
STATUTORY INSTRUMENTS

2012 No. 3012

The Charitable Incorporated
Organisations (General) Regulations 2012

PART 2

REGISTRATION

CIO not to be exempt

5. No application may be made for a CIO to be constituted and registered where the resulting charity would be an exempt charity.

Application of registration provisions in 2011 Act

6.—(1) In their application to CIOs the following provisions of the 2011 Act are to be read subject to the modifications specified.

(2) In section 29 of that Act (the register)—

- (a) in subsection (2)(a) for “charity registered in accordance with section 30” substitute “CIO”;
- (b) in subsection (2)(b) before “such other particulars” insert “ in addition to any particulars and information required to be included by any other provision of this Act or of regulations made under it,”.

(3) Sections 30 to 34 of that Act do not apply.

(4) In section 35 of that Act (duties of trustees in connection with registration)—

- (a) subsections (1) and (2) do not apply;
- (b) for subsection (3) substitute—

“(3) The charity trustees of a CIO must within 28 days—

- (a) notify the Commission if there is any change in the particulars of the CIO entered in the register; and
- (b) so far as appropriate, supply the Commission with particulars of any such change.”.

(5) In section 36 of that Act (claims and objections to registration)—

- (a) in subsection (1) for “registration of an institution as a charity” substitute “registration of a CIO”;
- (b) in subsection (3)(b) after “an institution from the register” insert—
“, or

(c) to restore a CIO to the register”.

(6) In section 38 of that Act (right to inspect register) for subsection (4) substitute—

“(4) Copies of the constitution of any CIO as supplied to the Commission must, so long as the CIO remains on the register—

- (a) be kept by the Commission, and
- (b) be open to public inspection at all reasonable times.”.

Applications for registration: communications with Commission

7.—(1) This regulation applies in relation to any requirement for applicants to send documents or information to the Commission under section 207 of the 2011 Act (application for CIO to be constituted and registered)(1).

(2) The Commission may—

- (a) require the contents of the document to be in a standard form;
- (b) require the document to be produced in the manner the Commission considers fit for the purpose of enabling that document to be scanned or copied;
- (c) require the document to be authenticated by a particular person or persons of a particular description;
- (d) where a requirement is imposed under sub-paragraph (c), specify the means of authentication;
- (e) specify the means to be used for sending the document to the Commission (for example by post or by electronic means);
- (f) where the document is to be sent by electronic means, specify—
 - (i) the hardware or software to be used; and
 - (ii) the requirements as to the technical specifications including protocol, security, anti-virus protection and encryption.

(3) Any requirements imposed by the Commission under this regulation—

- (a) must not be inconsistent with requirements imposed by any enactment as to the form, authentication or manner of sending the document concerned; and
- (b) must be published by the Commission in such manner as it thinks fit.

(4) Where a document or information is sent or supplied by the applicants by electronic means, it may only be sent or supplied to an address specified for the purpose by the Commission.

(5) If the applicants send or supply a document or information to the Commission in electronic form—

- (a) the applicants are treated as having agreed to accept a response in electronic form; and
- (b) where the document or information is sent or supplied by the applicants by electronic means from an electronic address, or the applicants have given such an address in the document or information (subject to any limitations specified when providing that address), the applicants are treated as having agreed to the response being sent by electronic means to that address.

Applications for registration: information to be included

8. In a case where one or more persons makes an application for registration and the proposed constitution of the CIO includes provision for entrenchment, the applicants must specify that fact in the application.

(1) 2011 c.25.

Applications for amalgamation: information to be included

9. In a case where two or more CIOs make an application for amalgamation and the proposed constitution of the new CIO includes provision for entrenchment, the old CIOs must specify that fact in the application.

Transfer of accounting records on amalgamation

10.—(1) The charity trustees of each old CIO must, on registration of the new CIO, transfer the relevant accounting records to the charity trustees of the new CIO.

(2) In paragraph (1) “relevant accounting records” means the accounting records which the charity trustees of the old CIO were, immediately before the registration of the new CIO, under a duty to preserve under section 131 of the 2011 Act (preservation of accounting records).

(3) On transfer of the records in accordance with paragraph (1), the charity trustees of the old CIO shall be treated as having discharged their duty under section 131.

Retention of accounting records after amalgamation

11.—(1) The charity trustees of a new CIO must preserve the records transferred to it under regulation 10 for at least 6 years from the end of the financial year in which the records were made (“the retention period”).

(2) Subject to paragraph (3), where a new CIO is dissolved within the retention period, the obligation to preserve those records in accordance with this regulation is to continue to be discharged by the persons who were the charity trustees of the new CIO immediately before its dissolution.

(3) Paragraph (2) does not apply if the Commission consents in writing to the records being destroyed or otherwise disposed of.

Interpretation

12. In this Part—

“new CIO” and “old CIO” have the meanings given by section 235(1) of the 2011 Act (application for amalgamation of CIOs); and

“application for amalgamation” means an application under section 235 of the 2011 Act.