
STATUTORY INSTRUMENTS

200X No.

CHARITIES, ENGLAND AND WALES

**The Charitable Incorporated Organisations (Insolvency and
Dissolution) Regulations 200X**

Made - - - - - ***
Laid before Parliament ***
Coming into force - - - - - ***

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These Regulations are made in exercise of the powers conferred by sections 69N and 86 of the Charities Act 1993(a).

(a) 1993 c.10. Section 69N was inserted by the Charities Act 2006 (c.50), Schedule 7, paragraph 1. Section 86 was amended by the Trustee Act 2000 (c.29), Schedule 2, paragraph 2, and Schedule 4, the Charities and Trustee Investment (Scotland) Act 2005 (asp.10), Schedule 3, paragraph 9, and the Charities Act 2006 (c.50), Schedule 7, paragraph 6 and Schedule 8, paragraph 165. The functions exercisable by the Secretary of State under section 86 were transferred to the Minister for the Cabinet Office by the Transfer of Functions (Third Sector, Communities and Equality) Order 2006 (S.I. 2006/2951). There are other amendments to the Charities Act 1993 not relevant to these Regulations.

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The Minister for the Cabinet Office has consulted such persons and bodies of persons as he considers appropriate.

A draft of these Regulations has been approved by a resolution of each House of Parliament pursuant to section 86(2) of that Act.

Accordingly, the Minister for the Cabinet Office makes the following Regulations:

PART 1

GENERAL

CHAPTER 1

CITATION, COMMENCEMENT AND TRANSITIONAL PROVISIONS

Citation and commencement

1. These Regulations may be cited as the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 200X and come into force on .

Transitional provisions

2. Modifications to these Regulations which apply while section 154 of the Criminal Justice Act 2003(a) is not in force are set out in regulation 3.

Modifications applying whilst section 154 of the Criminal Justice Act 2003 is not in force

3.—(1) In relation to an offence committed before section 154 of the Criminal Justice Act 2004 comes into force, any prescribed provision applies with the modification specified in paragraph (2).

(2) The modification is that in each prescribed provision for “twelve months” there is substituted “six months”.

(3) For the purposes of this regulation, “prescribed provision” means a provision of these Regulations that provides that a person is guilty of an offence is liable on summary conviction to imprisonment for a term not exceeding twelve months.

CHAPTER 2

INTERPRETATION

Interpretation

4.—(1) In these Regulations—

“the 1986 Act” means the Insolvency Act 1986(b);

“the 1993 Act” means the Charities Act 1993;

“the CDDA” means the Company Directors Disqualification Act 1986(c);

“company” has the meaning given by section 1(1) of the Companies Act 2006(d);

“corporate property” has the meaning given by paragraph (2);

(a) 2003 c.44.
(b) 1986 c.45
(c) 1986 c.46
(d) 2006 c.46

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“the General Regulations” means the Charitable Incorporated Organisation (General) Regulations 200X(a);

“subordinate legislation” means the subordinate legislation which is applied to CIOs by Schedule 2.

(2) For the purposes of these Regulations “corporate property” means, in relation to a CIO, any property or rights whatsoever (including leasehold property) vested in the CIO immediately prior to its dissolution.

(3) Despite paragraph (2), no property of which the CIO was a trustee immediately prior to its dissolution is corporate property of that CIO.

(4) In these Regulations, “body corporate” includes a body incorporated outside the United Kingdom but does not include—

- (a) a corporation sole; or
- (b) a partnership that, whether or not a legal person, is not regarded as a body corporate under the law by which it is governed.

Liability of charity trustees in default

5.—(1) This regulation has effect for the purpose of any provision in these Regulations to the effect that, in the event of a contravention of any provision of these Regulations, an offence is committed by every charity trustee of the CIO who is in default.

(2) A charity trustee is “in default” for the purposes of the provision if the charity trustee—

- (a) authorises or permits;
- (b) participates in; or
- (c) fails to take reasonable steps to prevent,

the contravention.

Liability of CIO as charity trustee in default

6.—(1) Where a CIO is a charity trustee of another CIO, it does not commit an offence as a charity trustee in default unless one of its charity trustees is in default.

(2) Where any such offence is committed by a CIO the charity trustee in question also commits the offence and is liable to be proceeded and punished accordingly.

(3) In this regulation “in default” has the meaning given by regulation 5.

Liability of a body corporate as charity trustee in default

7.—(1) Regulation 6 applies to a body corporate other than a CIO as it applies to a CIO with the modifications specified in this regulation.

(2) As it applies in relation to a company, the reference to a charity trustee of the CIO is to be read as referring to an officer of the company.

(3) As it applies in relation to a body corporate which is neither a CIO nor a company, the reference to a charity trustee of the CIO is to be read as referring—

- (a) where the body’s affairs are managed by its members, to a member of the body;
- (b) in any other case, to any corresponding officer of the body.

(a) S.I. 200X/XXXX

CHAPTER 3
OFFENCES: GENERAL

Summary proceedings: venue

- 8.**—(1) Summary proceedings for any offence under these Regulations may be taken—
- (a) against a body corporate, at any place at which the body has a place of business, and
 - (b) against any other person, at any place at which he is for the time being.
- (2) This is without prejudice to any jurisdiction exercisable apart from this regulation.

Summary proceedings: time limit for proceedings

- 9.**—(1) An information relating to an offence under these Regulations that is triable by a magistrates' court in England and Wales may be so tried if it is laid—
- (a) at any time within three years after the commission of an offence; and
 - (b) within twelve months after the date on which evidence sufficient in the opinion of the Director of Public Prosecutions to justify the proceedings comes to his knowledge.
- (2) For the purposes of this regulation a certificate of the Director of Public Prosecutions as to the date on which such evidence as is referred to above came to his notice is conclusive evidence.

Legal professional privilege

10. In proceedings against a person for an offence under these Regulations, nothing in these regulations is to be taken to require any person to disclose any information that he is entitled to refuse to disclose on grounds of legal professional privilege.

Production and inspection of documents where offence suspected

- 11.**—(1) An application under this regulation may be made to a judge of the High Court by—
- (a) the Director of Public Prosecutions; or
 - (b) a chief officer of police.
- (2) If on an application under this section there is shown to be reasonable cause to believe—
- (a) that any person has, while a charity trustee of a CIO, committed an offence in connection with the management of the CIO's affairs; and
 - (b) that evidence of the commission of the offence is to be found in any documents in the possession or control of the CIO,
- an order under this regulation may be made.
- (3) The order may—
- (a) authorise any person named in it to inspect the documents in question, or any of them, for the purpose of investigating and obtaining evidence of the offence; or
 - (b) require any charity trustee of the CIO to produce the documents, or any of them, to a person named in the order at a place so named.
- (4) This regulation applies also in relation to documents in the possession or control of a person carrying on the business of banking, so far as they relate to the CIO's affairs, as it applies to documents in the possession or control of the CIO, except that no such order as is referred to in paragraph (3)(b) may be made by virtue of this paragraph.
- (5) The decision under this section of a judge of the High Court is not appealable.
- (6) In this regulation "document" includes information in any recorded form.

CHAPTER 4

RETENTION AND SUPPLY OF INFORMATION BY THE COMMISSION

Retention of documents sent to the Commission

12.—(1) The Commission must retain—

- (a) any document which is sent to it by or on behalf of a CIO under the 1986 Act, the subordinate legislation or any provision of these Regulations; or
- (b) any document which—
 - (i) amends a document previously sent to it under the 1986 Act, the subordinate legislation or any provision of these Regulations; and
 - (ii) is sent by or on behalf of a CIO to the Commission under that legislation or otherwise.

for the qualifying period.

