Status: *Point in time view as at 27/02/2007.*
Changes to legislation: *There are currently no known outstanding effects for the Charities Act 2006, Part 1. (See end of Document for details)*

SCHEDULES

SCHEDULE 7

CHARITABLE INCORPORATED ORGANISATIONS

PART 1

NEW PART 8A OF AND SCHEDULE 5B TO 1993 ACT

1 After Part 8 of the 1993 Act insert the following new Part—

"PART 8A

CHARITABLE INCORPORATED ORGANISATIONS

Nature and constitution

Charitable incorporated organisations

69A (1) In this Act, a charitable incorporated organisation is referred to as a "CIO".

(2) A CIO shall be a body corporate.

(3) A CIO shall have a constitution.

(4) A CIO shall have a principal office, which shall be in England or in Wales.

(5) A CIO shall have one or more members.

(6) The members may be either—

(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.

Constitution

69B (1) A CIO's constitution shall state—

(a) its name,

(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 shall make provision—

(a) about who is eligible for membership, and how a person becomes a member,

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(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 shall also provide for such other matters, and comply with such requirements, as are specified in regulations made by the Minister.

(4) A CIO's constitution—

(a) shall 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 shall 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 charity trustee of the CIO may, but need not, be a member of it; a member of the CIO may, but need not, be one of its charity trustees; and those who are members of the CIO and those who are its charity trustees may, but need not, be identical.

Name and status

69C (1) The name of a CIO shall appear in legible characters—

(a) in all business letters of the CIO,

(b) in all its notices and other official publications,

(c) in all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed on behalf of the CIO,

(d) in all conveyances purporting to be executed by the CIO, and

(e) in all bills rendered by it and in all its invoices, receipts, and letters of credit.

(2) In subsection (1)(d), "conveyance" means any instrument creating, transferring, varying or extinguishing an interest in land.

(3) Subsection (5) applies if the name of a CIO does not include—

(a) "charitable incorporated organisation", or

(b) "CIO", with or without full stops after each letter, or

(c) a Welsh equivalent mentioned in subsection (4) (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.

(4) The Welsh equivalents referred to in subsection (3)(c) are—

(a) "sefydliad elusennol corfforedig", or

(b) "SEC", with or without full stops after each letter.

(5) If this subsection applies, the fact that a CIO is a CIO shall be stated in legible characters in all the documents mentioned in subsection (1).

(6) The statement required by subsection (5) shall be in English, except that in the case of a document which is otherwise wholly in Welsh, the statement may be in Welsh.

Offences connected with name and status

69D (1) A charity trustee of a CIO or a person on the CIO's behalf who issues or authorises the issue of any document referred to in paragraph (a), (b), (d) or (e) of section 69C(1) above which fails to comply with the requirements of section 69C(1), (5) or (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) A charity trustee of a CIO or a person on the CIO's behalf who signs or authorises to be signed on behalf of the CIO any document referred to in paragraph (c) of section 69C(1) above which fails to comply with the requirements of section 69C(1), (5) or (6)—

(a) is liable on summary conviction to a fine not exceeding level 3 on the standard scale, and

(b) is personally liable to the holder of the bill of exchange (etc.) for the amount of it, unless it is duly paid by the CIO.

(3) A person who holds any body out as being a CIO when it is not (however he does this) is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) It is a defence for a person charged with an offence under subsection (3) to prove that he believed on reasonable grounds that the body was a CIO.

Registration

Application for registration

69E (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 shall 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 regulations made by the Minister, and

(c) such other documents or information as the Commission may require for the purposes of the application.

(3) The Commission shall refuse such an application 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 69B above and any regulations made under that section.

(4) The Commission may refuse such an application if—

(a) the proposed name of the CIO is the same as, or 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 6(2) above (power of Commission to require change in charity's name) in relation to the proposed name of the

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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).

Effect of registration

69F (1) If the Commission grants an application under section 69E above it shall register the CIO to which the application relates as a charity in the register of charities.

(2) 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 69E above.

(3) 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) shall by virtue of this subsection become vested in the CIO upon its registration.

