

De-registration of companies when continued under the law of place outside the State

1413. (1) An applicant which proposes to be registered in a relevant jurisdiction by way of continuation as a body corporate may apply to the Registrar to be de-registered in the State.

(2) Where an application is made under subsection (1), the Registrar shall not de-register, under section 1414, the applicant as a company in the State unless he or she is satisfied that all of the requirements of this Act in respect of the de-registration and of matters precedent and incidental thereto have been complied with and, in particular, but without prejudice to the generality of the foregoing, he or she is satisfied that—

(a) the applicant has delivered to the Registrar an application for the purpose, in the prescribed form and signed by a director of the applicant, together with the transfer documents;

(b) the applicant has informed the Central Bank of its intention to be de-registered and the Central Bank has notified the Registrar that it has no objection to the de-registration, so long as the applicant complies with any conditions that the Central Bank may impose on the applicant; and

(c) the applicant has delivered to the Registrar notice of any proposed change in its name and of its proposed registered office or agent for service of process in the relevant jurisdiction.

(3) An application under this section shall be accompanied by a statutory declaration in the prescribed form made by a solicitor engaged for this purpose by the applicant, or by a director of the applicant, and stating that the requirements mentioned in subsection (2) have been complied with. The Registrar may accept such a declaration as sufficient evidence of compliance.

(4) The Registrar shall, as soon as is practicable after receipt of the application for de-registration, publish notice of it in the CRO Gazette.

(5) Where an application is made under subsection (1), a person mentioned in subsection (6) may apply to the court, on notice to the applicant, the Central Bank, the Registrar and all creditors of the applicant, not later than 60 days after the date of the publication of the notice under subsection (4), for an order preventing the proposal or passage of a resolution specified in paragraph (c) of the definition of “transfer documents” in section 1412 (1) from taking effect in relation to the application, and the court may, subject to subsection (9), make such an order accordingly.

(6) The following persons may apply for an order under subsection (5):

(a) the holders of not less than 5 per cent of the issued share capital of the applicant and who have not voted in favour of the resolution; or

(b) any creditor of the applicant.

(7) Notice of an application for an order under subsection (5) may be given to the creditors concerned by publication in at least one national newspaper in the State.

(8) The Central Bank and the applicant concerned shall each be entitled to appear and be heard on an application made pursuant to subsection (5).

(9) The court may make an order under subsection (5) only if it is satisfied that—

(a) the proposed de-registration of the applicant would contravene the terms of an agreement or arrangement between the applicant and any shareholder or creditor of the applicant; or

(b) the proposed de-registration would be materially prejudicial to any shareholder or creditor of the applicant and the interests of shareholders and creditors or both taken as a whole would be materially prejudiced.

(10) An order made under subsection (5) shall specify the period in respect of which it shall remain in force.

(11) An order of the court under subsection (5) is final and conclusive and not appealable.