(2) Any document to which paragraph (1) applies must be open to public inspection at all reasonable times during the qualifying period.

(3) In this regulation, the “qualifying period” means the period which—

- (a) starts with the day on which the Commission receives the relevant document; and
- (b) ends on the last day of the two year period beginning on the date on which the CIO to which that document relates, or is treated as relating by virtue of a provision of the General Regulations, is dissolved.

Retention of notices sent to the Commission by the official custodian

13.—(1) The Commission must retain any copy of a notice of disclaimer which is sent to it by the official custodian for a period of two years starting with the day on which the Commission receives it.

(2) Any copy of a notice to which paragraph (1) applies must be open to public inspection at all reasonable times.

Supply by the Commission of copies of documents open to public inspection

14.—(1) The Commission must, at the request of any person, furnish that person with copies of, or extracts from, any relevant document.

(2) In this regulation, “relevant document” means—

- (a) a document —
 - (i) to which regulation 12 applies; and
 - (ii) which is in the possession of the Commission; or
- (b) a copy of a notice—
 - (i) to which regulation 13 applies; and
 - (ii) which is in the possession of the Commission.

PART 2
INSOLVENCY AND WINDING UP
CHAPTER 1
PROCEDURE

Application of the Insolvency Act 1986 to CIOs

15.—(1) The provisions of the 1986 Act specified in paragraph (2) apply to CIOs as they apply to companies registered in England and Wales but as if—

- (a) unless the context otherwise requires, references to a company were references to a CIO;
- (b) references to the registrar of companies were references to the Charity Commission;
- (c) any requirement to send an original document to the registrar of companies were a requirement to send a copy of the relevant original document to the Charity Commission;
- (d) references to the registered office of a company were references to the principal office of a CIO;
- (e) references to a general meeting of a company were references to a meeting of the CIO;
- (f) references to a director, shadow director or officer of a company were references to a charity trustee of a CIO;
- (g) references to a member of a company were references to the member of a CIO;
- (h) references to any provision of the 1986 Act were references to those provisions as they apply to CIOs by virtue of these Regulations;
- (i) references to the memorandum of association and articles of association of a company were references to a CIO's constitution;
- (j) references to the interests of a member of a company were references to the interests of a CIO;
- (k) the modifications specified in Part 1 of Schedule 1 had been made to the provisions specified in that Part of that Schedule;
- (l) the modifications specified in column 2 of Part 2 of Schedule 1 had been made to the provisions specified in column 1 of that Part of that Schedule; and
- (m) such further modifications as the context requires for the purpose of giving effect to the 1986 Act as applied by these Regulations had been made.

(2) The specified provisions of the 1986 Act are—

- (a) in the First Group of Parts—
 - (i) Part 1 other than—
 - (aa) section 7A;
 - (bb) paragraphs 3, 4A to 5, 21, 23 and 44 of Schedule A1; and
 - (cc) paragraph 19 of Schedule 1;
 - (ii) Parts 2 and 3;
 - (iii) Part 4 other than—
 - (aa) sections 75 to 78;
 - (bb) section 83;
 - (cc) section 111;
 - (dd) sections 118 and 119;
 - (ee) sections 124A to 124D; and
 - (ff) section 250;
 - (iv) Parts 6 and 7; and

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- (b) the Third Group of Parts (miscellaneous matters bearing on both company and individual insolvency; general interpretation; final provisions) other than sections 428 and 429.

Application of subordinate legislation made under the Insolvency Act 1986 to CIOs

16.—(1) Subject to paragraph (2), the subordinate legislation specified in Schedule 2 applies to CIOs.

(2) The subordinate legislation specified in Schedule 2 applies to CIOs with such modifications as the context requires for the purpose of giving effect to the provisions of the 1986 Act which are applied to CIOs by these Regulations.

(3) Where there is a conflict between the provision of the subordinate legislation applied by paragraph (1) and any provision of these Regulations, the latter prevails.

CHAPTER 2

PERSONS DISQUALIFIED FOR ACTING AS CHARITY TRUSTEES

Application of the Company Directors Disqualification Act 1986 to CIOs

17.—(1) The specified provisions of the CDDA apply to CIOs as they apply to companies registered in England and Wales but as if—

- (a) references to a company were references to a CIO;
- (b) references to a director of a company were references to a charity trustee of a CIO;
- (c) references to the 1986 Act were to that Act as it applies to CIOs by virtue of this Part of these Regulations;
- (d) subject to paragraph (2), references to the Secretary of State were to the Charity Commission; and
- (e) the modifications specified in column 2 of Schedule 3 had been made to the provisions specified in column 1 of that Schedule.

(2) Paragraph (1)(d) does not apply in relation to sections 9(4) and 20(3)(a)(ii) of the CDDA.

(3) The specified provisions of the CDDA are—

- (a) sections 1, 1A, 6, 7, 8A, 9, 10, 14, 16, 17, 20, 20A, 21 and 22; and
- (b) Schedule 1.

Persons disqualified for being trustees of a charity

18. Section 72 of the 1993 Act applies for the purpose of determining whether a person subject to a disqualification order or a disqualification undertaking under the CDDA, as it applies to CIOs, is disqualified for being a charity trustee or trustee of a charity but as if—

- (a) the references to the Company Directors Disqualification Act 1986 in subsections (1)(f), (3)(a) and (4) included references to that Act as it applies to CIOs by virtue of these Regulations;
- (b) the references to a company in subsection (4) included references to a CIO; and
- (c) the references to a director in subsection (4) included references to a charity trustee of a CIO.

Persons acting as charity trustees while disqualified

19. Where a person subject to a disqualification order or disqualification undertaking under the CDDA, as it applies to CIOs, acts as a charity trustee or a trustee for a charity whilst disqualified for being such a charity trustee by virtue of section 72 of the 1993 Act, as it applies by virtue of these Regulations, section 73 of the 1993 Act applies as if the references to section 72 of that Act were references to that section as it applies by virtue of these Regulations.

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Liability of a person acting as a charity trustee of a CIO whilst disqualified

20.—(1) Where a disqualified person acts as charity trustee of a CIO at any relevant time, that person is personally responsible for all the relevant debts of the CIO.

(2) Where a disqualified person is personally responsible for the relevant debts of the CIO under paragraph (1), that person is jointly and severally liable in respect of those debts with—

- (a) the CIO; and
- (b) any other person who, under this regulation or otherwise, is so liable.

(3) In this regulation—

- (a) “disqualified person” means a person who is subject to a disqualification order or disqualification undertaking under the CDDA, as it applies to CIOs;
- (b) “relevant debts” means, in relation to a person who is personally responsible under paragraph (1), such debts and other liabilities of the CIO as are incurred at a time when that person was acting as a charity trustee of the CIO; and
- (c) “relevant time” means, in relation to a disqualified person, a time when that person was disqualified for being a charity trustee of a CIO by section 72 of the 1993 Act, as it applies by virtue of these Regulations, by reason of being subject to a disqualification order or disqualification undertaking.

PART 3

DISSOLUTION OTHERWISE THAN UNDER THE INSOLVENCY ACT 1986

CHAPTER 1

VOLUNTARY DISSOLUTION

Dissolution on application by CIO

21.—(1) On application by a CIO, the Commission may remove the CIO from the register.

(2) The application—

- (a) must be made on the CIO’s behalf by the charity trustees or by a majority of them; and
- (b) must contain the prescribed information.

