
STATUTORY INSTRUMENTS

2012 No. 3012

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

PART 9

COMMUNICATIONS PROVISIONS

The CIO communications provisions

49.—(1) The provisions of this Part (“the CIO communications provisions”) have effect for the purposes of any charity law provision that authorises or requires documents or information to be sent or supplied by or to a CIO.

(2) The CIO communications provisions apply whether the charity law provision in question uses the words “sent” or “supplied” or uses other words (such as “deliver”, “provide”, “produce”, “transmit” or, in the case of notice, “give”) to refer to the sending or supplying of a document or information.

(3) The CIO communications provisions have effect subject to—

- (a) any requirements imposed or contrary provision made by or under any Act; or
- (b) any contrary provision (so far as it concerns communications between the CIO and its members or the CIO and its charity trustees) in a CIO’s constitution.

(4) For the purposes of paragraph (3), provision is not to be regarded as contrary to the CIO communications provisions by reason only of the fact that it expressly authorises a document or information to be sent or supplied in hard copy form, in electronic form or by means of a website.

Sending or supplying documents or information

50.—(1) Documents or information to be sent or supplied to a CIO must be sent or supplied in accordance with the provisions of Schedule 2.

(2) Documents or information to be sent or supplied by a CIO must be sent or supplied in accordance with the provisions of Schedule 3.

(3) The provisions referred to in Schedule 3 apply (and those referred to in Schedule 2 do not apply) in relation to a document or information that is to be sent or supplied by one CIO to another.

CIO’s implied agreement to receive information in electronic form

51.—(1) If a CIO sends or supplies documents or information to another person in electronic form—

- (a) the CIO is treated as having agreed to accept a response in electronic form; and
- (b) where the document or information is sent or supplied by the CIO by electronic means from an electronic address, or the CIO has given such an address in the document or

information (subject to any limitations specified when providing that address), the CIO is treated as having agreed to the response being sent by electronic means to that address.

(2) In this regulation “electronic address” means any address or number used for the purpose of sending or receiving documents or information by electronic means.

Member’s right to hard copy

52.—(1) Where a member of a CIO (“M”) has received a document or information from the CIO otherwise than in hard copy form, M is entitled to require the CIO to send M a version of the document or information in hard copy form.

(2) The CIO—

- (a) must send the document or information in hard copy form within 21 days of receipt of M’s request; and
- (b) may not make a charge for providing the document or information in that form.

Information sent by CIO: time of receipt

53.—(1) This regulation applies in relation to documents or information sent or supplied by a CIO.

(2) Where—

- (a) the document or information is sent by post (whether in hard copy or electronic form) to an address in the United Kingdom, and
- (b) the CIO is able to show that it was properly addressed, prepaid and posted,

it is treated as having been received by the intended recipient 48 hours after it was posted.

(3) For the purposes of paragraph (2) a document or information is properly addressed if it is addressed in accordance with paragraph 4 of Schedule 3.

(4) Where—

- (a) the document or information is sent or supplied by electronic means; and
- (b) the CIO is able to show that it was properly addressed,

it is treated as having been received by the intended recipient 48 hours after it was sent.

(5) For the purposes of paragraph (4) a document or information is properly addressed if it is addressed in accordance with paragraph 7 of Schedule 3.

(6) Where the document or information is sent or supplied by means of a website, it is treated as having been received by the intended recipient—

- (a) when the material is first made available on the website; or
- (b) if later, when the intended recipient received (or is treated as having received) notice of the fact that the material is available on the website.

(7) In calculating a period of hours for the purposes of this regulation, no account is to be taken of any part of a day that is—

- (a) a Saturday or Sunday;
- (b) Christmas Day;
- (c) Good Friday; or
- (d) a bank holiday under the Banking and Financial Dealings Act 1971(1) in England and Wales.

(1) 1971 c. 80. There are amendments to the Act not relevant to these Regulations.

(8) This regulation has effect subject to any contrary provision agreed between the CIO and the intended recipient.

