Charities Act 2011

2011 CHAPTER 25

PART 11

CHARITABLE INCORPORATED ORGANISATIONS (CIOS)

CHAPTER 1

GENERAL

Nature and constitution

204 Meaning of "CIO"

In this Act "CIO" means charitable incorporated organisation.

205 Nature

(1) A CIO is a body corporate.

(2) A CIO must have—
- (a) a constitution;
- (b) a principal office, which must be in England or in Wales;
- (c) one or more members.

(3) The members may be—
- (a) not liable to contribute to the assets of the CIO if it is wound up, or
- (b) liable to do so up to a maximum amount each.

206 Constitution

(1) A CIO's constitution must state—
- (a) its name,

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(b) its purposes,
(c) whether its principal office is in England or in Wales, and
(d) whether or not its members are liable to contribute to its assets if it is wound up, and (if they are) up to what amount.

(2) A CIO's constitution must make provision—
(a) about who is eligible for membership, and how a person becomes a member,
(b) about the appointment of one or more persons who are to be charity trustees of the CIO, and about any conditions of eligibility for appointment, and
(c) containing directions about the application of property of the CIO on its dissolution.

(3) A CIO's constitution must also provide for such other matters, and comply with such requirements, as are specified in CIO regulations.

(4) A CIO's constitution—
(a) must be in English if its principal office is in England;
(b) may be in English or in Welsh if its principal office is in Wales.

(5) A CIO's constitution must be in the form specified in regulations made by the Commission, or as near to that form as the circumstances admit.

(6) Subject to anything in a CIO's constitution—
(a) a charity trustee of the CIO may, but need not, be a member of it,
(b) a member of the CIO may, but need not, be one of its charity trustees, and
(c) those who are members of the CIO and those who are its charity trustees may, but need not, be identical.

Formation and registration of CIO

207 Application for CIO to be constituted and registered

(1) Any one or more persons ("the applicants") may apply to the Commission for a CIO to be constituted and for its registration as a charity.

(2) The applicants must supply the Commission with—
(a) a copy of the proposed constitution of the CIO,
(b) such other documents or information as may be prescribed by CIO regulations, and
(c) such other documents or information as the Commission may require for the purposes of the application.

208 Cases where application must or may be refused

(1) The Commission must refuse an application under section 207 if—
(a) it is not satisfied that the CIO would be a charity at the time it would be registered, or
(b) the CIO's proposed constitution does not comply with one or more of the requirements of section 206 (constitution of CIOs) and any regulations made under that section.

(2) The Commission may refuse such an application if—

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(a) the proposed name of the CIO—
  (i) is the same as, or
  (ii) is in the opinion of the Commission too like,
  the name of any other charity (whether registered or not), or
(b) the Commission is of the opinion referred to in any of paragraphs (b) to (e) of section 42(2) (power to require charity's name to be changed) in relation to the proposed name of the CIO (reading paragraph (b) as referring to the proposed purposes of the CIO and to the activities which it is proposed it should carry on).

209 Registration of CIO

(1) If the Commission grants an application under section 207 it must register the CIO to which the application relates as a charity in the register of charities.

(2) The entry relating to the charity's registration in the register of charities must include—
  (a) the date of the charity's registration, and
  (b) a note saying that it is constituted as a CIO.

(3) A copy of the entry in the register must be sent to the charity at the principal office of the CIO.

210 Effect of registration of CIO

(1) Upon the registration of the CIO in the register of charities, it becomes by virtue of the registration a body corporate—
  (a) whose constitution is that proposed in the application,
  (b) whose name is that specified in the constitution, and
  (c) whose first member is, or first members are, the applicants referred to in section 207.

(2) All property for the time being vested in the applicants (or, if more than one, any of them) on trust for the charitable purposes of the CIO (when incorporated) by virtue of this subsection becomes vested in the CIO upon its registration.

Name and status

211 Name

(1) The name of a CIO must appear in legible characters—
  (a) in every location, and in every description of document or communication, in which a charitable company would be required by regulations under section 82 of the Companies Act 2006 to state its registered name, and
  (b) in all conveyances purporting to be executed by the CIO.

