



Office of the Director
of Corporate Enforcement
*Oifig an Stiúirthóra um
Fhorfheidhmiú Corparáideach*

OFFICIAL LANGUAGES ACT 2003

ACHT NA DTEANGACHA OIFIGIÚLA 2003

SCHEME 2008-2011

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Scheme of the Office of the Director of Corporate Enforcement
under Section 11 of the Official Languages Act 2003

July 2008

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Office of the Director of Corporate Enforcement

Scheme under Section 11 of the Official Languages Act 2003

Introduction

Background

This Scheme was prepared under Section 11 of the Official Languages Act 2003 ("the Act") by the Office of the Director of Corporate Enforcement.

Section 11 provides for the preparation by public bodies of a statutory scheme detailing the services they will provide

- through the medium of Irish,
- through the medium of English and
- through the medium of Irish and English,

and the measures to be adopted to ensure that any service not provided by the body through the medium of the Irish Language will be so provided within an agreed timeframe.

Guidelines for Preparation of a Scheme

Guidelines for the preparation of a Scheme were provided by the Minister for Community, Rural and Gaeltacht Affairs under Section 12 of the Act. This Scheme has also been assisted by our involvement in the Support Network for Public Bodies, comprising members from a number of public bodies including the Courts Service.

Preparation of the Language Scheme

This Scheme has been prepared in accordance with the Guidelines under Section 12 of the Official Languages Act 2003.

The Office published a notice under Section 13 of the Act on 24th April 2006, inviting representations in relation to the preparation of the draft Scheme from any interested parties. Six submissions were received following this advertisement. These submissions are available on the Office's website (www.odce.ie) and were taken into account in drawing up the Scheme.

Members of the Director's staff were also consulted, and their views and suggestions have also been incorporated into the Scheme.

The Office acknowledges the time and effort put in by all who contributed to this process.

Content of the Language Scheme

This Scheme builds on the principles of Quality Customer Service, and on the commitment in the Office's Customer Charter to ensure that customers who wish to conduct their business through Irish can do so. It sets out the extent to which services are currently available through Irish, and areas for future enhancement of the service provided by this Office are identified in the body of the Scheme. It also includes a commitment to assess on an ongoing basis the level of demand for services through Irish, and to ensure that the Office continues to meet this demand in a planned, coherent and accessible way. The Office will further continue to measure the level of queries/requests for services through Irish on an annual basis.

Commencement Date of the Scheme

The Scheme has been confirmed by the Minister for Community, Rural and Gaeltacht Affairs. It commences with effect from 14th July 2008 and shall remain in force for a period of three years from this date or until a new Scheme has been confirmed by the Minister pursuant to Section 15 of the Act, whichever is the later.

Overview of the Office of the Director of Corporate Enforcement

Mission and Mandate of the ODCE

The mission of the ODCE is to improve the compliance environment for corporate activity in the Irish economy by:

- encouraging adherence to the requirements of the Companies Acts, and
- bringing to account those who disregard the law.

The Office currently has a staff of about 40, including eight Gardaí on secondment from the Garda Bureau of Fraud Investigation.

Internal and External Customers of the Office

The key stakeholders and customers of the Office are:

- company directors and others who wish to comply with the requirements of company law;
- professionals and members of the public who engage with the ODCE about possible or actual malpractice in the company law area;
- the persons about whom reports or complaints of possible malpractice are received;
- the press and other members of the general public who seek information about Office activity and
- staff in Departments, public agencies and other public or private sector bodies with whom the Office has cause to do business in discharging its role.

The Director performs certain functions in conjunction with other parties under the Company Law Enforcement Act 2001. Some of these parties include companies, company directors, company secretaries, auditors, liquidators, the Registrar of Companies, the Courts, specified professional bodies, certain State authorities and members of the public.

Functional Areas of the Office

The Office has five main areas of work as follows:

- Compliance,
- Detection,
- Enforcement,
- Insolvency and
- Corporate Services.

