
STATUTORY INSTRUMENTS

2012 No. 3012

**The Charitable Incorporated
Organisations (General) Regulations 2012**

PART 10

SUPPLEMENTARY PROVISIONS

Fraudulent trading

60.—(1) Section 993 of the Companies Act 2006 (offence of fraudulent trading)(**1**) applies in relation to any activity of a CIO as it applies in relation to any business of a company.

(2) The following provisions of Part 36 of the Companies Act 2006 (offences under the Companies Acts) apply in relation to an offence under that Act committed by virtue of this regulation as they apply to an offence under the Companies Acts—

- (a) section 1127 (summary proceedings: venue);
- (b) section 1128 (summary proceedings: time limit for proceedings);
- (c) section 1129 (legal professional privilege);
- (d) section 1131 (imprisonment on summary conviction in England and Wales: transitory provision); and
- (e) section 1132 (production and inspection of documents where offence suspected).

(3) In their application to CIOs the provisions of the Companies Act 2006 mentioned in this regulation have effect as if—

- (a) for references to a company there were substituted references to a CIO;
- (b) for references to an officer of a company there were substituted references to a charity trustee of a CIO;
- (c) provisions relating only to Scotland or Northern Ireland were omitted;
- (d) references to the Secretary of State were omitted.

(4) In its application to CIOs section 1132(3)(b) has effect as if for “the secretary of the company, or such other officer of it” there were substituted “such charity trustee of the CIO”.

Pre-merger vesting declarations

61.—(1) Sections 310 (pre-merger vesting declarations) and 312 (“transferor” and “transferee” etc in s.310 and s.311) of the 2011 Act apply in relation to a relevant charity merger under Part 16 of that Act where the transferee is a CIO with the following modifications.

- (2) In section 310—

- (a) in subsection (1)(c) after “property” insert “including any permanent endowment or other property held on special trust which is specified in the declaration (“specified trust property”)”;
 - (b) in subsection (2)—
 - (i) after “property” insert “including specified trust property”;
 - (ii) at the end of the subsection insert a new sentence “The transferee shall hold specified trust property on the same trusts, so far as is reasonably practicable, on which the property was held immediately before the merger.”;
 - (c) after subsection (4) insert—
 - “(5) Where specified trust property vests in the transferee by virtue of subsection (2), unless the Commission directs otherwise the specified trust property and the transferee are to be treated as a single charity for the purposes of Parts 4 and 8 of this Act.”.
- (3) In section 312 in subsection (1) omit the words from “and (b)” to the end of the subsection.
- (4) Where a CIO holds specified trust property as trustee by virtue of section 310 as modified by this regulation, the CIO is to be treated for the purposes of the provisions identified in paragraph 3 of Schedule 7 to the 2011 Act (application of certain enactments to trust corporations) as if it were a corporation appointed by the court to be trustee.

Notes to CIO’s accounts and statement

62.—(1) This regulation applies where a CIO elects under section 133 of the 2011 Act to prepare a receipts and payments account and a statement of assets and liabilities, instead of a statement of accounts.

(2) The following information must be provided by way of notes to the statement of assets and liabilities—

- (a) particulars of any guarantee given by the CIO, where any potential liability under the guarantee is outstanding at the date of the statement; and
- (b) particulars of any debt outstanding at the date of the statement which is owed by the CIO and which is secured by an express charge on any of the assets of the CIO.