(4) The entry relating to the charity's registration in the register of charities shall include—

(a) the date of the charity's registration, and

(b) a note saying that it is constituted as a CIO.

(5) A copy of the entry in the register shall be sent to the charity at the principal office of the CIO.

Conversion, amalgamation and transfer

Conversion of charitable company or registered industrial and provident society

69G (1) The following may apply to the Commission to be converted into a CIO, and for the CIO's registration as a charity, in accordance with this section—

(a) a charitable company,

(b) a charity which is a registered society within the meaning of the Industrial and Provident Societies Act 1965.

(2) But such an application may not be made by—

(a) a company or registered society having a share capital if any of the shares are not fully paid up, or

(b) an exempt charity.

(3) Such an application is referred to in this section and sections 69H and 69I below as an “application for conversion”.

(4) The Commission shall notify the following of any application for conversion—

(a) the appropriate registrar, and

(b) such other persons (if any) as the Commission thinks appropriate in the particular case.

(5) The company or registered society shall supply the Commission with—

(a) a copy of a resolution of the company or registered society that it be converted into a CIO,

(b) a copy of the proposed constitution of the CIO,

(c) a copy of a resolution of the company or registered society adopting the proposed constitution of the CIO,

(d) such other documents or information as may be prescribed by regulations made by the Minister, and

(e) such other documents or information as the Commission may require for the purposes of the application.

(6) The resolution referred to in subsection (5)(a) shall be—

(a) a special resolution of the company or registered society, or

(b) a unanimous written resolution signed by or on behalf of all the members of the company or registered society who would be entitled to vote on a special resolution.

(7) In the case of a registered society, "special resolution" has the meaning given in section 52(3) of the Industrial and Provident Societies Act 1965.

(8) In the case of a company limited by guarantee which makes an application for conversion (whether or not it also has a share capital), the proposed constitution of the CIO shall (unless subsection (10) applies) provide for the CIO's members to be liable to contribute to its assets if it is wound up, and for the amount up to which they are so liable.

(9) That amount shall not be less than the amount up to which they were liable to contribute to the assets of the company if it was wound up.

(10) If the amount each member of the company is liable to contribute to its assets on its winding up is £10 or less, the guarantee shall be extinguished on the conversion of the company into a CIO, and the requirements of subsections (8) and (9) do not apply.

(11) In subsection (4), and in sections 69H and 69I below, "the appropriate registrar" means—

(a) in the case of an application for conversion by a charitable company, the registrar of companies,

(b) in the case of an application for conversion by a registered society, the Financial Services Authority.

(12) In this section, "charitable company" means a company which is a charity.

Conversion: consideration of application

69H (1) The Commission shall consult those to whom it has given notice of an application for conversion under section 69G(4) above about whether the application should be granted.

(2) The Commission shall refuse an application for conversion if—

(a) it is not satisfied that the CIO would be a charity at the time it would be registered,

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(b) the CIO's proposed constitution does not comply with one or more of the requirements of section 69B above and any regulations made under that section, or

(c) in the case of an application for conversion made by a company limited by guarantee, the CIO's proposed constitution does not comply with the requirements of subsections (8) and (9) of section 69G above.

(3) The Commission may refuse an application for conversion if—

(a) the proposed name of the CIO is the same as, or is in the opinion of the Commission too like, the name of any other charity (whether registered or not),

(b) the Commission is of the opinion referred to in any of paragraphs (b) to (e) of section 6(2) above (power of Commission to require change in charity's name) 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), or

(c) having considered any representations received from those whom it has consulted under subsection (1), the Commission considers (having regard to any regulations made under subsection (4)) that it would not be appropriate to grant the application.

(4) The Minister may make provision in regulations about circumstances in which it would not be appropriate to grant an application for conversion.

(5) If the Commission refuses an application for conversion, it shall so notify the appropriate registrar (see section 69G(11) above).

Conversion: supplementary

69I (1) If the Commission grants an application for conversion, it shall—

(a) register the CIO to which the application related in the register of charities, and

(b) send to the appropriate registrar (see section 69G(11) above) a copy of each of the resolutions of the converting company or registered society referred to in section 69G(5)(a) and (c) above, and a copy of the entry in the register relating to the CIO.

