Charities Act 2011

2011 CHAPTER 25

PART 11

CHARITABLE INCORPORATED ORGANISATIONS (CIOS)

CHAPTER 5

SUPPLEMENTARY

245 Regulations about winding up, insolvency and dissolution

(1) CIO regulations may 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.

246 Power to make further provision about CIOs

(1) CIO regulations may 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—
(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) The regulations may, in relation to charities constituted as CIOs—
(a) disapply any of sections 29 to 38 (registration of charities),
(b) modify the application of any of those sections in ways specified in the regulations.

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

247 Meaning of "CIO regulations"

In this Part "CIO regulations" means regulations made by the Minister.

248 Meaning of "benefit"

(1) This section applies for the purposes of sections 226(2)(c), 237(5)(c) and 242(3)(c) (cases where Commission may refuse to consent to amendment of constitution, to grant an application for amalgamation or to confirm a resolution transferring a CIO's undertaking).

(2) "Benefit" means a direct or indirect benefit of any nature, except that it does not include any remuneration (within the meaning of section 185) whose receipt may be authorised under that section.

249 Meaning of "connected person"

(1) This section applies for the purposes of sections 226(2)(c), 237(5)(c) and 242(3)(c).

(2) The following persons are connected with a charity trustee or member of a CIO—

(a) a child, parent, grandchild, grandparent, brother or sister of the trustee or member;

(b) the spouse or civil partner of the trustee or member or of any person falling within paragraph (a);

(c) a person carrying on business in partnership with the trustee or member or with any person falling within paragraph (a) or (b);

(d) an institution which is controlled—

(i) by the trustee or member or by any person falling within paragraph (a), (b) or (c), or

(ii) by two or more persons falling within sub-paragraph (i), when taken together.

(e) a body corporate in which—

(i) the trustee or member or any connected person falling within any of paragraphs (a) to (c) has a substantial interest, or

(ii) two or more persons falling within sub-paragraph (i), when taken together, have a substantial interest.

(3) Sections 350 to 352 (meaning of child, spouse, civil partner, controlled institution and substantial interest) apply for the purposes of subsection (2).

250 Effect of provisions relating to vesting or transfer of property

No vesting or transfer of any property in pursuance of any provision of this Part operates as a breach of a covenant or condition against alienation or gives rise to a forfeiture.