- (2) Paragraph (1) shall also apply to a grouping which has a grouping establishment in the State.
- (3) Nothing in this Regulation shall require a grouping to make a return before 1st July in a particular year if the date of registration in the State of such grouping or grouping establishment, as the case may be under these Regulations was less than fifteen months before that date.

20. Prohibition on invitation of investment from the public

- (1) A grouping shall not invite investment from the public.
- (2) Where a grouping is convicted of an offence under this Regulation and the grouping is in the course of being wound up on the date of the conviction or commences to be wound up within 12 months after that date, the court may, on the application of the liquidator or any creditor of the grouping, declare that any of the following persons shall be personally liable, without any limitation of liability, for all or any of the debts or other liabilities of the grouping incurred in the period during which such person was acting in the capacity mentioned, namely:
 - (a) any member of the grouping who is a natural person,
 - (b) a director or member of the committee of management of any member of the grouping which is a body corporate,
 - (c) the manager of the grouping or, where the manager is a body corporate, the natural person who is the representative of the manager, within the meaning of Regulation 18 (2).

21. Winding-up of grouping

- (1) For the purposes of Articles 35 and 36 of the Council Regulation, a grouping shall be deemed to be an unregistered company, within the meaning of Part X of the Companies Act, 1963.
- (2) For the purposes of that Part, the manager of a grouping shall be treated as if he were a director of a company.
- (3) The Minister shall be the competent authority for the purposes of Article 32.1 of the Council Regulation.

22. Provisions of Companies Acts applied to groupings

- (1) The provisions of the Companies Acts set out in the Table to this Regulation shall, with any necessary modifications, apply to groupings as they apply to companies formed and registered under those Acts.
- (2) A person convicted of an offence under a provision of the Companies Acts, as applied by this Regulation, shall, in lieu of the penalties therefor set out in those Acts, be liable to the penalties set out in Regulation 28.

Table

Act	Provisions applied
Companies Act, 1963	Sections 99 to 112 Sections 165 to 173 Section 184 Section 205 Sections 293, 295 and 297 Section 311 Sections 344 to 350 Sections 368, 370, 379, 389 390, 393 and 394.
Companies (Amendment) Act, 1982	Section 12

23. Activity contrary to public interest

- (1) The Minister shall be the competent authority for the purposes of Article 38 of the Council Regulation.
- (2) For the said purposes, the Minister may direct a grouping to cease or refrain from any activity which, in his opinion, is or is likely to be against the public interest, and the grouping shall comply with any such direction.

24. Furnishing false information

A person shall not, in purported compliance with any provision of the Council Regulation or these Regulations, make a statement or produce, lodge or deliver any return, report, account or other document, knowing it to be false, or recklessly make a statement or produce, lodge or deliver any such document false in a material particular.

25. Destruction, mutilation or falsification of documents

- (1) A person shall not destroy, mutilate or falsify, or be privy to the destruction, mutilation or falsification of any book or document affecting or relating to the property or affairs of a grouping, or make or be privy to the making of a false entry therein.
- (2) A person shall not fraudulently part with, alter or make an omission in any such book or document, or be privy to a fraudulent parting with, altering or making of an omission in, any such book or document.
- (3) A person shall not be convicted of an offence under this Regulation if he proves that he had no intention to defeat the law.

26. Fees

In respect of the several matters mentioned in the first column of the Table to this Regulation, there shall be paid to the registrar the several fees specified in the second column of that Table.

Table

Col. (1) Matter in respect of which fee is payable	Col. (2) Amount of fee
For registration of a grouping to be registered in the State.	£ 150.00
For registration of a grouping establishment in the State, where a grouping is registered in another Member State of the European Communities.	£ 150.00
For registration of change of a grouping name.	£ 150.00
For registration of transfer of official address of a grouping.	£ 150.00
For termination of registration of a grouping.	£ 25.00
For registering any other document by these Regulations required to be delivered, forwarded or sent to the registrar or filed in the registry.	£ 25.00

27. Forms

- (1) The forms referred to in the Table to this Regulation and set out in the Second Schedule to these Regulations are, subject to paragraph (2), hereby prescribed as the forms to be used by groupings for the various purposes required under the Council Regulation and these Regulations.
- (2) For the purpose of giving full and better effect to the Council Regulation and these Regulations, the registrar may require groupings generally to furnish him with such further information, and in such form, as he may from time to time determine, or may make such adjustments and alterations in the forms set out in the Second Schedule to these Regulations as he deems appropriate.

Table

Purpose	Form
Registration of grouping whose official address is in the State.	IG1
Registration of grouping establishment in Ireland for grouping whose official address is outside the State.	IG2
Notice of setting up of grouping establishment of grouping whose official address is in the State.	IG3
Notice of closure of grouping establishment of grouping.	IG4
Notice of manager's particulars and of termination of appointment.	IG5
Notice of documents and particulars required to be filed	IG6
Notice of proposal to transfer official address of grouping	IG7

28. Offences and penalties

- (1) A person or grouping who contravenes Article 3 (2), 4 (1), 7, 10, 18, 19, 25, 29, 31 or 35 (4) of the Council Regulation or Regulations 4, 8, 9, 14, 18, 19, 20 (1), 24 or 25 of these Regulations, or a direction of the Minister under Regulation 23 of these Regulations shall be guilty of an offence and

shall be liable on summary conviction to a fine not exceeding £ 1,000 or to imprisonment for a term not exceeding 12 months or to both.

- (2) Where an offence which is committed by a grouping under the Council Regulation or these Regulations is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any member of that grouping or any person or body who was purporting to act in such capacity, that person or body shall also be guilty of an offence and shall be liable to be proceeded against accordingly as if he were guilty of the first-mentioned offence.
- (3) Summary proceedings in relation to an offence under the Council Regulation or these Regulations may be brought and prosecuted by the Minister or the registrar.
- (4) Notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings under the Council Regulation or these

Regulations may be instituted within three years from the date of the offence.