(2) In subsection (1)(b), “conveyance” means any instrument creating, transferring, varying or extinguishing an interest in land.

212 Status

(1) Subsection (3) applies if the name of a CIO does not include—

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(a) "charitable incorporated organisation",
(b) "CIO", with or without full stops after each letter, or
(c) a Welsh equivalent mentioned in subsection (2) (but this option applies only if the CIO's constitution is in Welsh),

and it is irrelevant, in any such case, whether or not capital letters are used.

(2) The Welsh equivalents referred to in subsection (1)(c) are—
(a) "sefydliad elusennol corfforedig", or
(b) "SEC", with or without full stops after each letter.

(3) If this subsection applies, the fact that a CIO is a CIO must be stated in legible characters in all the locations, documents, communications and conveyances mentioned in section 211(1).

(4) The statement required by subsection (3) must be in English, except that in the case of a document which is otherwise wholly in Welsh, the statement may be in Welsh.

213 Civil consequences of failure to disclose name or status

(1) This section applies to any legal proceedings brought by a CIO to enforce a right arising out of a contract or conveyance in connection with which there was a failure to comply with section 211 or 212.

(2) The proceedings must be dismissed if it is shown that the defendant to the proceedings—
(a) has a claim against the CIO arising out of the contract or conveyance that the defendant has been unable to pursue because of the failure to comply with section 211 or 212, or
(b) has suffered some financial loss in connection with the contract or conveyance because of the failure to comply with section 211 or 212,

unless the court before which the proceedings are brought is satisfied that it is just and equitable to permit the proceedings to continue.

(3) This section does not affect the right of any person to enforce such rights as that person may have against another in any proceedings brought by the other.

214 Offence of failing to disclose name or status

(1) In the case of failure, without reasonable excuse, to comply with section 211 or 212 an offence is committed by—
(a) every charity trustee of the CIO who is in default, and
(b) any other person who on the CIO's behalf—
(i) signs or authorises the signing of the offending document, communication or conveyance, or
(ii) otherwise commits or authorises the offending act or omission.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding 10% of level 3 on the standard scale.

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(3) The reference in subsection (1) to a charity trustee being in default, and the reference in subsection (2) to a daily default fine, have the same meaning as in the Companies Acts (see sections 1121 to 1123 and 1125 of the Companies Act 2006).

215 Offence of holding out that a body is a CIO

(1) It is an offence for a person (in whatever way) to hold any body out as being a CIO when it is not.

(2) It is a defence where a person is charged with an offence under subsection (1) to prove that the person believed on reasonable grounds that the body was a CIO.

(3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

CHAPTER 2

POWERS, CAPACITY AND PROCEDURE ETC.

216 Powers of CIO

(1) Subject to anything in its constitution, a CIO may do anything which is calculated to further its purposes or is conducive or incidental to doing so.

(2) The CIO's charity trustees are to manage the affairs of the CIO and may for that purpose exercise all the powers of the CIO.

217 Constitutional requirements

(1) A CIO must use and apply its property in furtherance of its purposes and in accordance with its constitution.

(2) If the CIO is one whose members are liable to contribute to its assets if it is wound up, its constitution binds the CIO and its members for the time being to the same extent as if its provisions were contained in a contract—
   (a) to which the CIO and each of its members was a party, and
   (b) which contained obligations on the part of the CIO and each member to observe all the provisions of the constitution.

(3) Money payable by a member to the CIO under the constitution is a debt due from that member to the CIO, and is of the nature of an ordinary contract debt.

218 Third parties

(1) Subject to subsection (3), the validity of an act done (or purportedly done) by a CIO is not to be called into question on the ground that the CIO lacked constitutional capacity.

(2) Subject to subsection (3), the power of the charity trustees of a CIO to act so as to bind the CIO (or authorise others to do so) is not to be called into question on the ground of any constitutional limitations on their powers.

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(3) Subsections (1) and (2) 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 subsection (1) case, that the act is beyond the CIO's constitutional capacity, or
  (b) in a subsection (2) case, that the act is beyond the constitutional powers of its charity trustees,

and (in addition) subsection (2) applies only if the person dealt with the CIO in good faith (which the person is presumed to have done unless the contrary is proved).

