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STATUTORY INSTRUMENTS

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**1993 No. 2036**

**The Public Trusts (Reorganisation) (Scotland) Regulations 1993**

**Citation and commencement**

1. These Regulations may be cited as the Public Trusts (Reorganisation) (Scotland) Regulations 1993 and shall come into force on 8th September 1993.

**Interpretation**

2. In these Regulations, unless the context otherwise requires—

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

“small trust” means a public trust in respect of which section 10(2) of the Act applies;

“trust deed”, in relation to a public trust, means a trust deed of or other document constituting the trust;

“trustees” means the trustees of a small trust,

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

**Small trusts: advertisement**

3.—(1) Subject to paragraphs (2) and (3) below, not later than 28 days after the date when the trustees of a small trust have passed a resolution under section 10(3), (8) or (10) of the Act, they shall publish, in a newspaper circulating throughout Scotland or, if the purposes of the trust relate to a particular locality, in a local newspaper circulating in that locality, a notice—

(a) in the case where the trustees have passed the resolution under section 10(3) of the Act, in the form set out in Schedule 1 to these Regulations;

(b) in the case where the trustees have passed the resolution under section 10(8) of the Act, in the form set out in Schedule 2 to these Regulations;

(c) in the case where the trustees have passed the resolution under section 10(10) of the Act, in the form set out in Schedule 3 to these Regulations,

or in a form substantially to the like effect.

(2) Where the trustees of more than one small trust have each passed a resolution under section 10(8) of the Act providing that the trusts be wound up and that the assets of the trusts be transferred to the same trust, the trustees may, instead of publishing a separate notice in respect of each trust in terms of paragraph (1)(b) above, publish a combined notice in the form set out in Schedule 4 to these Regulations or in a form substantially to the like effect, which combined notice shall be published—

(a) not later than 28 days after the earliest date when the trustees of any of the trusts have passed the resolution under that section; and

(b) in a newspaper circulating throughout Scotland or, if the purposes of all the trusts relate to a particular locality, in a local newspaper circulating in that locality.

(3) Where the trustees of more than one small trust have each passed a resolution under section 10(10) of the Act providing that the trusts be amalgamated with each other, the trustees may, instead of publishing a separate notice in respect of each trust as required by paragraph (1)(c) above, publish a combined notice in the form set out in Schedule 5 to these Regulations or in a form substantially to the like effect, which combined notice shall be published—

- (a) not later than 28 days after the earliest date when the trustees of any of the trusts have passed the resolution under that section; and
- (b) in a newspaper circulating throughout Scotland or, if the purposes of all the trusts relate to a particular locality, in a local newspaper circulating in that locality.

#### **Small trusts: notification to Lord Advocate**

4. The trustees shall send to the Lord Advocate the following documents to arrive not later than 7 days after the date of publication of the notice in a newspaper as required by regulation 3 above, namely:—

- (a) a copy of the trust deed;
- (b) a copy of the newspaper containing the published notice;
- (c) a copy of the most recent accounts of the trust; and
- (d) in the case where the resolution is passed under section 10(3) of the Act—
  - (i) a copy of the resolution;
  - (ii) a statement of the date as to when the trustees propose, subject to section 10(14) of the Act, to give effect to the resolution; and
  - (iii) a statement of the reasons as to why the trustees consider that they have fulfilled their obligations under section 10(4) and (5) of the Act and, where the trust is a recognised body, under section 10(6) of the Act, together with, in the latter case, any supporting evidence from the Commissioners of Inland Revenue confirming the matters as to which the trustees are required to ensure by section 10(6) of the Act;
- (e) in the case where the resolution is passed under section 10(8) of the Act—
  - (i) a copy of the resolution;
  - (ii) a statement of the date as to when the trustees propose, subject to section 10(14) of the Act, to give effect to the resolution;
  - (iii) a statement of the reasons as to why the trustees consider that they have fulfilled their obligations under section 10(9)(a) of the Act and, where the trust is a recognised body, under section 10(9)(b) of the Act, together with, in the latter case, any supporting evidence from the Commissioners of Inland Revenue confirming the matters as to which the trustees are required to ensure by section 10(9)(b) of the Act;
  - (iv) a statement as to what is to happen about any liabilities of the trust and whether those liabilities are to be met by the trustees of the trust or trusts to which it is proposed to transfer the assets of the small trust; and
  - (v) a copy of a letter from the trustees of the trust or trusts to which it is proposed to transfer the assets of the small trust confirming that those trustees will consent to the transfer of those assets; and, if necessary, to meet any liabilities of the small trust; and
- (f) in the case where the resolution is passed under section 10(10) of the Act—
  - (i) a copy of the resolution;
  - (ii) a statement of the date as to when the trustees propose, subject to section 10(14) of the Act, to give effect to the resolution;

