
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2011 No.

**The Scottish Charitable Incorporated Organisations
(Removal from Register and Dissolution) Regulations 2011**

Accountant in Bankruptcy and sequestration of estate of SCIO

6.—(1) Within 14 days of receipt of an application under regulation 4, OSCR shall publish on its website the notice of application for dissolution listed in regulation 5(3)(e).

(2) If within 14 days of publication of the notice referred to in paragraph (1), OSCR is satisfied that the SCIO has complied with the requirements of regulation 5, OSCR shall transmit the application and all accompanying documents to the Accountant in Bankruptcy.

(3) The Accountant in Bankruptcy shall, subject to paragraph (4), award sequestration of the estate of the SCIO, if satisfied that the SCIO is insolvent having outstanding debts of at least £1500, and send a copy of the award of sequestration to OSCR, who shall publish the award of sequestration in relation to the SCIO on its website.

(4) The Accountant in Bankruptcy may only award sequestration if they are in receipt of—

- (a) the application;
- (b) the accompanying documents from OSCR; and
- (c) the fee for the determination of a debtor application as laid down in the Bankruptcy Fees (Scotland) Regulations 1993(1).

(5) The fee payable to the Accountant in Bankruptcy by virtue of paragraph (4) must be paid to the Accountant in Bankruptcy not later than 21 days from the receipt by the Accountant in Bankruptcy from OSCR of the application and accompanying documents referred to in paragraph (4); otherwise the Accountant in Bankruptcy must refuse to award sequestration in respect of the application.

(6) In the case of an award of sequestration of the estate of a SCIO—

- (a) the award of sequestration shall be treated as an award of sequestration of the estate of a body corporate by the Accountant in Bankruptcy following a debtor application by the body corporate (but without the need for the concurrence of a qualified creditor or qualified creditors and without the debtor being able to nominate the trustee in terms of section 2(1A)(a) of the Bankruptcy (Scotland) Act 1985(2));
- (b) the provisions of the Bankruptcy (Scotland) Act 1985 in respect of the sequestration of the estate of a body corporate following a debtor application shall apply to the sequestration of the estate of a SCIO as a body corporate; and
- (c) the Accountant in Bankruptcy shall have the same powers and duties in relation to the estate of a SCIO as the Accountant in Bankruptcy has in relation to the sequestration of the estate of a body corporate following a debtor application.

(7) On completion of the sequestration of the estate of a SCIO in terms of this regulation, the Accountant in Bankruptcy shall transfer any surplus assets that emerge to the named body (or bodies) specified in the resolution of the SCIO referred to in regulation 5(1).

(1) S.I. 1993/486, as amended by S.I. 1999/752, S.S.I.s 2007/220, 2008/5 and 79, 2009/97 and 2010/76.

(2) 1985 c.66. Section 2(1A) was inserted by the Bankruptcy and Diligence etc. (Scotland) Act 2007, (asp 3), section 14(2).

(8) Having transferred any assets under paragraph (7), the Accountant in Bankruptcy shall send notification to OSCR that the sequestration of the SCIO is completed and include copies of the final accounts of the Accountant in Bankruptcy's intromissions with the SCIO's estate and a determination of the fees and outlays calculated in accordance with regulations made under section 69A(3) of the Bankruptcy (Scotland) Act 1985.

(9) On receipt of the notification and final accounts referred to in paragraph (8)—

- (a) OSCR must remove from the Register the entry for the SCIO; and
- (b) the SCIO is dissolved.

(10) Subject to regulation 7, the estate of a SCIO may not be sequestrated except in terms of regulations 4 to 6.