(4) 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.

(5) If a CIO purports to transfer or grant an interest in property, the fact—
  (a) that the act was beyond its constitutional capacity, or
  (b) 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.

(6) In any proceedings arising out of subsections (1) to (3), 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.

(7) In this section and section 219—
  (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 the references to constitutional powers are to be read accordingly.

219 Limits to s.218

(1) Nothing in section 218 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) Subsection (2) does not prevent the Commission from exercising any of its powers.

(4) Nothing in section 218(2) affects any liability incurred by the CIO's charity trustees (or any one of them) for acting beyond their (or that charity trustee's) constitutional powers.

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(5) Nothing in section 218 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.

220 Duty of CIO members

Each member of a CIO must exercise the powers that the member has in that capacity in the way that the member decides, in good faith, would be most likely to further the purposes of the CIO.

221 Duties of charity trustees

(1) Each charity trustee of a CIO must exercise the powers and perform the functions that the charity trustee has in that capacity in the way that the charity trustee decides, in good faith, would be most likely to further the purposes of the CIO.

(2) Each charity trustee of a CIO must in the performance of functions in that capacity exercise such care and skill as is reasonable in the circumstances, having regard in particular—
   (a) to any special knowledge or experience that the charity trustee has or purports to have, and
   (b) if the charity trustee acts as such in the course of a business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession.

   But this is subject to any provision of a CIO's constitution permitted by virtue of regulations made under subsection (3).

(3) CIO regulations may permit a CIO's constitution to provide that the duty in subsection (2)—
   (a) does not apply, or
   (b) does not apply in so far as is specified in the constitution.

(4) Regulations under subsection (3) may provide for limits on the extent to which, or the cases in which, a CIO's constitution may disapply the duty in subsection (2).

222 Personal benefit and payments

(1) A charity trustee of a CIO may not benefit personally from an arrangement or transaction entered into by the CIO if, before the arrangement or transaction was entered into, the charity trustee did not disclose to all the charity trustees of the CIO any material interest (whether direct or indirect) which the charity trustee had in it or in any other person or body party to it.

(2) Nothing in subsection (1) confers authority for a charity trustee of a CIO to benefit personally from any arrangement or transaction entered into by the CIO.

(3) A charity trustee of a CIO—
   (a) is entitled to be reimbursed by the CIO, or
   (b) may pay out of the CIO's funds,

   expenses properly incurred by the charity trustee in the performance of that charity trustee's functions as such.

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223 Regulations about procedure of CIOs

(1) CIO regulations may make provision about the procedure of CIOs.

(2) Subject to—
- (a) any such regulations,
- (b) any other requirement imposed by or by virtue of this Act or any other enactment, and
- (c) anything in the CIO's constitution,

a CIO may regulate its own procedure.

(3) But a CIO's procedure must include provision for the holding of a general meeting of its members, and the regulations referred to in subsection (1) may in particular make provision about such meetings.

CHAPTER 3

AMENDMENT OF CONSTITUTION

224 Amendment of constitution and procedure

(1) A CIO may by resolution of its members amend its constitution (and a single resolution may provide for more than one amendment).

(2) Such a resolution must be passed—
- (a) by a 75% majority of those voting at a general meeting of the CIO (including those voting by proxy or by post, if voting that way is permitted), or
- (b) unanimously by the CIO's members, otherwise than at a general meeting.

(3) The date of passing of such a resolution is—
- (a) the date of the general meeting at which it was passed, or
- (b) if it was passed otherwise than at a general meeting, the date on which provision in the CIO's constitution or in regulations made under section 223 treats it as having been passed (but that date may not be earlier than that on which the last member agreed to it).

225 Amendment of constitution and charitable status

The power of a CIO to amend its constitution is not exercisable in any way which would result in the CIO's ceasing to be a charity.

226 Amendment of constitution and Commission's consent

(1) Subject to section 227(5), a resolution containing an amendment which would make any regulated alteration is to that extent ineffective unless the prior written consent of the Commission has been obtained to the making of the amendment.