(3) The Commission may not remove a CIO from the register under this regulation until after the expiration of three months from the publication by the Commission of a notice—

- (a) stating that the Commission may exercise the power under this regulation in relation to the CIO; and
- (b) inviting any person to show cause why it should not do so.

(4) The notice under paragraph (3) is to be published by the Commission in such manner as it thinks fit having regard in particular to—

- (a) the location of the principal office of the CIO;
- (b) the area in which the CIO operates; and
- (c) the charitable purposes of the CIO.

(5) If a CIO is removed from the register under this regulation—

- (a) it is dissolved on the date on which it is removed from the register; and
- (b) the Commission must publish a notice stating the date on which the CIO was removed from the register.

(6) The notice under paragraph (5)(b) must be published by the Commission in the same manner as the notice published under paragraph (3).

(7) Despite paragraph (5)—

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- (a) the liability (if any) of every charity trustee and member of the CIO continues and may be enforced as if the CIO had not been dissolved; and
 - (b) the court continues to have the power to wind up a CIO the name of which has been removed from the register.
- (8) In this regulation, “prescribed information” means—
- (a) a copy of the resolution that the CIO be dissolved passed by the members of the CIO in accordance with the procedure prescribed in the General Regulations;
 - (b) a declaration made by, or on behalf of the charity trustees of the CIO, that any debts and other liabilities of the CIO have been settled or otherwise provided for in full; and
 - (c) a statement made by, or on behalf of the charity trustees of the CIO, setting out the way in which any property and rights vested in, or held on trust for, the CIO has been or is to be applied prior to its dissolution.

Circumstances in which an application for dissolution must not be made: CIO’s procedures not completed

22.—(1) The charity trustees of a CIO must not make an application under regulation 21 on behalf of the CIO if—

- (a) the CIO has any debts or other liabilities which have not been settled or otherwise provided for in full; or
 - (b) any decision which must be taken for the purpose of giving effect to the directions contained in the CIO’s constitution in compliance with section 69B(2)(c) of the 1993 Act has not been taken.
- (2) It is an offence for a charity trustee to make an application in contravention of paragraph (1).
- (3) In proceedings for such an offence it is a defence for the accused (“A”) to prove—
- (a) if the CIO had outstanding debts or other liabilities at the time the application was made, that A reasonably believed all of the CIO’s debts or other liabilities had been settled in full or otherwise provided for;
 - (b) if any decision required to be taken for the purpose of the directions in the CIO’s constitution, that A reasonably believed the necessary decision had been properly taken.
- (4) A person guilty of an offence under this regulation is liable—
- (a) on conviction on indictment, to a fine;
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.

Circumstances in which an application not to be made: other proceedings not concluded

23.—(1) The charity trustees must not make an application under regulation 21 on behalf of a CIO if—

- (a) a voluntary arrangement in relation to the CIO has been proposed under Part 1 of the 1986 Act, as it applies to CIOs, and the matter has not been finally concluded;
- (b) the CIO is in administration under Part 2 of that Act, as it applies to CIOs;
- (c) paragraph 44 of Schedule B1 to that Act, as it applies to CIOs applies;
- (d) the CIO is being wound up under Part 4 of that Act, as it applies to CIOs, whether voluntarily or by court, or a petition under that Part for winding up of the CIO by the court has been presented and not finally dealt with or withdrawn;
- (e) there is a receiver, manager or interim manager of the CIO’s property.

(2) For the purposes of paragraph (1)(a), the matter is finally concluded if—

- (a) no meetings are to be summoned under section 3 of the 1986 Act, as it applies to CIOs;
- (b) meetings summoned under that section fail to approve the arrangement with no, or the same, modifications;

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- (c) an arrangement approved by meetings summoned under that section has been fully implemented; or
 - (d) the court makes an order under section 6(5) of that Act as it applies to CIOs revoking approval given at previous meetings and, if the court gives any directions under section 6(6) of that Act, the CIO has done whatever it is required to do under those directions.
- (3) It is an offence for a charity trustee to make an application in contravention of paragraph (1).
- (4) In proceedings for such an offence it is a defence for the accused (“A”) to prove that A did not know, and could not reasonably have known, of the existence of the facts that led to the contravention.
- (5) A person guilty of an offence under this regulation is liable—
- (a) on conviction on indictment, to a fine;
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.

Restriction on activities of a CIO following an application for dissolution

24.—(1) In any case where an application under regulation 21 has been made on behalf of a CIO by the charity trustees of the CIO, the CIO must not—

- (a) engage in any activity except one which is necessary or expedient for the purposes of—
 - (i) proceeding with the application;
 - (ii) giving effect to any decision made under the directions included in the CIO’s constitution in compliance with section 69B(2)(c) of the 1993 Act; or
 - (iii) complying with any statutory requirement; or
- (b) otherwise incur any debts or other liabilities.

Copy of application for dissolution to members, employees etc

25.—(1) A charity trustee who makes an application under regulation 21 on behalf of a CIO must secure that, within seven days from the day on which that application was made, a copy of it is given to every person who at any time on that day is—

- (a) a member of the CIO;
- (b) an employee of the CIO; or
- (c) a charity trustee of the CIO.

(2) Paragraph (1) does not require a copy of the application to be given to any charity trustee who is party or privy to the application.

(3) The duty imposed by this regulation ceases to apply if the application is withdrawn before the end of the period for giving the copy application.

(4) Subject to paragraph (5), a charity trustee who fails to comply paragraph (1) commits an offence.

(5) If a charity trustee fails to comply with paragraph (1) with the intention of concealing the making of the application, that charity trustee commits an aggravated offence.

(6) In proceedings for an offence under this regulation it is a defence for the accused (“A”) to prove that A took all reasonable steps to perform the duty imposed on A by paragraph (1).

(7) A person guilty of an aggravated offence under this regulation is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine (or both);
- (b) on summary conviction, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both).

(8) A person guilty of any other offence under this regulation is liable—

- (a) on conviction on indictment, to a fine;

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- (b) on summary conviction, to a fine not exceeding the statutory maximum.

Copy of application: provisions as to service of documents

26.—(1) The following provisions have effect for the purposes of regulation 25.

(2) A document is treated as given to a person (“A”), if it is—

- (a) delivered to A;
- (b) left at A’s proper address; or
- (c) sent by post to A at that address.

(3) For the purposes of paragraph (2) and section 7 (service of documents by post) of the Interpretation Act 1978(a) as it applies in relation to that paragraph, the proper address of a person is—

- (a) in the case of a body corporate incorporated in the United Kingdom, its registered or principal office;
- (b) in the case of a body corporate incorporated outside the United Kingdom—
 - (i) if it has a place of business in the United Kingdom, its principal office in the United Kingdom; or
 - (ii) if it does not have a place of business in the United Kingdom, its registered or principal office;
- (c) in the case of an individual, that individual’s last known address.

Circumstances in which application for dissolution must be withdrawn

27.—(1) This regulation applies where, at any time after the day on which an application is made on behalf of a CIO under regulation 21 and before the day on which the application is finally dealt with or withdrawn—

- (a) an application to the court for an administration order in respect of the CIO is made under paragraph 12 of Schedule B1 to the 1986 Act, as it applies to CIOs, by a person other than the CIO;
- (b) an administrator is appointed in respect of the CIO under paragraph 14 or 22 of Schedule B1 to that Act, as it applies to CIOs, or a copy of notice of intention to appoint an administrator of the CIO under either of those provisions is filed with the court;
- (c) there arise any of the circumstances in which, under section 84(1) of that Act, as it applies to CIOs, the CIO may be voluntarily wound up;
- (d) a petition is presented for the winding up of the CIO by the court under Part 4 of that Act as it applies to CIOs;
- (e) a receiver, manager or interim manager of the CIO’s property is appointed; or
- (f) the CIO incurs any liability contrary to regulation 24.