Multi-disciplinary teams handle the Office's casework primarily in the detection, enforcement and insolvency areas.

Assessment of the Level of Services already available in Irish and the Current Demand for such Services

This section sets out the Official Language regime operated by the Office in relation to its general provision of services.

Services available in Irish only

There are no services provided by the Office exclusively in Irish.

In its Customer Charter, the Office undertakes that customers who wish to conduct their business through Irish can do so. Complaints and appeals in Irish (none to date) regarding service would be dealt with through the normal Quality Customer Service (QCS) complaint procedures (www.odce.ie).

Services not available in Irish

The services offered by the Office to the public and professionals in English only include:

- talks and seminars provided by Office staff;
- statute-based services, whereby auditors, liquidators and other interests are required to report in certain circumstances to the Office;
- information on company law and related matters published prior to the passage of the Official Languages Act. However, the ODCE's Annual Report for 2002, the first full year of the Office's operation, was published in Irish and English, before the passage of the Act;
- general assistance offered to Office clients in dealing with telephone queries (while a glossary of basic terms in Irish has been made available, the technical language involved in responding to some queries in Irish is outside of the competence of switchboard staff) and
- documents produced for other public bodies or an international audience are available in English only, while speeches or statements are made available in the language(s) in which they are delivered.

Services available in both Irish and English

The primary objective of the Act is to ensure better availability and a higher standard of public services through Irish. The Office's Quality Customer Service Plan and Customer Charter commit the Office to providing quality services bilingually and to informing customers of their right to choose to be dealt with through one or other of the Official Languages.

The Office has for some years past made its Annual Report and certain other publications available bilingually. In addition, the Office website contains bilingual information. The Office provides replies in Irish to correspondence in Irish in accordance with the provisions of section 9(2) of the Act, and its stationery is bilingual.

The bilingual services offered by the Office to the public and professionals include:

- some of the general publications available on the Office's website, e.g. Annual Reports for 2002 to 2007 inclusive and the Customer Charter and related documents;
- the facility permitting the making of complaints of suspected corporate misconduct (the relevant Complaint Form is available in both Languages from the Office and the ODCE website);
- some of the information on company law and related matters via the Office's website, publications, etc.;
- general assistance offered to Office clients in dealing with correspondence, e-mail, etc. and
- recent tender documents have been translated so that any demand for Irish documents could be met.

Demand for Services through Irish

Since the Office was set up in November 2001, there has been a limited demand from customers choosing to conduct their business with the Office through the Irish Language.

The Office is committed to improving the services it provides in Irish and to developing a positive culture that facilitates the conduct of business by our customers through both Irish and English.

The Office does not operate a Public Counter.

Scheme

This section briefly describes the functions of each area of Office work and sets out the extent to which services to the public are provided in both Official Languages.

Compliance

This Unit is charged with encouraging compliance with Company Law, preparing and publishing guidance and information documents, liaising with professional bodies, considering international developments, developing policy proposals and representing the Office at conferences and seminars etc. In particular:

- Presentations, talks and seminars are given in English only;
- Information on company law and related matters published prior to the passage of the Official Languages Act are available in the English Language only;
- Telephone queries are generally dealt with in English only. However where, a customer wishes to conduct their business through Irish, this is facilitated through referral to an appropriate staff member according to the nature of the query;
- Any documents produced for other public bodies or an international audience are available in English only, while speeches or statements are made available in the language(s) in which they are delivered.

Detection

The Detection Unit is responsible for gathering information and conducting initial assessments of general complaints of suspected breaches of company law, conducting company investigations, defining possible remedial options, taking appropriate steps to conclude or advance the complaint and recording progress. Specifically:

- Complaints are dealt with in either English or Irish according to the choice of the person making the Complaint;
- The Complaint Form is available in both English and Irish;
- Telephone queries are generally dealt with in English only. However where, a customer wishes to conduct their business through Irish, this is facilitated through referral to an appropriate staff member according to the nature of the query;
- Auditor Reports are submitted in English only but would be dealt with through Irish if so received.