(2) The following are regulated alterations—
- (a) any alteration of the CIO's purposes,
- (b) any alteration of any provision of the CIO's constitution directing the application of property of the CIO on its dissolution, and

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(c) any alteration of any provision of the CIO's constitution where the alteration would provide authorisation for any benefit to be obtained by charity trustees or members of the CIO or persons connected with them.

(3) Sections 248 (meaning of "benefit") and 249 (meaning of "connected person") apply for the purposes of this section.

227 Registration and coming into effect of amendments

(1) A CIO must send to the Commission a copy of a resolution containing an amendment to its constitution, together with—
   (a) a copy of the constitution as amended, and
   (b) such other documents and information as the Commission may require,

   by the end of the period of 15 days beginning with the date of passing of the resolution (see section 224(3)).

(2) An amendment to a CIO's constitution does not take effect until it has been registered.

(3) The Commission must refuse to register an amendment if—
   (a) in the opinion of the Commission the CIO had no power to make it (for example, because the effect of making it would be that the CIO ceased to be a charity, or that the CIO or its constitution did not comply with any requirement imposed by or by virtue of this Act or any other enactment), or
   (b) the amendment would change the name of the CIO, and the Commission could have refused an application under section 207 for the constitution and registration of a CIO with the name specified in the amendment on a ground set out in section 208(2).

(4) The Commission may refuse to register an amendment if—
   (a) the amendment would make a regulated alteration, and
   (b) the consent referred to in section 226(1) had not been obtained.

(5) But if the Commission does register such an amendment, section 226(1) does not apply.

CHAPTER 4

CONVERSION, AMALGAMATION AND TRANSFER

Conversion of certain bodies to CIO

228 Application for conversion by charitable company

(1) A charitable company may apply to the Commission to be converted into a CIO, and for the CIO's registration as a charity, in accordance with this section.

(2) But such an application may not be made by—
   (a) a company having a share capital if any of the shares are not fully paid up, or
   (b) an exempt charity.

(3) The company must supply the Commission with—

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(a) a copy of a resolution of the company that it be converted into a CIO,
(b) a copy of the proposed constitution of the CIO,
(c) a copy of a resolution of the company adopting the proposed constitution of the CIO,
(d) such other documents or information as may be prescribed by CIO regulations, and
(e) such other documents or information as the Commission may require for the purposes of the application.

(4) The resolution referred to in subsection (3)(a) must be—
(a) a special resolution of the company, or
(b) a unanimous written resolution signed by or on behalf of all the members of the company who would be entitled to vote on a special resolution.

(5) Chapter 3 of Part 3 of the Companies Act 2006 (resolutions and agreements affecting a company's constitution) does not apply to such a resolution.

(6) In the case of a company limited by guarantee which makes an application under this section (whether or not it also has a share capital), the proposed constitution of the CIO must (unless subsection (8) applies) provide—
(a) for the CIO's members to be liable to contribute to its assets if it is wound up, and
(b) for the amount up to which they are so liable.

(7) That amount must not be less than the amount up to which they were liable to contribute to the assets of the company if it was wound up.

(8) If the amount each member of the company is liable to contribute to its assets on its winding up is £10 or less—
(a) the guarantee is extinguished on the conversion of the company into a CIO, and
(b) the requirements of subsections (6) and (7) do not apply.

229 Application for conversion by registered society

(1) A charity which is a registered society may apply to the Commission to be converted into a CIO, and for the CIO's registration as a charity, in accordance with this section.

"Registered society" has the same meaning as in **[**[F1]the Co-operative and Community Benefit Societies Act 2014**]**.

(2) But such an application may not be made by—
(a) a registered society having a share capital if any of the shares are not fully paid up, or
(b) an exempt charity.

(3) The registered society must supply the Commission with—
(a) a copy of a resolution of the registered society that it be converted into a CIO,
(b) a copy of the proposed constitution of the CIO,
(c) a copy of a resolution of the registered society adopting the proposed constitution of the CIO,

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(d) such other documents or information as may be prescribed by CIO regulations, and

(e) such other documents or information as the Commission may require for the purposes of the application.