- (iii) a statement of the reasons as to why the trustees consider that they have fulfilled their obligations under section 10(11)(a) of the Act and, where the trust is a recognised body, under section 10(11)(b) of the Act, together with, in the latter case, any supporting evidence from the Commissioners of Inland Revenue confirming the matters as to which the trustees are required to ensure by section 10(11)(b) of the Act; and
- (iv) a copy of a letter from the trustees of the other trust or trusts with which it is proposed that the small trust will be amalgamated confirming that those trustees will agree to such amalgamation.

### **Small trusts: objections**

5.—(1) Where, following the publication of the notice in a newspaper as required by regulation 3 above, any person with an interest in the purposes of the small trust wishes to object to what is proposed in the resolution passed by the trustees, he shall send his objection in writing to the trustees at the address specified in the notice to arrive not later than 14 days after the date of publication of the notice in the newspaper and shall state, in his objection—

- (a) his name and address;
- (b) the nature of his interest in the purposes of the trust; and
- (c) the nature of his objection and the reasons for that objection.

(2) The trustees shall send to the Lord Advocate the following documents to arrive not later than 14 days after the end of the period of 14 days referred to in paragraph (1) above:—

- (a) a copy of any objection which has been received by them; and
- (b) a letter containing any comments which they may have upon that objection,

and shall, at the same time, send a copy of that letter to the objector who made the objection and shall inform him of—

- (i) his right under paragraph (3) below to send to the Lord Advocate comments upon the points raised in that letter;
- (ii) the address of the Lord Advocate to which those comments should be sent; and
- (iii) the date by which those comments must arrive at that address.

(3) Any objector, to whom the trustees have sent a copy of their letter to the Lord Advocate as mentioned in paragraph (2) above, may send to the Lord Advocate his written comments upon the points raised in that letter to arrive not later than 14 days after the date on which the trustees sent to him a copy of their letter to the Lord Advocate.

### **Small trusts: notification to Inland Revenue**

6. Where the trustees of a small trust which is a recognised body have passed a resolution under section 10(3), (8) or (10) of the Act, they shall, not later than 7 days after the date when that resolution takes effect, send to the Commissioners of Inland Revenue—

- (a) a copy of the resolution; and
- (b) a statement as to the date when the resolution took effect.

### **Public trusts under section 11: advertisement**

7. For the purposes of subsection (3) of section 11 of the Act (requirement on trustees of certain public trusts to advertise their intention to expend trust capital), the trustees of any public trust to which that section applies shall advertise their intention to expend the capital of the trust by

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publishing, in a newspaper circulating throughout Scotland or, where the purposes of the trust relate to a particular locality, in a local newspaper circulating in that locality, a notice in the form set out in Schedule 6 to these Regulations or in a form substantially to the like effect.

**Sending documents to the Lord Advocate**

**8.** Any document which is required by these Regulations to be sent to the Lord Advocate shall be sent to him at the Scottish Charities Office, Crown Office, Edinburgh.

St Andrew's House,  
Edinburgh  
10th August 1993

*Fraser of Carmyllie*  
Minister of State, Scottish Office