Enforcement

This Unit is responsible for gathering evidence to support the possible initiation of civil or criminal proceedings, determining which cases should be initiated, defining the most appropriate proceedings, instructing counsel, preparing case papers, managing case execution, considering appeals, assisting the DPP (Director of Public Prosecutions) as required and recording progress. In particular:

- Documents produced by the Unit are generated in English only;
- Court cases have to date been conducted through English only;

- Telephone queries are generally dealt with in English only. However where, a customer wishes to conduct their business through Irish, this is facilitated through referral to an appropriate staff member according to the nature of the query.

Insolvency

Insolvency Unit is charged with assessing the statutory reports of the liquidators of insolvent companies and with deciding in which of these cases the relevant liquidator should seek the restriction or disqualification of one or more directors of a company. The Unit also examines cases of unliquidated insolvent companies and cases where restricted directors may seek relief from their restriction or disqualification. In such circumstances, the Unit may require to be involved in legal proceedings against these directors. This may involve defining the most appropriate proceedings, instructing counsel, preparing affidavits, managing and recording progress. Specifically:

- Documents issued by the Unit are generated in English only;
- Statutorily prescribed forms are available in English only;
- Court cases have to date been conducted through English only;
- Telephone queries are generally dealt with in English only. However where, a customer wishes to conduct their business through Irish, this is facilitated through referral to an appropriate staff member according to the nature of the query.

Corporate Services

This Unit supports the efficient running of the ODCE and is charged with managing the annual budget of the Office, personnel and training issues, ICT including the ODCE website, Office procurement and payments, premises and maintenance, health and safety issues, FOI co-ordination, the preparation of the Office's Annual Report, liaising with the Department of Enterprise, Trade and Employment and monitoring progress. In particular:

- The Annual Reports of 2002, 2003, 2004, 2005, 2006 and 2007 are available in both the Irish and English Languages;
- The Office's Manual under sections 15 & 16 of the Freedom of Information Act 1997 is available in English only;
- The Office's Customer Services Charter and associated documents are available in both the English and Irish Languages;
- Correspondence is dealt with in English and Irish in accordance with the provisions of section 9(2) of the Official Languages Act 2003;
- Telephone queries are dealt with in English or Irish (no technical or legal language is generally required in the context of the business of this Unit);
- All of the information available on the ODCE website is available in English, and some of it is available in Irish;
- Tender documents were made available through Irish for the recent Design Contract process;
- General assistance offered to Office clients in dealing with telephone queries are generally only dealt with in English. While a glossary of basic terms in Irish has been made available to staff on the switchboard (drawn on a rota basis from the functional areas of the Office), the technical language involved

in responding to some queries is outside of the competence in Irish of these staff members).

Enhancement of Services to be provided Bilingually

Introduction

Although there is a low level of interaction between the ODCE and the general public, the Office is committed to providing a service in Irish of comparable standard to the service we supply in English. This section outlines the measures the Office will take within the life of this Scheme to enhance services and to increase the visibility of Irish in our dealings with the public. Building on what has been achieved to date, the Office's policy is that the following additional¹ services will be provided bilingually by the end of the term of this Scheme.

Service	Timeframe ²
ODCE Website (www.odce.ie)	
The static content of the website will be available in both English and Irish. ³	24
Irish Language domain names have already been registered for both “.ie” and “.eu” URLs. Activation of the “osfc” domain will follow as soon as technical capacity to do so is available.	Request to website host on commencement of the Scheme
Contact with the Public	
Telephone queries in Irish will be processed in Irish by Reception, and then referred to an Irish speaker where an Irish speaker is available. The name of the organisation and a general greeting will be given in both Irish and English	
The choice of language of the customer will be established. If the/an Irish speaker able to deal with the caller is not available, the person dealing with the customer will explain the situation courteously and inform the customer of when an Irish speaker, able to give the service, will be available (this will only be done if an Irish speaker will be available in a reasonable amount of time- e.g. 5 minutes) or alternatively will be offered various options, for example to arrange a certain time when an Irish speaker will be present or to continue the conversation in English. ⁴	6
10% of Press Releases and Statements per annum will be issued bilingually in the first year of the Scheme. This will increase to 20% in year 2 and 30% in year 3.	Year 1
Auto-response mail to registrations for notification of new material on the website will issue bilingually.	From commencement of the Scheme

¹ That is, in addition to services already available bilingually.