(4) The resolution referred to in subsection (3)(a) must be—

(a) a special resolution of the registered society, or

(b) a unanimous written resolution signed by or on behalf of all the members of the registered society who would be entitled to vote on a special resolution.

(5) In subsection (4), "special resolution" has the meaning given in **[**[F2]section 113 of the Co-operative and Community Benefit Societies Act 2014.**]**

Textual Amendments

F1 Words in s. 229(1) substituted (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, **Sch. 4 para. 182(2)** (with Sch. 5)

F2 Words in s. 229(5) substituted (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, **Sch. 4 para. 182(3)** (with Sch. 5)

230 Commission to consult appropriate registrar and others

(1) The Commission must notify the following of an application for conversion—

(a) the appropriate registrar, and

(b) such other persons (if any) as the Commission thinks appropriate in the particular case,

and must consult those notified about whether the application should be granted.

(2) In subsection (1) and sections 231 to 233, "the appropriate registrar" means—

(a) in the case of an application by a charitable company, the registrar of companies;

(b) in the case of an application by a registered society, the **[**[F3]Financial Conduct Authority and, if the society is a PRA-authorised person within the meaning of section 2B of the Financial Services and Markets Act 2000, the Prudential Regulation Authority**]**.

(3) In this section and sections 231 to 233, "application for conversion" means an application under section 228 or 229.

Textual Amendments

F3 Words in s. 230(2)(b) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 11 para. 11** (with Sch. 12)

231 Cases where application must or may be refused

(1) The Commission must refuse an application for conversion if—

(a) it is not satisfied that the CIO would be a charity at the time it would be registered,

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(b) the CIO's proposed constitution does not comply with one or more of the requirements of section 206 (constitution of CIOs) and any regulations made under that section, or

(c) in the case of an application for conversion made by a company limited by guarantee, the CIO's proposed constitution does not comply with the requirements of section 228(6) and (7).

(2) The Commission may refuse an application for conversion if—

(a) the proposed name of the CIO—

(i) is the same as, or

(ii) is in the opinion of the Commission too like,

the name of any other charity (whether registered or not),

(b) the Commission is of the opinion referred to in any of paragraphs (b) to (e) of section 42(2) (power to require charity's name to be changed) in relation to the proposed name of the CIO (reading paragraph (b) as referring to the proposed purposes of the CIO and to the activities which it is proposed it should carry on), or

(c) having considered any representations received from those whom it has consulted under section 230(1), the Commission considers (having regard to any regulations made under subsection (3)) that it would not be appropriate to grant the application.

(3) CIO regulations may make provision about circumstances in which it would not be appropriate to grant an application for conversion.

(4) If the Commission refuses an application for conversion, it must so notify the appropriate registrar.

232 Provisional and final registration of converting body

(1) If the Commission grants an application for conversion, it must—

(a) register the CIO to which the application related in the register of charities, and

(b) send to the appropriate registrar a copy of—

(i) each of the relevant resolutions of the converting company or registered society, and

(ii) the entry in the register relating to the CIO.

(2) In subsection (1)(b), “the relevant resolutions” means—

(a) in the case of a converting company, the resolutions referred to in section 228(3)(a) and (c), and

(b) in the case of a converting society, the resolutions referred to in section 229(3)(a) and (c).

(3) The registration of the CIO in the register is provisional only until the appropriate registrar cancels the registration of the company or society as required by subsection (4)(b).

(4) The appropriate registrar must—

(a) register the documents sent under subsection (1)(b), and

(b) cancel the registration of the company in the register of companies, or of the society in the mutual societies register,

and must notify the Commission that this action has been taken.

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(5) The entry relating to the charity's registration in the register must include—
  (a) a note that it is constituted as a CIO,
  (b) the date on which it became so constituted, and
  (c) a note of the name of the company or society which was converted into the CIO.

(6) But the matters mentioned in subsections (5)(a) and (b) are to be included only when the appropriate registrar has notified the Commission as required by subsection (4).

(7) A copy of the entry in the register must be sent to the charity at the principal office of the CIO.

233 Effect of registration becoming final

(1) Upon the cancellation by the appropriate registrar of the registration of the company or of the registered society, the company or society is converted into a CIO, a body corporate—
  (a) whose constitution is that proposed in the application for conversion,
  (b) whose name is that specified in the constitution, and
  (c) whose first members are the members of the converting company or society immediately before the moment of conversion.