(2) A person who, at the end of the day on which any of the events mentioned in paragraph (1) occurs, is a charity trustee of the CIO must secure that the CIO’s application is withdrawn immediately.

(3) It is an offence for a person (“A”) to fail to comply with a duty imposed on A by this regulation.

(4) In proceedings for an offence under this regulation it is a defence for A to prove—

- (a) that, at the time of the failure, A was not aware of the fact that the CIO had made an application under regulation 21; or
- (b) that A had taken all reasonable steps to perform the duty.

(a) 1978 c.30

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- (5) A person guilty of an offence under this regulation is liable—
- (a) on conviction on indictment, to a fine;
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.

Circumstances in which an application for dissolution may be withdrawn

28.—(1) An application made under regulation 21 on behalf of a CIO may be withdrawn by notice to the Commission in the circumstances specified in paragraph (2).

(2) The circumstances are that money or other property is donated to the CIO after the date on which the application under regulation 21 was made on behalf of the CIO.

(3) If an application which could be withdrawn under this regulation is not withdrawn the money or other property donated to the CIO must be applied in accordance with the directions contained in the CIO's constitution in compliance with section 69B(2)(c) of the 1993 Act.

CHAPTER 2

ADMINISTRATIVE DISSOLUTION

Dissolution of a CIO no longer in operation

29.—(1) If the Commission has reasonable cause to believe that a CIO is not in operation, the Commission may send to the CIO, by post, a letter inquiring whether the CIO is in operation.

(2) If the Commission does not within one month of sending the letter receive any answer to it, the Commission must within 14 days after the expiration of that month send to the CIO, by post, a registered letter referring to the first letter and stating—

- (a) that no answer has been received; and
- (b) that if an answer is not received to the second letter within one month from its date, a notice of intention will be published with a view to removing the CIO from the register.

(3) Subject to paragraph (4), if the Commission—

- (a) receives an answer to the effect that the CIO is not in operation; or
- (b) does not within one month after sending the second letter receive any answer,

the Commission may publish, in such manner as it thinks fit, a notice of intention that at the expiration of three months from the date of that notice the CIO mentioned in it will, unless cause is shown to the contrary, be removed from the register and so dissolved.

(4) In determining the manner in which to publish its notice of intention under paragraph (3), the Commission must in particular have regard to—

- (a) the location of the principal office of the CIO;
- (b) the area in which the CIO operates; and
- (c) the charitable purposes of the CIO.

(5) A notice of intention published under paragraph (3) must be sent to the CIO.

(6) At the expiration of the time mentioned in the notice of intention, the Commission may, unless cause to the contrary is previously shown by the CIO, remove the CIO from the register.

(7) If a CIO is removed from the register under this regulation—

- (a) it is dissolved on the date on which it is removed from the register; and
- (b) the Commission must publish a notice stating the date on which the CIO was removed from the register.

(8) The notice under paragraph (7)(b) must be published by the Commission in the same manner as the notice published under paragraph (3).

(9) Despite paragraph (7)—

- (a) the liability (if any) of every charity trustee and member of the CIO continues and may be enforced as if the CIO had not been dissolved; and

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- (b) the court continues to have the power to wind up a CIO which has been removed from the register

Dissolution of a CIO which is being wound up

30.—(1) If in a case where a CIO is being wound up—

- (a) the Commission has reasonable cause to believe—
 - (i) no liquidator is acting; or
 - (ii) that the affairs of the CIO are fully wound up; and
- (b) the returns required to be made by the liquidator have not been made for a period of six consecutive months,

the Commission must publish, in such manner as it thinks fit having regard to the matters specified in paragraph (2), a notice of intention that at the expiration of three months from the date of the notice the CIO mentioned in it will be removed from the register and so dissolved.

(2) In determining the manner in which to publish its notice of intention under paragraph (3), the Commission must in particular have regard to—

- (a) the location of the principal office of the CIO;
- (b) the area in which the CIO operated; and
- (c) the charitable purposes of the CIO.

(3) A notice of intention published under paragraph (1) must be sent to the CIO and the liquidator (if any).

(4) At the expiration of the time mentioned in the notice of intention, the Commission may, unless cause to the contrary is previously shown by the CIO, remove the CIO from the register.

(5) If a CIO is removed from the register under this regulation—

- (a) it is dissolved on the date on which it is removed from the register; and
- (b) the Commission must publish a notice stating the date on which the CIO was removed from the register.

(6) The notice under paragraph (5)(b) must be published by the Commission in the same manner as the notice published under paragraph (3).

(7) Despite paragraph (5)—

- (a) the liability (if any) of every charity trustee and member of the CIO continues and may be enforced as if the CIO had not been dissolved; and
- (b) the court continues to have the power to wind up a CIO which has been removed from the register.

Dissolution of a CIO following a decision of the Charity Tribunal or the court

31.—(1) If the Commission removes a CIO from the register following a decision of the court or the Charity Tribunal—

- (a) the CIO is dissolved on the date on which it was removed from the register; and
- (b) the Commission must publish, in such manner as it thinks fit having regard to the matter specified in paragraph (2), a notice stating—
 - (i) that the CIO has been removed from the register; and
 - (ii) the date on which it was so removed.

(2) In determining the manner in which to publish its notice of intention under paragraph (4), the Commission must in particular have regard to—

- (a) the location of the principal office of the CIO;
- (b) the area in which the CIO operates; and
- (c) the charitable purposes of the CIO.

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(3) Despite paragraph (3), the liability (if any) of every charity trustee and member of the CIO continues and may be enforced as if the CIO had not been dissolved.

Supplementary provision as to service of notice or letter

32.—(1) A qualifying document to be sent to a CIO may be addressed—

- (a) to the CIO as its principal office; or
- (b) if its principal office is unknown, to a charity trustee of the CIO.

(2) If there are no charity trustees of the CIO whose names and addresses are known to the Commission, the letter or notice of intention may be sent to the members of the CIO if their addresses are known to the Commission.

(3) A notice of intention to be sent to a liquidator under regulation 30 may be addressed to the liquidator at the liquidator's last known place of business.

(4) In this regulation “qualifying document” means, in relation to a CIO—

- (a) a letter to which regulation 29 applies; or
- (b) a notice of intention to which regulation 30 applies.

PART 4

APPLICATION OF THE PROPERTY OF A CIO WHICH IS DISSOLVED

CHAPTER 1

APPOINTMENT OF OFFICIAL CUSTODIAN OF TRUSTEE OF THE PROPERTY

Transfer of property to official custodian on dissolution of a CIO

33.—(1) Where a CIO is dissolved otherwise than under the 1986 Act, as it applies to CIOs, all property and rights whatsoever (including leasehold property) vested in or held on trust for the CIO immediately before its dissolution vests in the official custodian and—

- (a) is to be transferred to the official custodian; or,
- (b) if the property cannot be transferred automatically under paragraph (a), becomes subject to the right of the official custodian to require it to be transferred to the official custodian.

(2) Any corporate property which vests in and is transferred to the official custodian—

- (a) under paragraph (1)(a) following a waiver of the right under regulation 37; or
- (b) following the exercise of a right acquired under paragraph (1),

is deemed to be held on trust by the official custodian for the furtherance of such charitable purposes as are specified in an order made by the Commission.

(3) An order made by the Commission for the purposes of paragraph (2) must be made in accordance with regulation 35.

