# COMPANIES (AUDIT, INVESTIGATIONS AND COMMUNITY ENTERPRISE) ACT 2004

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

### Part 2: Community Interest Companies

### Summary and background
Introductory

### *Section 26 - Community interest companies*

195.     This section establishes the concept of the CIC. *Subsection (1)* provides that the CIC is to be a new type of company ('company' here meaning a company registered under the Companies Act 1985 or a former Companies Act). New organisations applying to be incorporated as a CIC will incorporate as a CLS or CLG (*subsection (2)*). Existing registered companies limited by shares or guarantee can also apply to become CICs, and *subsection (2)(b)* additionally allows a company limited by guarantee having a share capital to convert to a CIC. It has not been possible to register as a company limited by guarantee with share capital since 1980, so any new company being formed as a CIC will be either a CLS or a CLG without a share capital.

196.     Even if a CIC has charitable purposes, it will be treated as not being established for such purposes, so it will not be a charity (*subsection (3)(a)*) and it will not be able to be recognised as a Scottish charity (*subsection (3)(b)*). Therefore, CICs will not be subject to the benefits or obligations of charitable status, nor will they be subject to regulation by the Charity Commission or the charitable jurisdiction of the High Court. CICs, and outright bequests to them, will not be eligible for any tax reliefs or exemptions which are only available to charities or for charitable giving. So a donation to a CIC for its own purposes will not attract relief, since a CIC is not to be treated as established for charitable purposes. However, a donation to a charitable trust of which a CIC is trustee will be eligible for relief. The charitable status of the trust is unaffected by the status of the trustee.