(2) The registration of the CIO in the register shall be provisional only until the appropriate registrar cancels the registration of the company or registered society as required by subsection (3)(b).

(3) The appropriate registrar shall—

(a) register the documents sent to him under subsection (1)(b), and

(b) cancel the registration of the company in the register of companies, or of the society in the register of friendly societies,

and shall notify the Commission that he has done so.

(4) When the appropriate registrar cancels the registration of the company or of the registered society, the company or registered society is thereupon converted into a CIO, being a body corporate—

(a) whose constitution is that proposed in the application for conversion,

(b) whose name is that specified in the constitution, and

(c) whose first members are the members of the converting company or society immediately before the moment of conversion.

(5) If the converting company or registered society had a share capital, upon the conversion of the company or registered society all the shares shall by virtue of this subsection be cancelled, and no former holder of any cancelled share shall have any right in respect of it after its cancellation.

(6) Subsection (5) does not affect any right which accrued in respect of a share before its cancellation.

(7) The entry relating to the charity's registration in the register shall include—

(a) a note that it is constituted as a CIO,

(b) the date on which it became so constituted, and

(c) a note of the name of the company or society which was converted into the CIO,

but the matters mentioned in paragraphs (a) and (b) are to be included only when the appropriate registrar has notified the Commission as required by subsection (3).

(8) A copy of the entry in the register shall be sent to the charity at the principal office of the CIO.

(9) The conversion of a charitable company or of a registered society into a CIO does not affect, in particular, any liability to which the company or registered society was subject by virtue of its being a charitable company or registered society.

Conversion of community interest company

69J (1) The Minister may by regulations make provision for the conversion of a community interest company into a CIO, and for the CIO's registration as a charity.

(2) The regulations may, in particular, apply, or apply with modifications specified in the regulations, or disapply, anything in sections 53 to 55 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 or in sections 69G to 69I above.

Amalgamation of CIOs

69K (1) Any two or more CIOs (“the old CIOs”) may, in accordance with this section, apply to the Commission to be amalgamated, and for the incorporation and registration as a charity of a new CIO (“the new CIO”) as their successor.

(2) Such an application is referred to in this section and section 69L below as an “application for amalgamation”.

(3) Subsections (2) to (4) of section 69E above apply in relation to an application for amalgamation as they apply to an application for a CIO to be constituted, but in those subsections—

(a) “the applicants” shall be construed as meaning the old CIOs, and

(b) references to the CIO are to the new CIO.

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(4) In addition to the documents and information referred to in section 69E(2) above, the old CIOs shall supply the Commission with—
  (a) a copy of a resolution of each of the old CIOs approving the proposed amalgamation, and
  (b) a copy of a resolution of each of the old CIOs adopting the proposed constitution of the new CIO.

(5) The resolutions referred to in subsection (4) must have been passed—
  (a) by a 75% majority of those voting at a general meeting of the CIO (including those voting by proxy or by post, if voting that way is permitted), or
  (b) unanimously by the CIO's members, otherwise than at a general meeting.

(6) The date of passing of such a resolution is—
  (a) the date of the general meeting at which it was passed, or
  (b) if it was passed otherwise than at a general meeting, the date on which provision in the CIO's constitution or in regulations made under paragraph 13 of Schedule 5B to this Act deems it to have been passed (but that date may not be earlier than that on which the last member agreed to it).

(7) Each old CIO shall—
  (a) give notice of the proposed amalgamation in the way (or ways) that in the opinion of its charity trustees will make it most likely to come to the attention of those who would be affected by the amalgamation, and
  (b) send a copy of the notice to the Commission.

(8) The notice shall invite any person who considers that he would be affected by the proposed amalgamation to make written representations to the Commission not later than a date determined by the Commission and specified in the notice.

(9) In addition to being required to refuse it on one of the grounds mentioned in section 69E(3) above as applied by subsection (3) of this section, the Commission shall refuse an application for amalgamation if it considers that there is a serious risk that the new CIO would be unable properly to pursue its purposes.