(4) This regulation has effect subject to—

- (a) regulation 34; and
- (b) the possible restoration of a CIO to the register of charities under Part 4 of these Regulations.

Transfer of property to official custodian on dissolution of a CIO under Part 3: supplementary

34.—(1) Regulation 33(1)—

- (a) applies to any property held by the CIO, immediately prior to its dissolution, on trust for the furtherance of its charitable purposes; but

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- (b) does not apply to any property held by the CIO, immediately prior to its dissolution, on trust for any other person.
- (2) The official custodian—
 - (a) may disclaim title to any property required to be transferred to him under regulation 33(1)(a) in accordance with regulation 37; but
 - (b) subject to paragraph (3), must exercise all of the rights acquired under regulation 33(1)(b).
- (3) The official custodian is not required to exercise a right acquired under regulation 33(1)(b) if by notice, signed by him or on his behalf, he disclaims title to the property subject to that right.
- (4) Regulation 37(2) to (7) applies to a notice of disclaimer executed under paragraph (3) as if it were a notice of disclaimer executed under paragraph (1) of that regulation.
- (5) Regulations 38 to 43 apply to the property which was, immediately prior execution of the official custodian's notice of disclaimer, subject to the right acquired under regulation 33(1)(b), as if a notice of disclaimer under regulation 37 had been executed in respect of that property.
- (6) The official custodian is not prevented from exercising the rights mentioned in paragraph (2)(a) or (4) by the Commission making an order under regulation 33(2).
- (7) The official custodian may not dispose of any property which vests in him under regulation 33 otherwise than in accordance with—
 - (a) an order of the Commission made under regulation 33(2); or
 - (b) the rights mentioned in paragraphs (2)(a) and (4) of this regulation.

Power of the Commission to make an order specifying charitable purposes

- 35.**—(1) In determining what charitable purposes to specify in an order made under regulation 33(2), the Commission must have regard to—
- (a) the directions included in the relevant CIO's constitution in compliance with section 69B(2)(c) of the 1993 Act;
 - (b) the desirability of securing that the property of the CIO is applied for charitable purposes which are close to the charitable purposes of that CIO immediately prior to its dissolution; and
 - (c) the need for the property to be applicable for purposes which are suitable and effective in light of the current social and economic circumstances.
- (2) The Commission may not make an order under regulation 33(2) before the expiry of the period of three months which starts on the date on which the relevant CIO was removed from the register.
- (3) In addition, section 20 of the 1993 Act applies to an order to be made under regulation 33(2) as it applies to an order to be made under that Act to establish a scheme for the administration of a charity.

Termination of a trust established under regulation 33

- 36.**—(1) Section 21(2) to (4) of the 1993 Act applies in any case where property has vested in and is held on trust by the official custodian in accordance with regulation 33 but as if—
- (a) references to property being vested in the official custodian in trust for a charity were references to property being vested in and held on trust by the official custodian for such charitable purposes as are specified in an order made by the Commission;
 - (b) the words “or the trusts on which he holds any property come to an end” had been omitted from subsection (3); and
 - (c) under subsection (3) the court had the power to revoke an order made by the Commission under regulation 33(2).

CHAPTER 2

DISCLAIMER OF PROPERTY BY THE OFFICIAL CUSTODIAN

Disclaimer of property by the official custodian

37.—(1) Where property—

- (a) vests in the official custodian under regulation 33; and
- (b) is required to be transferred to the official custodian under paragraph (1)(a) of that regulation,

the official custodian may by notice disclaim title to any or all of that property.

(2) The right to execute a notice of disclaimer under this regulation may be waived by or on behalf of the official custodian either expressly or by taking possession.

(3) A notice of disclaimer must be executed within three years after—

- (a) the date on which the fact that the property may have vested in the official custodian under regulation 33, or the official custodian may have acquired a right to call for its transfer, first comes to the notice of the official custodian; or
- (b) if ownership of the property is not established at that date, the end of the period reasonably necessary for the official custodian to establish ownership of the property.

(4) If an application in writing is made to the official custodian by a person interested in the property requiring him to decide whether the official custodian will or will not disclaim, any notice of disclaimer must be executed within twelve months after the making of the application or such further period as may be allowed by the court.

(5) A notice of disclaimer has no effect if it is shown to have been executed after the end of the period specified in paragraph (3) or (4).

(6) A notice of disclaimer—

- (a) may be in such form as the official custodian thinks fit; but
- (b) must be signed by, or on behalf of, the official custodian.

(7) If a notice of disclaimer is executed under this regulation, the official custodian must—

- (a) send a copy of the notice to—
 - (i) the Commission; and
 - (ii) any person who has given notice to the official custodian that they claim to be interested in the property; and
- (b) publish the notice in such manner as the official custodian thinks fit having regard in particular to the manner in which the Commission published a notice relating to the CIO under any provision of this Part.

Effect of a disclaimer by the official custodian

38.—(1) Where a notice of disclaimer is executed under regulation 37 as respects any property, that property is deemed not to have vested in the official custodian under regulation 33.

(2) Regulations 39 to 43 contain provision as to the effect of the official custodian disclaimer.

General effect of disclaimer

39.—(1) The official custodian's disclaimer operates so as to terminate, as from the date of the disclaimer, the rights, interests and liabilities of the CIO in or in respect of the property disclaimed.

(2) It does not, except so far as is necessary for the purpose of releasing the CIO from any liability, affect the liabilities of any other person.

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Disclaimer of leaseholds

40.—(1) The disclaimer of any property of a leasehold character does not take effect unless a copy of the disclaimer has been served (so far as the official custodian is aware of their addresses) on every person claiming under the CIO as underlessee or mortgagee and either—

- (a) no application under regulation 41 is made with respect to that property before the end of the period of 14 days beginning with the day on which the last notice under this subparagraph was served; or
- (b) where such an application has been made, the court directs the disclaimer shall take effect.

(2) Where the court gives a direction under paragraph (1)(b) it may also, instead of or in addition to any order it makes under regulation 41, make such order as it thinks fit with respect to fixtures, tenant's improvements and other matters arising out of the lease.

Power of court to make a vesting order

41.—(1) The court may on application by a person who—

- (a) claims an interest in the disclaimed property; or
- (b) is under a liability in respect of the disclaimed property that is not discharged by the disclaimer,

make an order under this regulation in respect of the property.

(2) An order under this regulation is an order for the vesting of the disclaimed property in, or its delivery to—

- (a) a person entitled to it (or a trustee for such a person); or
- (b) a person subject to a liability as is mentioned in paragraph (1)(b) (or a trustee for such a person).

(3) An order may only be made where it appear to the court that it would be just to do so for the purpose of compensating the person subject to the liability in respect of the disclaimer.

(4) An order under this regulation may be made on such terms as the court thinks fit.

(5) On a vesting order being made under this regulation, the property comprised in it vests in the person named in that behalf in the order without conveyance, assignment or transfer.

Protection of persons holding under a lease

42.—(1) The court must not make an order under regulation 41 vesting property of a leasehold nature in a person claiming under the CIO as underlessee or mortgagee except on terms making that person—

- (a) subject to the same liabilities and obligations as those to which the CIO was subject under the lease; or
- (b) if the court thinks fit, subject to the same liabilities and obligations as if the lease had been assigned to him.

(2) Where the order relates to only part of the property comprised in the lease, paragraph (1) applies as if the lease had comprised only the property comprised in the vesting order.

(3) A person claiming under the CIO as underlessee or mortgagee who declines to accept a vesting order on such terms is excluded from all interest in the property.

