
STATUTORY INSTRUMENTS

1992 No. 2082 (S.211)

CHARITIES

REGULATION OF CHARITIES, SCOTLAND

The Charities (Scheme for the Transfer of Assets) (Scotland) Regulations 1992

<i>Made</i>	- - - -	<i>28th August 1992</i>
<i>Laid before Parliament</i>		<i>9th September 1992</i>
<i>Coming into force</i>	- -	<i>30th September 1992</i>

The Secretary of State, in exercise of the powers conferred on him by section 7(5) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990⁽¹⁾, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Charities (Scheme for the Transfer of Assets) (Scotland) Regulations 1992 and shall come into force on 30th September 1992.

Interpretation

2. In these Regulations—

“the Act” means the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990;

“scheme” means a scheme for the transfer of any assets of the transferor body to the transferee body which is prepared by the Lord Advocate under section 7(5) of the Act;

“transferor body” means any body whose assets are or are proposed to be transferred to a transferee body in or under a scheme;

“transferee body” means any body to which the assets of the transferor body are or are proposed to be transferred in a scheme;

“trustees”, in relation to any transferor or transferee body, means the persons concerned in the management or control of that body;

and any other expression used in these Regulations which is also used in Part I of the Act will have the same meaning in these Regulations as it has in that Part.

(1) 1990 c. 40.

Procedures in preparing a scheme

- 3.—(1) Before specifying a transferee body in a scheme, the Lord Advocate—
- (a) shall have regard to the spirit of the trust deed or other document constituting, or the intentions as represented or held out by, the transferor body; and
 - (b) shall obtain a written statement from the trustees of the transferee body that they are willing to accept the transfer of the assets of the transferor body and, if necessary, to meet any liabilities of the transferor body in accordance with the terms of the scheme.
- (2) Before presenting a scheme to the Court of Session for approval, the Lord Advocate—
- (a) shall notify the trustees of the transferor body of his intention to do so by posting to such of them as are known to him at their last known address in the United Kingdom—
 - (i) a draft of the scheme which he proposes to present to the Court of Session for their approval; and
 - (ii) a notice of his intention to present the scheme for such approval,
 - (b) shall invite them to make representations about the proposed scheme by sending them to him in writing within 4 weeks from the date on which he posted the draft scheme to them; and
 - (c) shall consider any representations so made.
- (3) Before presenting a scheme to the Court of Session for approval, the Lord Advocate shall publish, in at least one newspaper a notice—
- (a) which intimates his intention to present to the Court of Session for approval a scheme for the transfer of the assets of the transferor body to the transferee body; and
 - (b) which shall invite any person to make representations concerning the proposed scheme by sending them to him in writing within 4 weeks from the date of the publication of the notice in the newspaper,
- and shall consider any representations so made.

Contents of scheme

- 4.—(1) A scheme shall state, so far as known to the Lord Advocate,—
- (a) the name and address of the transferor body and of its trustees; and
 - (b) the name and address of the transferee body and of its trustees.
- (2) A scheme shall contain a list and valuation of all the assets and liabilities of the transferor body, so far as known to the Lord Advocate.
- (3) A scheme shall provide for the transfer of the assets of the transferor body to the transferee body on a particular date.
- (4) The scheme shall state what provision is being made to meet the liabilities of the transferor body.
- (5) The scheme shall contain a statement—
- (a) of the reasons which led the Lord Advocate to prepare and present the scheme for the approval of the Court of Session;
 - (b) that the Lord Advocate has complied with the procedures specified in regulation 3 above in the preparation of the scheme;
 - (c) of any representations which may have been made in pursuance of regulation 3(2) or (3) above; and
 - (d) of any observations by the Lord Advocate upon those representations.

(6) There shall be appended to the scheme a copy of the written statement referred to in regulation 3(1)(b) above.

St. Andrew's House,
Edinburgh
28th August 1992

Fraser of Carmyllie
Minister of State, Scottish Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify the requirements in accordance with which the Lord Advocate is required to prepare a scheme, before presenting it to the Court of Session for approval under section 7(5) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40), for the transfer of any assets of a charity or a body representing itself or holding itself out as a charity to another charity.

Regulation 3 specifies the procedures which the Lord Advocate requires to comply with in the preparation of a scheme and regulation 4 specifies certain matters which a scheme must contain.