(10) The Commission may refuse an application for amalgamation if it is not satisfied that the provision in the constitution of the new CIO about the matters mentioned in subsection (11) is the same, or substantially the same, as the provision about those matters in the constitutions of each of the old CIOs.

(11) The matters are—
  (a) the purposes of the CIO,
  (b) the application of property of the CIO on its dissolution, and
  (c) authorisation for any benefit to be obtained by charity trustees or members of the CIO or persons connected with them.

(12) For the purposes of subsection (11)(c)—

(a) "benefit" means a direct or indirect benefit of any nature, except that it does not include any remuneration (within the meaning of section 73A below) whose receipt may be authorised under that section, and

(b) the same rules apply for determining whether a person is connected with a charity trustee or member of the CIO as apply, in accordance with section 73B(5) and (6) below, for determining whether a person is connected with a charity trustee for the purposes of section 73A.

Amalgamation: supplementary

69L (1) If the Commission grants an application for amalgamation, it shall register the new CIO in the register of charities.

(2) Upon the registration of the new CIO it thereupon becomes by virtue of the registration a body corporate—

(a) whose constitution is that proposed in the application for amalgamation,

(b) whose name is that specified in the constitution, and

(c) whose first members are the members of the old CIOs immediately before the new CIO was registered.

(3) Upon the registration of the new CIO—

(a) all the property, rights and liabilities of each of the old CIOs shall become by virtue of this subsection the property, rights and liabilities of the new CIO, and

(b) each of the old CIOs shall be dissolved.

(4) Any gift which—

(a) is expressed as a gift to one of the old CIOs, and

(b) takes effect on or after the date of registration of the new CIO,

takes effect as a gift to the new CIO.

(5) The entry relating to the registration in the register of the charity constituted as the new CIO shall include—

(a) a note that it is constituted as a CIO,

(b) the date of the charity's registration, and

(c) a note that the CIO was formed following amalgamation, and of the name of each of the old CIOs.

(6) A copy of the entry in the register shall be sent to the charity at the principal office of the new CIO.

Transfer of CIO's undertaking

69M(1) A CIO may resolve that all its property, rights and liabilities should be transferred to another CIO specified in the resolution.

(2) Where a CIO has passed such a resolution, it shall send to the Commission—

(a) a copy of the resolution, and

(b) a copy of a resolution of the transferee CIO agreeing to the transfer to it.

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(3) Subsections (5) and (6) of section 69K above apply to the resolutions referred to in subsections (1) and (2)(b) as they apply to the resolutions referred to in section 69K(4).

(4) Having received the copy resolutions referred to in subsection (2), the Commission—

(a) may direct the transferor CIO to give public notice of its resolution in such manner as is specified in the direction, and

(b) if it gives such a direction, must take into account any representations made to it by persons appearing to it to be interested in the transferor CIO, where those representations are made to it within the period of 28 days beginning with the date when public notice of the resolution is given by the transferor CIO.

(5) The resolution shall not take effect until confirmed by the Commission.

(6) The Commission shall refuse to confirm the resolution if it considers that there is a serious risk that the transferee CIO would be unable properly to pursue the purposes of the transferor CIO.

(7) The Commission may refuse to confirm the resolution if it is not satisfied that the provision in the constitution of the transferee CIO about the matters mentioned in section 69K(11) above is the same, or substantially the same, as the provision about those matters in the constitution of the transferor CIO.

(8) If the Commission does not notify the transferor CIO within the relevant period that it is either confirming or refusing to confirm the resolution, the resolution is to be treated as confirmed by the Commission on the day after the end of that period.

(9) Subject to subsection (10), “the relevant period” means—

(a) in a case where the Commission directs the transferor CIO under subsection (4) to give public notice of its resolution, the period of six months beginning with the date when that notice is given, or

(b) in any other case, the period of six months beginning with the date when both of the copy resolutions referred to in subsection (2) have been received by the Commission.

(10) The Commission may at any time within the period of six months mentioned in subsection (9)(a) or (b) give the transferor CIO a notice extending the relevant period by such period (not exceeding six months) as is specified in the notice.