(4) If there is no person claiming under the CIO who is willing to accept an order on such terms, the court has power to vest the CIO's estate and interest in the property in any person who is liable (whether personally or in a representative character, and whether alone or jointly with the CIO) to perform the lessee's covenants in the lease.

(5) The court may vest that estate and interest in such person freed and discharged from all estates, incumbrances and interests created by the CIO.

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Land subject to rentcharge

43. Where in consequence of the disclaimer land that is subject to a rentcharge vests in any person (“A”), neither A nor A’s successors in title are subject to any personal liability in respect of sums becoming due under the rentcharge, except sums becoming due after A, or some person claiming under or through A, has taken possession or control of the land or has entered into occupation of it.

PART 5

RESTORATION OF A CIO TO THE REGISTER

CHAPTER 1

PROCEDURE

Power of Commission to restore a CIO to the register

44.—(1) Subject to paragraphs (2) and (5), the Commission may restore to the register a CIO which it has removed from the register.

(2) The Commission cannot restore a CIO to the register if the circumstances in paragraph (3) or (4) apply.

(3) The circumstances are that—

(a) a order has been made under regulation 33(2); and

(b) either—

(i) the period during which an appeal against that order may be made has expired;

(ii) an appeal was made against that order but that appeal was dismissed and—

(aa) the period during which the decision to dismiss the appeal could have been appealed has expired; or

(bb) all further appeal rights have been exhausted;

(iii) an appeal was made against that order but that appeal, or any further appeal, has been withdrawn.

(4) The circumstances are that the court has made an order under section 21 of the 1993 Act, as it applies by virtue of these Regulations, discharging the official custodian from his trusteeship.

(5) The Commission must restore to the register the name of any CIO which the tribunal or the court directs is to be restored to the register.

(6) The Commission must give notice of the restoration of a CIO to the register in such manner as it thinks fit having regard in particular to—

(a) the location of the principal office of the CIO immediately prior to its dissolution;

(b) the area in which the CIO operated immediately prior to its dissolution; and

(c) the charitable purposes of the CIO specified in its constitution.

Restoration by the court

45.—(1) An application may be made to the court to restore to the register a CIO—

(a) that has been dissolved under Chapter 9 of Part 4 of the 1986 Act, as it applies to CIOs; or

(b) that is deemed to have been dissolved under paragraph 84(6) of Schedule B1 to that Act, as it applies to CIOs.

(2) An application may be made under this regulation by—

(a) subject to paragraph (3), the Commission;

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- (b) any person who was a charity trustee of the CIO immediately prior to its dissolution;
- (c) any person having an interest in land in which the CIO had a superior or derivative interest;
- (d) any person having an interest in land or other property—
 - (i) that was subject to rights vested in the CIO; or
 - (ii) that was benefitted by obligations owed by the CIO;
- (e) any person who but for the CIO's dissolution would have had a contractual relationship with it;
- (f) any person who has a potential legal claim against the CIO;
- (g) any manager or trustee of a pension fund established for the benefit of employees of the CIO;
- (h) any person who was a member of the CIO immediately prior to its dissolution (or the personal representatives of such a person);
- (i) any person who was a creditor of the CIO at the time of its dissolution;
- (j) any former liquidator of the company; or
- (k) any other person appearing to the court to have an interest in the matter.

When the application to the court may be made

46.—(1) An application to the court for restoration of a CIO to the register may be made at any time for the purpose of bringing proceedings against the CIO for damages for personal injury.

(2) The court must not make an order under paragraph (1) if it appears to the court that the proceedings would fail by virtue of any enactment as to the time within which proceedings must be brought.

(3) In making that decision the court must have regard to its power under regulation 49 to direct that the period between the dissolution of the CIO and the making of the order is not to count for the purposes of any such enactment.

(4) In any other case an application for restoration of a CIO to the register may not be made after the end of the period of six years from the date of the dissolution of the CIO.

(5) For the purposes of this regulation—

- (a) “personal injury” includes any disease and any impairment of a person's physical or mental condition; and
- (b) references to damages for personal injury include any sum claimed by virtue of section 1(2)(c) of the Law Reform (Miscellaneous Provisions) Act 1934(a).

Decision on application for restoration by the court

47.—(1) On an application under regulation 45 the court may order the restoration of the CIO to the register if the court considers it just to do so.

(2) If the court orders restoration of the CIO to the register, the restoration is to take effect on a copy of the court's order being delivered to the Commission.

(3) Subject to paragraph (4), the Commission must publish a notice of the CIO's restoration in such manner as it thinks fit having regard in particular to—

- (a) the location of the principal office of the CIO immediately prior to its dissolution;
- (b) the area in which the CIO operated immediately prior to its dissolution; and
- (c) the charitable purposes of the CIO specified in its constitution.

(4) A notice published by the Commission under paragraph (4) must state—

(a) 1934 c.41

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- (a) the name of the CIO, or if the CIO is to be restored to the register with a different name (see regulation 48), that name and the name of the CIO immediately prior to its dissolution; and
- (b) the date on which the restoration took effect.

CIO's name on restoration

48.—(1) Subject to paragraph (2), a CIO is restored to the register with the name it had before it was dissolved.

(2) If at the date of restoration, the Commission could refuse to register the CIO on the grounds specified in section 69E(4)(a) of the 1993 Act, the CIO must be restored to the register—

- (a) where the CIO is restored to the register following an application to the court, the name specified in the order made by the court under regulation 47; or
- (b) in any other case, by such name as is specified by the Commission in the notice it publishes under regulation 44.

(3) References to a CIO's being registered in a name, and to registration in that context, are to be read as including the CIO's being restored to the register of charities.

(4) Where a CIO is restored to the register with a name specified either by the court or the Commission, the Commission may give a direction to the charity trustees of the CIO requiring the name of the CIO to be changed, within such period as is specified in the direction, to such other name as the charity trustees of the CIO determine with the approval of the Commission.

(5) A direction cannot be given under paragraph (4) by the Commission after the expiry of the period of 12 months from the date of the CIO's restoration to the register.

(6) Section 6(4) to (6) of the 1993 Act applies to a direction made under paragraph (4) as it applies to a direction made under subsection (1) of that section.

CHAPTER 2

EFFECT OF RESTORATION

Effect of restoration

49.—(1) A restored CIO is—

- (a) revived; and
- (b) subject to paragraphs (2) to (4), is deemed for all purposes to have continued in existence as if it had never been dissolved.

(2) Paragraph (1) does not affect the validity of anything done by the charity trustees of the restored CIO before the date on which it was restored to the register in reliance on consent given by the Commission in accordance with section 41(4) of the 1993 Act or that section as it applies by virtue of section 41(5) of that Act.

(3) The charity trustees of a restored CIO are not liable to any penalty under section 49 of the 1993 Act for the failure to comply, within the period for transmission, with section 45(3) (taken with section 45(4)) or section 48(2) of that Act in respect of any financial year of the CIO which is a pre-restoration financial year.

(4) Regulation 50 applies for the purposes of—

- (a) determining whether the charity trustees of a restored CIO are required, after the CIO's restoration to the register, to prepare and transmit accounts, reports and returns to the Commission in respect of any relevant financial year of the CIO; and
- (b) determining the penalties to be imposed on the charity trustees of the CIO for the failure to transmit, after the CIO's restoration to the register, accounts, reports and returns in respect of any such financial year.

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(5) Where the court orders that a CIO is to be restored to the register, it may give such directions and make such provision as seems just for placing the CIO and all other persons in the same position (as nearly as may be) as if the CIO had not been dissolved.

(6) Despite paragraph (5) the court may not give any directions or make any provision in relation to the matters covered by paragraphs (2) and (4).

