

These notes refer to the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c.27) which received Royal Assent on 28 October 2004

COMPANIES (AUDIT, INVESTIGATIONS AND COMMUNITY ENTERPRISE) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Community Interest Companies

Summary and background

Supervision by Regulator

Section 48 - Property

251. This section gives the Regulator various powers to protect the assets of a CIC. The Regulator can vest the CIC's property in or transfer it to the Official Property Holder (*subsection (1)*), or freeze or otherwise restrict the assets of a CIC and the commitments it may make (*subsections (2) and (3)*). The exercise of these powers is subject to the company default condition being satisfied (*section 41(2)*). The section contains provisions to ensure that the use of these powers will not trigger any rights against a CIC's property which would result in the loss of that property, or in a breach of a restriction on the transfer of the property (*subsections (4) and (5)*). The discharge of an order under this clause may not necessarily automatically result in the return of the property to the CIC, so *subsection (7)* enables the Regulator to make the necessary vesting orders. *Subsection (10)* creates an offence where a person contravenes an order of the Regulator in respect of the property of the CIC or the transactions that may be entered into by the CIC, and *subsection (11)* fixes the penalty for contravention as a fine not exceeding level 5 on the standard scale (currently £5,000). *Subsection (12)* ensures that the creation of a criminal offence by *subsection (10)* does not prevent civil proceedings. This means that a CIC will be able to seek damages if property is lost or reduced in value because it was not transferred to the Official Property Holder in breach of an order.