(11) A notice under subsection (10) must set out the Commission's reasons for the extension.

(12) If the resolution is confirmed (or treated as confirmed) by the Commission—

(a) all the property, rights and liabilities of the transferor CIO shall become by virtue of this subsection the property, rights and liabilities of the transferee CIO in accordance with the resolution, and

(b) the transferor CIO shall be dissolved.

(13) Any gift which—

(a) is expressed as a gift to the transferor CIO, and

(b) takes effect on or after the date on which the resolution is confirmed (or treated as confirmed),

takes effect as a gift to the transferee CIO.

Winding up, insolvency and dissolution

Regulations about winding up, insolvency and dissolution

69N (1) The Minister may by regulations make provision about—

(a) the winding up of CIOs,

(b) their insolvency,

(c) their dissolution, and

(d) their revival and restoration to the register following dissolution.

(2) The regulations may, in particular, make provision—

(a) about the transfer on the dissolution of a CIO of its property and rights (including property and rights held on trust for the CIO) to the official custodian or another person or body,

(b) requiring any person in whose name any stocks, funds or securities are standing in trust for a CIO to transfer them into the name of the official custodian or another person or body,

(c) about the disclaiming, by the official custodian or other transferee of a CIO's property, of title to any of that property,

(d) about the application of a CIO's property cy-près,

(e) about circumstances in which charity trustees may be personally liable for contributions to the assets of a CIO or for its debts,

(f) about the reversal on a CIO's revival of anything done on its dissolution.

(3) The regulations may—

(a) apply any enactment which would not otherwise apply, either without modification or with modifications specified in the regulations,

(b) disapply, or modify (in ways specified in the regulations) the application of, any enactment which would otherwise apply.

(4) In subsection (3), "enactment" includes a provision of subordinate legislation within the meaning of the Interpretation Act 1978.

Miscellaneous

Power to transfer all property of unincorporated charity to one or more CIOs

69O Section 74 below (power to transfer all property of unincorporated charity) applies with the omission of paragraph (a) of subsection (1) in relation to a resolution by the charity trustees of a charity to transfer all its property to a CIO or to divide its property between two or more CIOs.

Further provision about CIOs

69P The provisions of Schedule 5B to this Act shall have effect with respect to CIOs.

Regulations

69Q (1) The Minister may by regulations make further provision about applications for registration of CIOs, the administration of CIOs, the conversion of charitable companies, registered societies and community interest companies into CIOs, the amalgamation of CIOs, and in relation to CIOs generally.

(2) The regulations may, in particular, make provision about—

(a) the execution of deeds and documents,

(b) the electronic communication of messages or documents relevant to a CIO or to any dealing with the Commission in relation to one,

(c) the maintenance of registers of members and of charity trustees,

(d) the maintenance of other registers (for example, a register of charges over the CIO's assets).

(3) The regulations may, in relation to charities constituted as CIOs—

(a) disapply any of sections 3 to 4 above,

(b) modify the application of any of those sections in ways specified in the regulations.

(4) Subsections (3) and (4) of section 69N above apply for the purposes of this section as they apply for the purposes of that."

Commencement Information

I1 Sch. 7 para. 1 in force at 27.2.2007 for specified purposes by S.I. 2007/309, art. 2, **Sch.**

2 After the Schedule 5A inserted in the 1993 Act by Schedule 6 to this Act, insert the following Schedule—

"SCHEDULE 5B — Section 69P

FURTHER PROVISION ABOUT CHARITABLE INCORPORATED ORGANISATIONS

Powers

1 (1) Subject to anything in its constitution, a CIO has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so.

(2) The CIO's charity trustees shall manage the affairs of the CIO and may for that purpose exercise all the powers of the CIO.

Constitutional requirements

2 A CIO shall use and apply its property in furtherance of its purposes and in accordance with its constitution.

3 If the CIO is one whose members are liable to contribute to its assets if it is wound up, its constitution binds the CIO and its members for the time being to the same extent as if its provisions were contained in a contract—

(a) to which the CIO and each of its members was a party, and

(b) which contained obligations on the part of the CIO and each member to observe all the provisions of the constitution.