Preparation and transmission of accounts, reports and returns in respect of relevant financial years

50.—(1) The provisions of Part 6 of and Schedule 5A to the 1993 apply for the purposes set out in regulation 49(4) as they apply in respect of any other financial year of the restored CIO but as if—

- (a) the modifications specified in Part 1 of Schedule 4 had been made to Part 6 of the 1993 Act;
- (b) the modifications specified in Part 2 of Schedule 4 had been made to Schedule 5A to the 1993 Act; and
- (c) references in Part 6 of and Schedule 5A to provisions of that Part or that Schedule were to those provisions as modified by this regulation.

Effect of restoration where property has transferred to the official custodian

51. On the date of restoration—

- (a) any corporate property of the CIO which is held on trust by the official custodian in accordance with regulation 33, vests in and—
 - (i) is transferred to the CIO; or
 - (ii) become subject to a right of the CIO to call for its transfer under this regulation, as the case may be;
- (b) any right of the official custodian to call for the transfer of property which has not been exercised immediately prior to the date on which the CIO is restored to the register is extinguished.

Interpretation

52. For the purposes of this Chapter—

- (a) “period for transmission” means, in relation to a financial year, the period within which a CIO’s statement of accounts, annual return and annual report must be transmitted to the Commission under Part 6 of the 1993 Act;
- (b) “post-restoration financial year” means, in relation to a restored CIO, the financial year of the CIO which ends immediately after its restoration to the register;
- (c) “pre-restoration financial year” means, in relation to a restored CIO, a financial year in respect of which the period for transmission ended—
 - (i) after the date on which the CIO was dissolved; but
 - (ii) before the date on which the CIO was restored to the register;
- (d) “relevant financial year” means, in relation to a restored CIO, a financial year of the CIO which is—
 - (i) a pre-restoration financial year;
 - (ii) a restoration financial year; or
 - (iii) a post-restoration financial year;
- (e) “restoration financial year” means, in relation to a restored CIO, a financial year of the CIO—
 - (i) which began prior to the date on which the CIO was restored to the register; and

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- (ii) in respect of which the period for transmission—
 - (aa) began before the date on which the CIO was restored to the register; but
 - (bb) ends after the date on which the CIO was restored to the register;
- (f) “restored CIO” means a CIO which is restored to the register under—
 - (i) regulation 44 or
 - (ii) regulation 45.

Signature
Parliamentary Secretary
Cabinet Office

SCHEDULE 1

Regulation 15

MODIFICATIONS TO THE INSOLVENCY ACT 1986

PART 1

PROCEDURAL MODIFICATIONS

Modifications to section 30 of the 1986 Act

1. For section 30 of the 1986 Act, substitution of the following section—

“**30.**—(1) Subject to subsection (2), a body corporate is not qualified for appointment as a receiver of the property of a CIO and any body corporate which acts as such a receiver is liable to a fine.

(2) Subsection (1) does not apply to a body corporate appointed as an interim receiver or manager under section 18 of the Charities Act 1993.”

Modification to section 74 of the 1986 Act

2. For section 74 of the 1986 Act, substitution of the following section—

“**74.**—(1) When—

- (a) a CIO is wound up; and
- (b) the CIO’s constitution states that its members are liable to contribute to its assets if it is wound up,

every present and past member of the CIO is liable to contribute to its assets to any amount sufficient for the payment of its debts and liabilities, and the expenses of winding up, and for the adjustment of the rights of the contributories amongst themselves.

(2) This is subject as follows—

- (a) no contribution is required from any member exceeding the amount specified in the CIO’s constitution under section 69(1)(d) of the Charities Act 1993;
- (b) a past member is not liable to contribute if he has ceased to be a member for one year or more before the commencement of winding up;
- (c) a past member is not liable to contribute in respect of any debt or liability of the CIO contracted after he ceased to be a member;
- (d) a past member is not liable to contribute, unless it appears to the court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act as it applies to CIOs;

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- (e) nothing in the Charities Act 1993 or this Act as it applies to CIOs invalidates any provision contained in a policy of insurance or other contract whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the CIO are alone made liable in respect of the policy or contract.”.

Modification to section 79 of the 1986 Act

3. For section 79 of the 1986 Act, substitution of the following section—

“79.—(1) In this Act the expression “contributory” means every person liable to contribute to the assets of a CIO in the event of its being wound up, and for the purposes of all proceedings for determining, and all proceedings prior to the final determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory.

(2) The reference in subsection (1) to persons liable to contribute to the assets does not include a person so liable by virtue of a declaration under section 213 or 214 of Chapter 10 of this Part.”.

Modification to section 84 of the 1986 Act

4. For section 84 of the 1986 Act, substitution of the following section—

“84—(1) A CIO may be wound up voluntarily if the members pass a resolution—

- (a) requiring the CIO to be wound up; and
- (b) which—
 - (i) satisfies the conditions in subsections (3) to (5); and
 - (ii) in any case where subsection (6) applies, satisfies the conditions in that subsection.

(2) In this Act “a resolution for voluntary winding up” means a resolution falling within subsection (1).

(3) Before the members of a CIO pass a resolution for voluntary winding up, the members of the CIO must give written notice of the resolution to the holder of a qualifying floating charge to which section 72A applies.

(4) Where notice is given under subsection (3) a resolution for voluntary winding-up may be passed only—

- (a) after the end of the period of five business days beginning with the day on which the notice was given; or
- (b) if the person to whom the notice was given has consented in writing to the passing of the resolution.

(5) A resolution for voluntary winding up 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.

(6) Subject to subsections (8) and (9), where a resolution for voluntary winding up is to be proposed at a general meeting of the CIO—

- (a) written notice of not less than 14 days of the general meeting must be given to—
 - (i) all members of the CIO entitled to vote at that meeting by the person calling the meeting; and
 - (ii) any charity trustee of the CIO who is not also a member of the CIO entitled to vote at that meeting; and
- (b) the notice must contain particulars of the resolution that is to be proposed at that meeting.

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(7) For the purposes of subsection (6)(a) the following must not be included in the calculation of the notice period—

- (a) the day of the meeting; and
- (b) the day on which notice is given.

(8) If a qualifying majority agrees, a resolution for voluntary winding up which is to be proposed at a general meeting may be passed without the requirements of subsection (6) being satisfied.

(9) Subsection (3) does not apply to a CIO whose constitution provides that its members for the time being are its charity trustees.

(10) A copy of every resolution for voluntary winding up or (in the case of a resolution that is not in writing) a written memorandum setting out its terms must be sent to the Charity Commission within 15 days of the date on which it is passed.

(11) If a CIO fails to comply with subsection (10), an offence is committed by every charity trustee of the CIO who is in default.

(12) A person guilty of an offence under subsection (11) is liable on summary conviction 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.

(13) For the purposes of subsection (11), a liquidator of the CIO is treated as a charity trustee of it.

(14) Subject to subsection (15), where a resolution for voluntary winding up is passed otherwise than at a general meeting it is deemed to be passed on the date on which the last member agreed to it.

(15) Subsection (14) does not apply if a provision in the CIO's constitution deems the resolution to have been passed on a date later than that on which the last member agreed to it.

(16) In this section “qualifying majority” means a majority in number of the members of the CIO having the right to attend and vote at the general meeting at which the resolution for voluntary winding up will be proposed, being a majority who represent the requisite percentage of the total voting rights at that meeting of all members.

(17) For the purposes of subsection (16) the requisite percentage is 90% or such higher percentage (not exceeding 95%) as may be specified in the CIO's constitution.”.

