



# Charities Act 2011

## 2011 CHAPTER 25

### PART 11

#### CHARITABLE INCORPORATED ORGANISATIONS (CIOS)

### CHAPTER 1

#### GENERAL

##### *Nature and constitution*

#### **204 Meaning of “CIO”**

In this Act “CIO” means charitable incorporated organisation.

#### **205 Nature**

- (1) A CIO is a body corporate.
- (2) A CIO must have—
  - (a) a constitution;
  - (b) a principal office, which must be in England or in Wales;
  - (c) one or more members.
- (3) The members may be—
  - (a) not liable to contribute to the assets of the CIO if it is wound up, or
  - (b) liable to do so up to a maximum amount each.

#### **206 Constitution**

- (1) A CIO’s constitution must state—
  - (a) its name,

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- (b) its purposes,
  - (c) whether its principal office is in England or in Wales, and
  - (d) whether or not its members are liable to contribute to its assets if it is wound up, and (if they are) up to what amount.
- (2) A CIO's constitution must make provision—
  - (a) about who is eligible for membership, and how a person becomes a member,
  - (b) about the appointment of one or more persons who are to be charity trustees of the CIO, and about any conditions of eligibility for appointment, and
  - (c) containing directions about the application of property of the CIO on its dissolution.
- (3) A CIO's constitution must also provide for such other matters, and comply with such requirements, as are specified in CIO regulations.
- (4) A CIO's constitution—
  - (a) must be in English if its principal office is in England;
  - (b) may be in English or in Welsh if its principal office is in Wales.
- (5) A CIO's constitution must be in the form specified in regulations made by the Commission, or as near to that form as the circumstances admit.
- (6) Subject to anything in a CIO's constitution—
  - (a) a charity trustee of the CIO may, but need not, be a member of it,
  - (b) a member of the CIO may, but need not, be one of its charity trustees, and
  - (c) those who are members of the CIO and those who are its charity trustees may, but need not, be identical.

### *Formation and registration of CIO*

## **207 Application for CIO to be constituted and registered**

- (1) Any one or more persons ("the applicants") may apply to the Commission for a CIO to be constituted and for its registration as a charity.
- (2) The applicants must supply the Commission with—
  - (a) a copy of the proposed constitution of the CIO,
  - (b) such other documents or information as may be prescribed by CIO regulations, and
  - (c) such other documents or information as the Commission may require for the purposes of the application.

## **208 Cases where application must or may be refused**

- (1) The Commission must refuse an application under section 207 if—
  - (a) it is not satisfied that the CIO would be a charity at the time it would be registered, or
  - (b) the CIO's proposed constitution does not comply with one or more of the requirements of section 206 (constitution of CIOs) and any regulations made under that section.
- (2) The Commission may refuse such an application if—

- (a) the proposed name of the CIO—
  - (i) is the same as, or
  - (ii) is in the opinion of the Commission too like,  
the name of any other charity (whether registered or not), or
- (b) the Commission is of the opinion referred to in any of paragraphs (b) to (e) of section 42(2) (power to require charity's name to be changed) in relation to the proposed name of the CIO (reading paragraph (b) as referring to the proposed purposes of the CIO and to the activities which it is proposed it should carry on).

## **209 Registration of CIO**

- (1) If the Commission grants an application under section 207 it must register the CIO to which the application relates as a charity in the register of charities.
- (2) The entry relating to the charity's registration in the register of charities must include—
  - (a) the date of the charity's registration, and
  - (b) a note saying that it is constituted as a CIO.
- (3) A copy of the entry in the register must be sent to the charity at the principal office of the CIO.

## **210 Effect of registration of CIO**

- (1) Upon the registration of the CIO in the register of charities, it becomes by virtue of the registration a body corporate—
  - (a) whose constitution is that proposed in the application,
  - (b) whose name is that specified in the constitution, and
  - (c) whose first member is, or first members are, the applicants referred to in section 207.
- (2) All property for the time being vested in the applicants (or, if more than one, any of them) on trust for the charitable purposes of the CIO (when incorporated) by virtue of this subsection becomes vested in the CIO upon its registration.

### *Name and status*

## **211 Name**

- (1) The name of a CIO must appear in legible characters—
  - (a) in every location, and in every description of document or communication, in which a charitable company would be required by regulations under section 82 of the Companies Act 2006 to state its registered name, and
  - (b) in all conveyances purporting to be executed by the CIO.
- (2) In subsection (1)(b), “conveyance” means any instrument creating, transferring, varying or extinguishing an interest in land.

## **212 Status**

- (1) Subsection (3) applies if the name of a CIO does not include—

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- (a) “charitable incorporated organisation”,
  - (b) “CIO”, with or without full stops after each letter, or
  - (c) a Welsh equivalent mentioned in subsection (2) (but this option applies only if the CIO’s constitution is in Welsh),
- and it is irrelevant, in any such case, whether or not capital letters are used.
- (2) The Welsh equivalents referred to in subsection (1)(c) are—
- (a) “sefydliad elusennol corfforedig”, or
  - (b) “SEC”, with or without full stops after each letter.
- (3) If this subsection applies, the fact that a CIO is a CIO must be stated in legible characters in all the locations, documents, communications and conveyances mentioned in section 211(1).
- (4) The statement required by subsection (3) must be in English, except that in the case of a document which is otherwise wholly in Welsh, the statement may be in Welsh.

### **213 Civil consequences of failure to disclose name or status**

- (1) This section applies to any legal proceedings brought by a CIO to enforce a right arising out of a contract or conveyance in connection with which there was a failure to comply with section 211 or 212.
- (2) The proceedings must be dismissed if it is shown that the defendant to the proceedings—
- (a) has a claim against the CIO arising out of the contract or conveyance that the defendant has been unable to pursue because of the failure to comply with section 211 or 212, or
  - (b) has suffered some financial loss in connection with the contract or conveyance because of the failure to comply with section 211 or 212,
- unless the court before which the proceedings are brought is satisfied that it is just and equitable to permit the proceedings to continue.
- (3) This section does not affect the right of any person to enforce such rights as that person may have against another in any proceedings brought by the other.

### **214 Offence of failing to disclose name or status**

- (1) In the case of failure, without reasonable excuse, to comply with section 211 or 212 an offence is committed by—
- (a) every charity trustee of the CIO who is in default, and
  - (b) any other person who on the CIO’s behalf—
    - (i) signs or authorises the signing of the offending document, communication or conveyance, or
    - (ii) otherwise commits or authorises the offending act or omission.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding 10% of level 3 on the standard scale.

- (3) The reference in subsection (1) to a charity trustee being in default, and the reference in subsection (2) to a daily default fine, have the same meaning as in the Companies Acts (see sections 1121 to 1123 and 1125 of the Companies Act 2006).

## **215 Offence of holding out that a body is a CIO**

- (1) It is an offence for a person (in whatever way) to hold any body out as being a CIO when it is not.
- (2) It is a defence where a person is charged with an offence under subsection (1) to prove that the person believed on reasonable grounds that the body was a CIO.
- (3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.