Commission's requirements as to form etc of document

54.—(1) Where a document or information is required or authorised to be sent or supplied by a CIO to the Commission, the Commission may—

- (a) require the contents of the document or information to be in a standard form;
 - (b) require the document or information to be produced in the manner the Commission considers fit for the purpose of enabling it to be scanned or copied;
 - (c) require the document or information to be authenticated by a particular person or persons of a particular description;
 - (d) where a requirement is imposed under sub-paragraph (c), specify the means of authentication;
 - (e) specify the means to be used for sending the document or information to the Commission (for example by post or by electronic means);
 - (f) where the document or information is to be sent by electronic means, specify—
 - (i) the hardware or software to be used; and
 - (ii) the requirements as to the technical specifications including protocol, security, anti-virus protection and encryption.
- (2) Any requirements imposed by the Commission under this regulation—
- (a) must not be inconsistent with requirements imposed by any enactment as to the form, authentication or manner of sending the document or information concerned; and
 - (b) must be published by the Commission in such manner as it thinks fit.

Agreement with Commission to send by electronic means

55.—(1) The Commission may agree with a CIO that documents or information relating to the CIO which are required or authorised to be sent or supplied by the CIO to the Commission—

- (a) will be sent or supplied by electronic means, except as provided for in the agreement; and
 - (b) will conform to such requirements as may be specified in the agreement or specified by the Commission in accordance with the agreement.
- (2) An agreement under this regulation may relate to all or any description of document or information to be sent or supplied to the Commission.
- (3) Documents or information in relation to which an agreement is in force under this regulation must be sent or supplied to the Commission in accordance with that agreement.

Requirements for proper delivery to Commission

56.—(1) A document or information sent or supplied by a CIO to the Commission is not properly delivered unless—

- (a) any applicable requirements specified by the Commission under regulation 54 are met; and
 - (b) any applicable requirements under an agreement made under regulation 55 are met.
- (2) Subject to regulation 57, a document or information that is not properly delivered to the Commission is treated for the purposes of the provision requiring or authorising it to be sent or supplied to the Commission as not having been so sent or supplied.

Commission’s power to accept document not properly delivered

57.—(1) The Commission may—

- (a) accept; and
- (b) in any relevant case, issue a certificate of notification in relation to,

a document or information that does not comply with the requirements for proper delivery in regulation 56.

(2) No objection may be taken to the legal consequences of a document or information being accepted by the Commission under this regulation on the grounds that the requirements for proper delivery were not met.

(3) The acceptance by the Commission of a document or information under this regulation does not affect—

- (a) the continuing obligation to comply with the requirements for proper delivery; and
- (b) subject to paragraph (4), any liability for failure to comply with those requirements.

(4) For the purposes of any qualifying provision the period after the document or information is accepted does not count as a period during which there is a default in complying with the requirements for delivery.

(5) In this regulation “qualifying provision” means a provision which imposes a daily default fine for failure to send or supply the document or information.

Replacement of document not properly delivered to Commission

58.—(1) The Commission may accept a replacement for a document or information previously sent or supplied to it that did not comply with the requirements for proper delivery in regulation 56.

(2) A replacement must not be accepted by the Commission unless it is satisfied that it is sent or transmitted by—

- (a) the person by whom the original document or information was sent or supplied; or
- (b) the CIO to which the original document or information relates,

and that it complies with the requirements for proper delivery.

Interpretation of the CIO communications provisions

59.—(1) In the CIO communications provisions—

“address” includes a number or address used for the purpose of sending or receiving documents or information by electronic means;

“charity law provision” means any provision of—

- (a) the 2011 Act⁽²⁾;
- (b) these Regulations;
- (c) the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012⁽³⁾ (“the Dissolution Regulations”); or
- (d) a CIO’s constitution;

but not the provisions of the Insolvency Act 1986 and subordinate legislation as applied in relation to CIOs by the Dissolution Regulations;

“document” includes summons, notice, order or other legal process and registers.

(2) 2011 c.25.

(3) S.I. 2012/3013.

(2) References in the CIO communications provisions to documents or information being sent or supplied by or to a CIO include references to documents or information being sent or supplied by or to the charity trustees of a CIO acting on behalf of the CIO.