

RESTORATION OF COMPANIES TO THE REGISTER OF COMPANIES

Presented By:

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Which companies may be restored to the Register of Companies

- Companies which within 2 years after dissolution the Court has declared the dissolution to have been void. [Section 336(1).
- Companies which the Registrar dissolved upon the request of the Company or its members.

Which companies may be restored to the Register of Companies

- Companies which the Registrar dissolved upon the inference that the Company was not carrying on business or in operation. [Section 337 (5)]
- Restorations for categories 2 and 3 will be the focus of this presentation.

WHO MAY APPLY FOR RESTORATION

- If the following persons are aggrieved by the Company having been struck off the Register of Companies according to Section 337(6) of the Companies Act they may apply for restoration:

- The Company
- Any Member
- Any Creditor

WHO MAY APPLY FOR RESTORATION

- The liquidator of a Company in winding up cannot apply in his own name, but must join the company as an applicant.

By Whom and When can a Company be Restored

- The Registrar of Companies may order the name of the Company to be restored to the Register of Companies *before the expiration of 20 years from the publication in the Gazette of the Notice of Striking Off.* [Section 337(6)].

GROUNDS FOR RESTORATION

- In order to be restored an Applicant must satisfy the Registrar that :
 - The Company was at the time of striking off carrying on business or in operation. [Section 337(6)(a)]
 - It is just that the Company be restored to the Register of Companies. [Section 337(6)(b)]

GROUNDS FOR RESTORATION

- The Registrar will in general grant this order if there is any business or asset but on terms that the Company's returns should be brought up to date.

PROCEDURE FOR RESTORATION

- The Applicant must submit :
 - an Application in the prescribed form to the Registrar
 - supporting Declaration done by an officer of the Company, a company member or creditor of the Company .
- the Declaration must include the following things:

PROCEDURE FOR RESTORATION

- Name of the Company
- Date of Incorporation
- Status of the Company
- Registered Office Address
- Particulars of Current Directors
- Date struck from the Register
- Directors at the time the Company was struck from the Register

PROCEDURE FOR RESTORATION

- Justification for restoration
- Any other relevant information
- Statement of intention to file outstanding documents
- Exhibit of Notice of intention to restore given to Commissioner of Lands or the Accountant General where applicable.

PROCEDURE FOR RESTORATION

- Applications will be heard once per month & notice of the application must be received at least five working days before the hearing.
- The fee for restoration of a company will be paid in two parts; half of the fee will be submitted with the application and statutory declaration and the other half submitted

PROCEDURE FOR RESTORATION

- after the hearing when the order is being filed at the ORC.
- Once the application is heard by the panel an order for restoration may be granted. The order must state the time period in which the company is to file the outstanding company documents, if any (suggested time

PROCEDURE FOR RESTORATION

- 30 days) & the amount of costs to be paid by the Applicant. The order will be issued in triplicate.
- These costs will include the cost of and incidental to the restoration of the company to the Register of Companies.
- Once the company files the order, documents and fees with the ORC then the

PROCEDURE FOR RESTORATION

- Company or the Attorney acting on behalf of the Company will be issued a standard cover letter stating that the Company has been restored.

Consequences of Restoration

- An order declaring that the Company shall be deemed to have continued in existence as if its name had not been struck off, is effective to validate retrospectively all acts done in the name of and on behalf of the company during the period between its dissolution and the restoration of its name.
- Prior to the expiration of twenty years

Consequences of Restoration

- property will be held on trust by the Crown for the members of the company.
- In the case of Real Property the Commissioner of Lands will hold the land in trust.
- In the case of personalty the Accountant General will hold the property in trust.

Consequences of Restoration

- After the period of 20 years property will be deemed to be bona vacantia. The Property will therefore belong to and vest in the Crown.
- Where a Company has been restored the trust shall be extinguished and the Property shall revert to the Company.

Consequences of Restoration

- Where a Company's Property became vested in the Crown, in certain circumstances the Administrator-General may sign a Notice of Disclaimer.
- Where the Crown holds property on trust for a dissolved company the Crown shall not be liable:
- to manage the property

Consequences of Restoration

- for any loss or damage to the property
- for waste
- or, in respect of any claim of any third party.