(2) If the converting company or society had a share capital—
  (a) upon the conversion of the company or society all the shares are by virtue of this subsection cancelled, and
  (b) no former holder of any cancelled share has any right in respect of it after its cancellation.

(3) Subsection (2) does not affect any right which accrued in respect of a share before its cancellation.

(4) The conversion of a company or society into a CIO does not affect, in particular, any liability to which the company or society was subject by virtue of its being a charitable company or registered society.

234 Conversion of community interest company

(1) CIO regulations may make provision for—
  (a) the conversion of a community interest company into a CIO, and
  (b) the CIO's registration as a charity.

(2) The regulations may, in particular, apply, or apply with modifications specified in the regulations, or disapply, anything in—
  (a) sections 53 to 55 of the Companies (Audit, Investigations and Community Enterprise) Act 2004, or
  (b) sections 228 to 233.

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Changes to legislation: *Charities Act 2011, Part 11 is up to date with all changes known to be in force on or before 10 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Amalgamation of CIOs

235 Application for amalgamation of CIOs

(1) Any two or more CIOs ("the old CIOs") may, in accordance with this section, apply to the Commission to be amalgamated, and for the incorporation and registration as a charity of a new CIO ("the new CIO") as their successor.

(2) The old CIOs must supply the Commission with—
- (a) a copy of the proposed constitution of the new CIO,
- (b) such other documents or information as may be prescribed by CIO regulations, and
- (c) such other documents or information as the Commission may require for the purposes of the application.

(3) In addition to the documents and information referred to in subsection (2), the old CIOs must supply the Commission with—
- (a) a copy of a resolution of each of the old CIOs approving the proposed amalgamation, and
- (b) a copy of a resolution of each of the old CIOs adopting the proposed constitution of the new CIO.

(4) The resolutions referred to in subsection (3) must have been passed—
- (a) by a 75% majority of those voting at a general meeting of the CIO (including those voting by proxy or by post, if voting that way is permitted), or
- (b) unanimously by the CIO's members, otherwise than at a general meeting.

(5) The date of passing of such a resolution is—
- (a) the date of the general meeting at which it was passed, or
- (b) if it was passed otherwise than at a general meeting, the date on which provision in the CIO's constitution or in regulations made under section 223 treats it as having been passed (but that date may not be earlier than that on which the last member agreed to it).

236 Notice of application for amalgamation

(1) Each old CIO must—
- (a) give notice of the proposed amalgamation in the way (or ways) that in the opinion of its charity trustees will make it most likely to come to the attention of those who would be affected by the amalgamation, and
- (b) send a copy of the notice to the Commission.

(2) The notice must invite any persons who consider that they would be affected by the proposed amalgamation to make written representations to the Commission no later than a date determined by the Commission and specified in the notice.

237 Cases where application must or may be refused

(1) The Commission must refuse an application for amalgamation if—
- (a) it is not satisfied that the new CIO would be a charity at the time it would be registered, or

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(b) the new CIO's proposed constitution does not comply with one or more of the requirements of section 206 and any regulations made under that section.

(2) In addition to being required to refuse it on one of the grounds mentioned in subsection (1), the Commission must refuse an application for amalgamation if it considers that there is a serious risk that the new CIO would be unable properly to pursue its purposes.

(3) The Commission may refuse an application for amalgamation if—

(a) the proposed name of the new CIO—

(i) is the same as, or

(ii) is in the opinion of the Commission too like,

the name of any other charity (whether registered or not), or

(b) the Commission is of the opinion referred to in any of paragraphs (b) to (e) of section 42(2) (power to require charity's name to be changed) in relation to the proposed name of the new CIO (reading paragraph (b) as referring to the proposed purposes of the new CIO and to the activities which it is proposed it should carry on).

(4) The Commission may refuse an application for amalgamation if it is not satisfied that the provision in the constitution of the new CIO about the matters mentioned in subsection (5) is—

(a) the same, or

(b) substantially the same,

as the provision about those matters in the constitutions of each of the old CIOs.

