



Charities Act 2011

2011 CHAPTER 25

PART 11

CHARITABLE INCORPORATED ORGANISATIONS (CIOS)

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.

[^{F1}(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*;

Status: Point in time view as at 14/06/2023.

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- (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.
- [^{F2}(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.

Textual Amendments

- F1** 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))
- F2** 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.

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- (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 [^{F3}Secretary of State].

Textual Amendments

- F3** 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)

[^{F4}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—
- different provision for different purposes, and
 - 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—
- an Act of Parliament or an Act or Measure of Senedd Cymru; or
 - 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

- F4** 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))

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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).
- (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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