

## Statutory declaration as to solvency

1415. (1) Where an application is made under section 1410 or 1413, a director of the migrating company or applicant, as the case may be, making the application shall make a statutory declaration, in the prescribed form, stating that he or she has made a full inquiry into its affairs and has formed the opinion that it is able, at the time of the application, to pay its debts (being the debts identified for the purposes of subsection (2)(b)) as they fall due.

(2) A declaration under subsection (1) shall have no effect for the purposes of this section unless—

(a) it is made not more than 28 days before the date on which the application is made to the Registrar;

(b) it states the assets and liabilities of the migrating company or applicant as at the latest practicable date before the date of making of the declaration and in any event at a date not more than 3 months before the date of that making; and

(c) a report made by an independent person under subsection (3) is attached to the declaration, along with a statement by the independent person that he or she has given and has not withdrawn consent to the making of the declaration with the report attached to it.

(3) The report mentioned in subsection (2)(c) shall state whether, in the independent person's opinion, based on the information and explanations given to him or her, the opinion of the director mentioned in subsection (1) and the statement of the migrating company's or applicant's assets and liabilities referred to in subsection (2)(b) are reasonable.

(4) For the purposes of subsection (3), the independent person shall be a person who, at the time the report is made, is—

(a) in the case of an application under section 1410, qualified to be the auditor of the migrating company under the laws of the relevant jurisdiction; and

(b) in the case of an application under section 1413, qualified to be the statutory auditor of the applicant.

(5) A director who makes a declaration under this section without having reasonable grounds for the opinion that the migrating company or applicant is able to pay its debts as they fall due shall be guilty of a category 2 offence.

(6) Where the migrating company or applicant is wound up within 1 year after the date on which the application is made to the Registrar and its debts are not paid or provided for in full within that year, it shall be presumed, unless the contrary is shown, that the director did not have reasonable grounds for his or her opinion.