(5) The matters are—

(a) the purposes of the CIO,

(b) the application of property of the CIO on its dissolution, and

(c) authorisation for any benefit to be obtained by charity trustees or members of the CIO or persons connected with them.

(6) Sections 248 (meaning of “benefit”) and 249 (meaning of “connected person”) apply for the purposes of this section.

(7) In this section and sections 238 and 239, “application for amalgamation” means an application under section 235.

238 Registration of amalgamated CIO

(1) If the Commission grants an application for amalgamation, it must register the new CIO in the register of charities.

(2) The entry relating to the registration in the register of the charity constituted as the new CIO must include—

(a) a note that it is constituted as a CIO,

(b) the date of the charity's registration, and

(c) a note that the CIO was formed following amalgamation, and of the name of each of the old CIOs.

(3) A copy of the entry in the register must be sent to the charity at the principal office of the new CIO.

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239 Effect of registration

(1) Upon the registration of the new CIO it becomes by virtue of the registration a body corporate—
- (a) whose constitution is that proposed in the application for amalgamation,
- (b) whose name is that specified in the constitution, and
- (c) whose first members are the members of the old CIOs immediately before the new CIO was registered.

(2) Upon the registration of the new CIO—
- (a) all the property, rights and liabilities of each of the old CIOs become by virtue of this subsection the property, rights and liabilities of the new CIO, and
- (b) each of the old CIOs is dissolved.

(3) Any gift which—
- (a) is expressed as a gift to one of the old CIOs, and
- (b) takes effect on or after the date of registration of the new CIO,

takes effect as a gift to the new CIO.

Transfer of CIO's undertaking to another CIO

240 Resolutions about transfer of CIO's undertaking to another CIO

(1) A CIO may resolve that all its property, rights and liabilities should be transferred to another CIO specified in the resolution.

(2) Where a CIO has passed such a resolution, it must send to the Commission—
- (a) a copy of the resolution, and
- (b) a copy of a resolution of the transferee CIO agreeing to the transfer to it.

(3) The resolutions referred to in subsections (1) and (2)(b) must have been passed—
- (a) by a 75% majority of those voting at a general meeting of the CIO (including those voting by proxy or by post, if voting that way is permitted), or
- (b) unanimously by the CIO's members, otherwise than at a general meeting.

(4) The date of passing of such a resolution is—
- (a) the date of the general meeting at which it was passed, or
- (b) if it was passed otherwise than at a general meeting, the date on which provision in the CIO's constitution or in regulations made under section 223 treats it as having been passed (but that date may not be earlier than that on which the last member agreed to it).

(5) The resolution of the transferor CIO does not take effect until confirmed by the Commission.

241 Notice of transfer of CIO's undertaking to another CIO

Having received the copy resolutions referred to in section 240(2), the Commission—
- (a) may direct the transferor CIO to give public notice of its resolution in such manner as is specified in the direction, and
- (b) if it gives such a direction, must take into account any representations made to it by persons appearing to it to be interested in the transferor CIO, where those

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representations are made to it within the period of 28 days beginning with the date when public notice of the resolution is given by the transferor CIO.

242 Cases where confirmation of resolution must or may be refused

(1) The Commission must refuse to confirm the resolution of the transferor CIO if it considers that there is a serious risk that the transferee CIO would be unable properly to pursue the purposes of the transferor CIO.

(2) The Commission may refuse to confirm the resolution if it is not satisfied that the provision in the constitution of the transferee CIO about the matters mentioned in subsection (3) is—
  (a) the same, or
  (b) substantially the same,
  as the provision about those matters in the constitution of the transferor CIO.

(3) The matters are—
  (a) the purposes of the CIO,
  (b) the application of property of the CIO on its dissolution, and
  (c) authorisation for any benefit to be obtained by charity trustees or members of the CIO or persons connected with them.

(4) Sections 248 (meaning of "benefit") and 249 (meaning of "connected person") apply for the purposes of this section.

243 Confirmation of resolution

(1) If the Commission does not notify the transferor CIO within the relevant period that it is either confirming or refusing to confirm the transferor CIO's resolution, the resolution is to be treated as confirmed by the Commission on the day after the end of that period.

