
STATUTORY INSTRUMENTS

2005 No. 1967

**The Companies (Audit, Investigations and
Community Enterprise) (Northern Ireland) Order 2005**

PART III

COMMUNITY INTEREST COMPANIES

Change of status

Re-registration

50.—(1) A community interest company is excluded from re-registering under Article 59 of the 1986 Order (re-registration of limited company as unlimited).

(2) If a community interest company which is not a public company re-registers as a public company under Article 53 of the 1986 Order, or a community interest company which is a public company re-registers as a private company under Article 63 of that Order, the certificate of incorporation issued under Article 57(1)(b) or 65(1)(b) of that Order is to contain a statement that the company is a community interest company.

(3) The fact that the certificate of incorporation contains such a statement is conclusive evidence that the company is a community interest company.

Ceasing to be a community interest company

51. A community interest company may not cease to be a community interest company except by dissolution or as provided—

- (a) by Articles 52 and 53 (becoming a charity), or
- (b) if regulations are made under Article 54 (becoming an industrial and provident society), by the regulations.

Becoming a charity: requirements

52.—(1) If a community interest company is to cease being a community interest company and become a charity the company must by special resolutions under the 1986 Order—

- (a) alter its memorandum so that it does not state that it is to be a community interest company,
- (b) make such alterations of its memorandum and articles as it considers appropriate, and
- (c) change its name so that it does not comply with Article 32.

(2) Article 388(1) of the 1986 Order (forwarding of copies of special resolutions to registrar of companies) must be complied with in relation to each of the special resolutions at the same time.

(3) If the special resolutions include one under Article 15 or 28 of the 1986 Order (alterations of memorandum)—

- (a) copies of the special resolutions must not be forwarded to the registrar of companies before the relevant date, and
 - (b) Article 388(1) has effect in relation to them as if it referred to 15 days after the relevant date.
- (4) If an application is made under Article 16 of the 1986 Order (objection to alteration of memorandum under Article 15 or 28), the relevant date is—
- (a) the date on which the court determines the application (or, if there is more than one application, the date on which the last to be determined by the court is determined), or
 - (b) such later date as the court may order.
- (5) If there is no application under Article 16 of that Order, the relevant date is the end of the period for making such an application.
- (6) The copies of the special resolutions forwarded to the registrar of companies must be accompanied by—
- (a) a copy of the memorandum and articles of the company as altered by the special resolutions, and
 - (b) a statement by the Commissioners of Her Majesty's Revenue and Customs that the company has claimed exemption under section 505(1) of the Income and Corporation Taxes Act 1988 (c. 1).

Becoming a charity: decisions

53.—(1) On receiving under Article 52 the copies of the special resolutions, the memorandum and articles as altered by the special resolutions and the statement, the registrar must (instead of recording the special resolutions and entering a new name on the register)—

- (a) forward a copy of each of the documents to the Regulator, and
 - (b) retain them pending the Regulator's decision.
- (2) The alterations of the memorandum and articles made by the special resolutions are to take effect only as provided by this Article.
- (3) The Regulator must decide whether the company is eligible to cease being a community interest company.
- (4) The company is eligible to cease being a community interest company if it has complied with Article 52 and none of the following applies—
- (a) the Regulator has under Article 41 appointed an auditor to audit the company's annual accounts and the audit has not been completed,
 - (b) civil proceedings instituted by the Regulator in the name of the company under Article 42 have not been determined or discontinued,
 - (c) a director of the company holds office by virtue of an order under Article 43,
 - (d) a director of the company is suspended under Article 44(3),
 - (e) there is a manager in respect of the property and affairs of the company appointed under Article 45,
 - (f) the Official Property Holder holds property as trustee for the company,
 - (g) an order under Article 46(2) or (3) is in force in relation to the company,
 - (h) a petition has been presented for the company to be wound up.
- (5) The Regulator must give notice of the decision to the registrar of companies (but the registrar is not required to record it).

(6) If the Regulator gives notice of a decision that the company is eligible to cease being a community interest company, Article 38(6) of the 1986 Order (registration of new name) applies; and if the registrar of companies enters the new name of the company on the register he must also retain and record the special resolutions and the statement.

(7) On the date on which the certificate of incorporation is issued the alterations to the company's articles and memorandum made by the special resolutions take effect and the company ceases to be a community interest company.

(8) If the Regulator decides that the company is not eligible to cease being a community interest company, the company may appeal to the Appeal Officer against the decision.

Becoming an industrial and provident society

54.—(1) Unless regulations make provision to the contrary, a community interest company may not convert itself into a registered society under section 62 of the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24).

(2) If regulations make provision allowing the conversion of community interest companies under that section they may include provision modifying that section in its application by virtue of the regulations.