4 Money payable by a member to the CIO under the constitution is a debt due from him to the CIO, and is of the nature of a specialty debt.

Third parties

5 (1) Sub-paragraphs (2) and (3) are subject to sub-paragraph (4).

(2) The validity of an act done (or purportedly done) by a CIO shall not be called into question on the ground that it lacked constitutional capacity.

(3) The power of the charity trustees of a CIO to act so as to bind the CIO (or authorise others to do so) shall not be called into question on the ground of any constitutional limitations on their powers.

(4) But sub-paragraphs (2) and (3) apply only in favour of a person who gives full consideration in money or money's worth in relation to the act in question, and does not know—

(a) in a sub-paragraph (2) case, that the act is beyond the CIO's constitutional capacity, or

(b) in a sub-paragraph (3) case, that the act is beyond the constitutional powers of its charity trustees,

and (in addition) sub-paragraph (3) applies only if the person dealt with the CIO in good faith (which he shall be presumed to have done unless the contrary is proved).

(5) A party to an arrangement or transaction with a CIO is not bound to inquire—

(a) whether it is within the CIO's constitutional capacity, or

(b) as to any constitutional limitations on the powers of its charity trustees to bind the CIO or authorise others to do so.

(6) If a CIO purports to transfer or grant an interest in property, the fact that the act was beyond its constitutional capacity, or that its charity trustees in connection with the act exceeded their constitutional powers, does not affect the title of a person who subsequently acquires the property or any interest in it for full consideration without actual notice of any such circumstances affecting the validity of the CIO's act.

(7) In any proceedings arising out of sub-paragraphs (2) to (4), the burden of proving that a person knew that an act—

(a) was beyond the CIO's constitutional capacity, or

(b) was beyond the constitutional powers of its charity trustees,

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lies on the person making that allegation.

(8) In this paragraph and paragraphs 6 to 8—

(a) references to a CIO's lack of "constitutional capacity" are to lack of capacity because of anything in its constitution, and

(b) references to "constitutional limitations" on the powers of a CIO's charity trustees are to limitations on their powers under its constitution, including limitations deriving from a resolution of the CIO in general meeting, or from an agreement between the CIO's members, and "constitutional powers" is to be construed accordingly.

6 (1) Nothing in paragraph 5 prevents a person from bringing proceedings to restrain the doing of an act which would be—

(a) beyond the CIO's constitutional capacity, or

(b) beyond the constitutional powers of the CIO's charity trustees.

(2) But no such proceedings may be brought in respect of an act to be done in fulfilment of a legal obligation arising from a previous act of the CIO.

(3) Sub-paragraph (2) does not prevent the Commission from exercising any of its powers.

7 Nothing in paragraph 5(3) affects any liability incurred by the CIO's charity trustees (or any one of them) for acting beyond his or their constitutional powers.

8 Nothing in paragraph 5 absolves the CIO's charity trustees from their duty to act within the CIO's constitution and in accordance with any constitutional limitations on their powers.

Duties

9 It is the duty of—

(a) each member of a CIO, and

(b) each charity trustee of a CIO,

to exercise his powers, and (in the case of a charity trustee) to perform his functions, in his capacity as such, in the way he decides, in good faith, would be most likely to further the purposes of the CIO.

10 (1) Subject to any provision of a CIO's constitution permitted by virtue of regulations made under sub-paragraph (2), each charity trustee of a CIO shall in the performance of his functions in that capacity exercise such care and skill as is reasonable in the circumstances, having regard in particular—

(a) to any special knowledge or experience that he has or holds himself out as having, and

(b) if he acts as a charity trustee in the course of a business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession.

(2) The Minister may make regulations permitting a CIO's constitution to provide that the duty in sub-paragraph (1) does not apply, or does not apply in so far as is specified in the constitution.

(3) Regulations under sub-paragraph (2) may provide for limits on the extent to which, or the cases in which, a CIO's constitution may disapply the duty in sub-paragraph (1).