(2) Subject to subsection (3), "the relevant period" means—
  (a) if the Commission directs the transferor CIO under section 241 to give public notice of its resolution, the period of 6 months beginning with the date when that notice is given, or
  (b) otherwise, the period of 6 months beginning with the date when both of the copy resolutions referred to in section 240(2) have been received by the Commission.

(3) The Commission may at any time within the period of 6 months mentioned in subsection (2)(a) or (b) give the transferor CIO a notice extending the relevant period by such period (not exceeding 6 months) as is specified in the notice.

(4) A notice under subsection (3) must set out the Commission's reasons for the extension.

244 Effect of confirmation of resolution

(1) If the resolution of the transferor CIO is confirmed (or treated as confirmed) by the Commission—
  (a) all the property, rights and liabilities of the transferor CIO become by virtue of this subsection the property, rights and liabilities of the transferee CIO in accordance with the resolution, and

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(b) the transferor CIO is dissolved.

(2) Any gift which—

(a) is expressed as a gift to the transferor CIO, and

(b) takes effect on or after the date on which the resolution is confirmed (or treated as confirmed),

takes effect as a gift to the transferee CIO.

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.

[[F4](1A) Regulations under subsection (1)(b) may not apply Part A1 of the Insolvency Act 1986 (moratorium) in relation to a CIO that is registered as a social landlord under Part 1 of the Housing Act 1996 (but see section 247A).**]**

(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.

[[F5](3A) In relation to a CIO that is a private registered provider of social housing, the power under section 347(3)(b) may be used to amend, disapply, or modify (in ways specified in the regulations) any provision made by or under Part 2 of the Housing and Regeneration Act 2008 or Chapter 5 of Part 4 of the Housing and Planning Act 2016.**]**

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

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Textual Amendments

F4 S. 245(1A) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 3 para. 44(2)** (with ss. 2(2), 5(2))

F5 S. 245(3A) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 3 para. 44(3)** (with ss. 2(2), 5(2))

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 **[**[F6]Secretary of State**]**.

Textual Amendments

F6 Words in s. 247 substituted (9.11.2016) by The Transfer of Functions (Elections, Referendums, Third Sector and Information) Order 2016 (S.I. 2016/997), art. 1(2), **Sch. 2 para. 25(2)(gg)** (with art. 12)

[[F7]247A Regulations about moratorium for certain CIOs

(1) The Welsh Ministers may by regulations made by statutory instrument provide for Part A1 of the Insolvency Act 1986 to apply (with such modifications as may be specified in the regulations) in relation to a CIO that is a registered social landlord.

(2) The regulations may make provision in connection with the interaction between Part A1 of the Insolvency Act 1986 as applied by the regulations and any other insolvency procedure in relation to a CIO that is a registered social landlord.

(3) The regulations may make—

(a) different provision for different purposes, and

(b) such supplemental, incidental, consequential, transitory or transitional provision or savings as the Welsh Ministers consider appropriate.

(4) The power to make regulations under this section includes power to amend, disapply, or modify (in ways specified in the regulations) any provision made by legislation.

(5) A statutory instrument containing the regulations may not be made unless a draft of the statutory instrument containing them has been laid before and approved by a resolution of Senedd Cymru.

(6) Before making any regulations under this section the Welsh Ministers must consult such persons or bodies of persons as the Welsh Ministers consider appropriate.

(7) In this section—

"insolvency procedure" includes the provision made by sections 39 to 50 of the Housing Act 1996;

"legislation" means—

(a) an Act of Parliament or an Act or Measure of Senedd Cymru; or

(b) subordinate legislation (within the meaning of the Interpretation Act 1978) made under such an Act or Measure;

"registered social landlord" means registered as a social landlord under Part 1 of the Housing Act 1996.**]**

Textual Amendments

F7 S. 247A inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 3 para. 45** (with ss. 2(2), 5(2))

Modifications etc. (not altering text)

C1 S. 247A(6) restricted (temp.) (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), **ss. 44(3)**, 49(1) (with ss. 2(2), 5(2))

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).

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(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.

Status:
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