

SCHEDULES

SCHEDULE 7

FURTHER PROVISION ABOUT CHARITABLE INCORPORATED ORGANISATIONS

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 the person 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,

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 the constitutional powers of the trust.

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.