

*Status: Point in time view as at 18/02/2011. This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Charities Act (Northern Ireland) 2008, Cross Heading: Nature and constitution. (See end of Document for details)*



## 2008 CHAPTER 12

### PART 11

#### CHARITABLE INCORPORATED ORGANISATIONS

PROSPECTIVE

##### *Nature and constitution*

##### **Nature and constitution**

**105.—**(1) In this Act, a charitable incorporated organisation is referred to as a “CIO”.

- (2) A CIO shall be a body corporate.
- (3) A CIO shall have a constitution.
- (4) A CIO shall have a principal office, which shall be in Northern Ireland.
- (5) A CIO shall have one or more members.
- (6) The members may be either—
  - (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.

##### **Constitution**

**106.—**(1) A CIO's constitution shall state—

- (a) its name,
- (b) its purposes, and

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(c) 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 shall 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 shall also provide for such other matters, and comply with such requirements, as are specified in regulations made by the Department.

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

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

### **Name and status**

**107.**—(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 (c. 46) 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.

(3) Subsection (4) applies if the name of a CIO does not include—

(a) “charitable incorporated organisation”, or

(b) “CIO”, with or without full stops after each letter,

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

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

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### **Civil consequences of failure to disclose name and status**

**108.**—(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 107.

(2) The proceedings shall be dismissed if the defendant to the proceedings (“D”) shows—

- (a) that D has a claim against the CIO arising out of the contract or conveyance that D has been unable to pursue by reason of the failure to comply with section 107, or
- (b) that D has suffered some financial loss in connection with the contract or conveyance by reason of the failure to comply with that section,

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 that person.

### **Offences connected with name and status**

**109.**—(1) In the case of failure, without reasonable excuse, to comply with section 107 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 one-tenth of level 3 on the standard scale.

(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 (c. 46)).

(4) A person who holds any body out as being a CIO when it is not (however the person does this) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) It is a defence for a person charged with an offence under subsection (4) to prove that the person believed on reasonable grounds that the body was a CIO.

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