



2008 CHAPTER 12

PART 10

CHARITABLE COMPANIES

Alteration of objects clause

96.—(1) Where a charity is a company or other body corporate having power to alter the instruments establishing or regulating it as a body corporate, no exercise of that power which has the effect of the body ceasing to be a charity shall be valid so as to affect the application of—

- (a) any property acquired under any disposition or agreement previously made otherwise than for full consideration in money or money's worth, or any property representing property so acquired,
- (b) any property representing income which has accrued before the alteration is made, or
- (c) the income from any such property as aforesaid.

(2) Where a charity is a company, any regulated alteration by the company—

- (a) requires the prior written consent of the Commission, and
- (b) is ineffective if such consent has not been obtained.

(3) The following are “regulated alterations”—

- (a) any alteration of the objects clause in the company's memorandum of association,
- (b) any alteration of any provision of its memorandum or articles of association directing the application of property of the company on its dissolution, and

- (c) any alteration of any provision of its memorandum or articles of association where the alteration would provide authorisation for any benefit to be obtained by directors or members of the company or persons connected with them.
- (4) For the purposes of subsection (3)—
 - (a) “benefit” means a direct or indirect benefit of any nature, except that it does not include any remuneration (within the meaning of section 88) whose receipt may be authorised under that section; and
 - (b) the same rules apply for determining whether a person is connected with a director or member of the company as apply, in accordance with section 89(5) and (6), for determining whether a person is connected with a charity trustee for the purposes of section 88.
- (5) Where a company has made a regulated alteration in accordance with subsection (2) and—
 - (a) in connection with the alteration is required by virtue of—
 - (i) Article 17(1) of the [Companies \(Northern Ireland\) Order 1986 \(NI 6\)](#) (delivery of documents following alteration of objects), or
 - (ii) that provision as applied by Article 28(3) of that Order (alteration of condition in memorandum which could have been contained in articles),to deliver to the registrar of companies a printed copy of its memorandum, as altered, or
 - (b) is required by section 30 of the Companies Act 2006 (c. 46) (copies of resolutions affecting a company’s constitution) to forward to the registrar a copy of the special resolution effecting the alteration,the copy so delivered or forwarded by the company shall be accompanied by a copy of the Commission’s consent.
- (6) Article 17(3) of the [Companies \(Northern Ireland\) Order 1986 \(NI 6\)](#) (offences) shall apply to any default by a company in complying with subsection (5) as it applies to any such default as is mentioned in that provision.