Personal benefit and payments

11 (1) A charity trustee of a CIO may not benefit personally from any arrangement or transaction entered into by the CIO if, before the arrangement or transaction was entered into, he did not disclose to all the charity trustees of the CIO any material interest of his in it or in any other person or body party to it (whether that interest is direct or indirect).

(2) Nothing in sub-paragraph (1) confers authority for a charity trustee of a CIO to benefit personally from any arrangement or transaction entered into by the CIO.

12 A charity trustee of a CIO—

(a) is entitled to be reimbursed by the CIO, or

(b) may pay out of the CIO's funds,

expenses properly incurred by him in the performance of his functions as such.

Procedure

13 (1) The Minister may by regulations make provision about the procedure of CIOs.

(2) Subject to—

(a) any such regulations,

(b) any other requirement imposed by or by virtue of this Act or any other enactment, and

(c) anything in the CIO's constitution,

a CIO may regulate its own procedure.

(3) But a CIO's procedure shall include provision for the holding of a general meeting of its members, and the regulations referred to in sub-paragraph (1) may in particular make provision about such meetings.

Amendment of constitution

14 (1) A CIO may by resolution of its members amend its constitution (and a single resolution may provide for more than one amendment).

(2) Such a resolution must be passed—

(a) by a 75% majority of those voting at a general meeting of the CIO (including those voting by proxy or by post, if voting that way is permitted), or

(b) unanimously by the CIO's members, otherwise than at a general meeting.

(3) The date of passing of such a resolution is—

(a) the date of the general meeting at which it was passed, or

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(b) if it was passed otherwise than at a general meeting, the date on which provision in the CIO's constitution or in regulations made under paragraph 13 deems it to have been passed (but that date may not be earlier than that on which the last member agreed to it).

(4) The power of a CIO to amend its constitution is not exercisable in any way which would result in the CIO's ceasing to be a charity.

(5) Subject to paragraph 15(5) below, a resolution containing an amendment which would make any regulated alteration is to that extent ineffective unless the prior written consent of the Commission has been obtained to the making of the amendment.

(6) The following are regulated alterations—

(a) any alteration of the CIO's purposes,

(b) any alteration of any provision of the CIO's constitution directing the application of property of the CIO on its dissolution,

(c) any alteration of any provision of the CIO's constitution where the alteration would provide authorisation for any benefit to be obtained by charity trustees or members of the CIO or persons connected with them.

(7) For the purposes of sub-paragraph (6)(c)—

(a) "benefit" means a direct or indirect benefit of any nature, except that it does not include any remuneration (within the meaning of section 73A of this Act) whose receipt may be authorised under that section, and

(b) the same rules apply for determining whether a person is connected with a charity trustee or member of the CIO as apply, in accordance with section 73B(5) and (6) of this Act, for determining whether a person is connected with a charity trustee for the purposes of section 73A.

Registration and coming into effect of amendments

15 (1) A CIO shall send to the Commission a copy of a resolution containing an amendment to its constitution, together with—

(a) a copy of the constitution as amended, and

(b) such other documents and information as the Commission may require,

by the end of the period of 15 days beginning with the date of passing of the resolution (see paragraph 14(3)).

(2) An amendment to a CIO's constitution does not take effect until it has been registered.

(3) The Commission shall refuse to register an amendment if—

(a) in the opinion of the Commission the CIO had no power to make it (for example, because the effect of making it would be that the CIO ceased to be a charity, or that the CIO or its constitution did not comply with any requirement imposed by or by virtue of this Act or any other enactment), or

(b) the amendment would change the name of the CIO, and the Commission could have refused an application under section 69E of this Act for the constitution and registration of a CIO with the name specified in the amendment on a ground set out in subsection (4) of that section.

(4) The Commission may refuse to register an amendment if the amendment would make a regulated alteration and the consent referred to in paragraph 14(5) had not been obtained.

(5) But if the Commission does register such an amendment, paragraph 14(5) does not apply."

Commencement Information

I2 Sch. 7 para. 2 in force at 27.2.2007 for specified purposes by S.I. 2007/309, art. 2, **Sch.**

Status:
Point in time view as at 27/02/2007.

Changes to legislation:
There are currently no known outstanding effects for the Charities Act 2006, Part 1.