² Unless otherwise indicated, this refers to months from commencement of the Scheme.

³ Where content is available in English only, it will not be translated (e.g. Court Judgements, Statutory Instruments, etc.)

⁴ See the later section on Training and Development.

<p>Computer Systems such as e-mail already have the capacity to use the Irish language, e.g. fadas, etc. are available. Any future upgrades will maintain this facility.</p>	<p>Currently available</p>
<p>There are currently no interactive services designed to allow customers make applications or receive benefits. Any such system to be implemented in the future will allow for bilingual interaction</p>	<p>On implementation of an interactive system</p>
<p>Published Information⁵</p>	
<p>The ODCE FOI Manual (Section 15 & 16 Reference Book under the Freedom of Information Acts) will be made available in both Official Languages.</p>	<p>From commencement of the Scheme</p>
<p>New or Revised Guidance Booklets will be issued in both Official Languages either within the same cover or, exceptionally, in two separate documents.</p>	<p>From commencement of the Scheme</p>
<p>All Public Tender documents will be available in both Official Languages.</p>	<p>From commencement of the Scheme</p>
<p>Training and Development</p>	
<p>All staff in the Office will receive a presentation on the agreed Scheme.</p>	<p>5</p>
<p>All staff operating the Office's switchboard will receive training in greeting and assisting Irish-speaking callers.</p>	<p>9</p>
<p>As part of the internal consultation process leading to the drafting of this Scheme, an inventory was taken of the level of skills in reading, writing, understanding and speaking Irish. Staff will be encouraged to build on the skills they have, and training courses will be facilitated with the object of providing 20% of staff with a reasonable proficiency in Irish.</p>	<p>30</p>
<p>Prosecutions</p>	
<p>The ODCE's Legal Panel will be canvassed to ascertain whether panellists are competent to conduct a court case in Irish, the aim being to give the Office this capability. Should this survey show insufficient capacity, an advertisement will be published requesting Irish speaking barristers to apply for placement on the Panel.</p>	<p>24</p>
<p>Specialist Forms</p>	
<p>The Section 56 forms completed by Liquidators is prescribed by statute and available in English only. If and when an official translation is available from the Oireachtas it will be made available by the Office for use by Liquidators</p>	<p>Within 3 months of becoming available</p>

⁵ Documents which do not set out public policy proposals, and which have limited circulation and are aimed at specialist groups, will be in English only unless we are aware that there is a specific prior demand for their publication in Irish. We will continue to review this position in the light of evolving demand and having regard to capacity issues.

Monitoring of the Scheme

Corporate Services Unit will keep the operation of the Scheme under review. The day-to-day monitoring function will be carried out by line managers who are responsible for the implementation of the Scheme within their own areas, and they will notify Corporate Services Unit of any issues arising.

Corporate Services Unit will submit a report to management on the operation of the Scheme on a six-monthly basis. The report will include progress under the Scheme, an assessment of demand for bilingual and Irish services and the identification of any problems arising with the implementation of the Scheme.

In the light of experience gained during the time span of this Scheme, future Schemes will include appropriate adjustments to and/or improvements in the services available bilingually.

Publicising the Scheme

The commitments and provisions of the Scheme will be published, and its publication advertised in the national media. It will also be made available on the ODCE website.

The Scheme will be circulated to appropriate bodies and to those who made submissions at the consultation stage of drafting this Scheme. A copy will also be forwarded to An Oifig Choimisinéir na dTeangacha Oifigiúla.