Modifications to section 110 of the 1986 Act

5.—(1) The modifications to section 110 of the 1986 Act are specified in this paragraph.

(2) In subsection (1)(a) substitution of “to another body corporate” for “to another company”.

(3) In subsection (2)(a) and (b) substitution of “application in accordance with the directions contained in the CIO's constitution in compliance with section 69B(2)(c)” for “distribution among the members of the transferor company”.

(4) Subsection (4) is omitted.

(5) after subsection (6) insertion of the following subsections—

“(7) For the purposes of this section, a resolution of the CIO is to be treated as a special resolution if it is passed—

- (a) by a 75% majority of the members of the CIO 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 in a general meeting.

(8) Subject to subsection (9), where a resolution treated as a special resolution is passed otherwise than at a general meeting it is deemed to be passed on the date on which the last member agreed to it.

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(9) Subsection (8) does not apply if a provision in the CIO’s constitution deems the resolution to have been passed on a date later than that on which the last member agreed to it.”.

Modification to section 122 of the 1986 Act

6. For section 122 of the 1986 Act substitution of the following section—

“**122**—(1) A CIO may be wound up by the court if—

- (a) the members of the CIO have passed a resolution—
 - (i) that the CIO be wound up by the court; and
 - (i) that satisfies the criteria specified in subsection (2).
- (b) the CIO does not commence its business within a year of its registration in the register of charities or suspends its business for a whole year;
- (c) the CIO is unable to pay its debts;
- (d) at the time when a moratorium for the CIO under section 1A comes to an end, no voluntary arrangement approved under Part 1 has effect in relation to the CIO;
- (e) it is just and equitable in the opinion of the court that the CIO should be wound up.

(2) The criteria are those specified section 84(3) to (5) and (6) to (9) and those provisions apply as if the references to a resolution for voluntary winding up in those provisions included references to a resolution under this section.

(3) Where a qualifying resolution is passed otherwise than at a general meeting, subsections (11) and (12) of section 84 apply for the purposes of determining the date on which the resolution was passed but as if references to a resolution for voluntary winding up in those provisions included references to a resolution under this section.

(4) A copy of every resolution for voluntary winding up or (in the case of a resolution that is not in writing) a written memorandum setting out its terms must be sent to the Charity Commission within 15 days of the date on which it is passed.”.

Modification to section 165 of the 1986 Act

7. After section 165(6) of the 1986 Act insertion of the following subsections—

“(7) For the purposes of this section, a resolution of the CIO is to be treated as a special resolution if it is passed—

- (a) by a 75% majority of the members of the CIO 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 in a general meeting.

(8) Subject to subsection (9), where a resolution treated as a special resolution is passed otherwise than at a general meeting it is deemed to be passed on the date on which the last member agreed to it.

(9) Subsection (8) does not apply if a provision in the CIO’s constitution deems the resolution to have been passed on a date later than that on which the last member agreed to it.”.

Modifications to section 187 of the 1986 Act

8.—(1) The modifications to section 187 of the 1986 Act are specified in this paragraph.

(2) In subsection (1) substitution of “ex gratia payment authorised by the Charity Commission under section 27 of the Charities Act 1993 or the Attorney General” for the words from “payment” to “business”.

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(3) For subsection (2) substitution of the following subsection—

“(2) The liquidator may, after the winding up has commenced, make any such payment if the CIO’s liabilities have been fully satisfied and provision has been made for the expenses of the winding up.”.

(4) In subsection (3) substitution of “be applied in accordance with the directions contained in the CIO’s constitution in compliance with section 69B(2)(c) of the Charities Act 1993” for “the members on winding up.”.

Modifications to section 201 of the 1986 Act

9.—(1) The modifications to section 201 of the 1986 Act are specified in this paragraph.

(2) For subsection (2), substitution of the following subsection—

“(2) The Charity Commission must remove the CIO from the register of charities on the expiration of 3 months from the date on which it received the account and return.

(2A) The CIO is dissolved on the date on which it is removed from that register.”.

(3) Insertion of the following subsection after subsection (4)—

“(4A) Where a CIO is removed from the register of charities in accordance with this section, the Charity Commission must publish a notice in such manner as it thinks fit stating that—

- (a) the CIO has been removed from the register of charities; and
- (b) the date on which the CIO was so removed.

(4B) In determining the manner in which to publish a notice under subsection (4A), the Charity Commission must have regard in particular to—

- (a) the location of the principal office immediately prior to the CIO’s dissolution;
- (b) the area in which the CIO operated immediately prior to its dissolution; and
- (c) the charitable purposes of the CIO immediately prior to its dissolution.”.

Modifications to section 202 of the 1986 Act

10.—(1) The modifications to section 202 of the 1986 Act are specified in this paragraph.

(2) In subsection (5) substitution of “The Commission must remove the CIO from the register of charities on the expiration of 3 months from the date on which it received the application under subsection (2) and the CIO is dissolved on the date on which it is removed from the register” for the words from “On the receipt” to “shall be dissolved”.

(3) Insertion of the following subsections after subsection (5)—

Modifications to section 205 of the 1986 Act

11.—(1) The modifications to section 205 of the 1986 Act are specified in this paragraph.

(2) For subsection (2) substitution of the following subsections—

“(2) The Charity Commission must remove the CIO from the register of charities on the expiration of 3 months from the date on which it received the account and return.

(2A) The CIO is dissolved on the date on which it is removed from the register.”.

(3) Insertion of the following subsections after subsection (7)—

“(6) Where a CIO is removed from the register of charities in accordance with this section, the Charity Commission must publish a notice in such manner as it thinks fit stating that—

- (a) the CIO has been removed from the register of charities; and
- (b) the date on which the CIO was so removed.

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(7) In determining the manner in which to publish a notice under subsection (4A), the Charity Commission must have regard in particular to—

- (a) the location of the principal office immediately prior to the CIO’s dissolution;
- (b) the area in which the CIO operated immediately prior to its dissolution; and
- (c) the charitable purposes of the CIO immediately prior to its dissolution.”.

Modifications to paragraph 82 of Schedule B1 to the 1986 Act

12.—(1) The modifications to paragraph 82 of Schedule B1 to the 1986 Act are specified in this paragraph.

(2) For sub-paragraph (1) substitution of the following sub-paragraphs—

“(1) This paragraph applies where a winding-up order is made for the winding up of a CIO in administration on the presentation of an excepted petition.

(1A) For the purposes of this paragraph “excepted petition” means a petition presented by—

- (a) the Attorney General under section 63(1) of the Charities Act 1993; or
- (b) the Charity Commission under section 63(2) of that Act.”.

(3) In sub-paragraph (2), substitution of “an excepted petition” for “a petition under any of the provisions listed in sub-paragraph (1)”.

Modifications to paragraph 84 of Schedule B1 to the 1986 Act

13.—(1) The modifications to paragraph 84 of Schedule B1 to the 1986 Act are specified in this paragraph.

(2) For sub-paragraph (3) substitution of the following sub-paragraphs—

“(3) On receipt of a notice under sub-paragraph (1), the Charity Commission must publish that notice in such manner as it thinks fit.

(3A) In determining the manner in which to publish a copy of the notice under paragraph (3) the Commission must have regard in particular to—

- (a) the location of the principal office of the CIO;
- (b) the area in which the CIO operates; and
- (c) the charitable purposes of the CIO.

(3B) The appointment of the administrator shall cease to have effect on publication of the notice by the Charity Commission in accordance with paragraph (3A).”.

(3) In sub-paragraph (6) substitution of “publication” for “registration”.

PART 2

MINOR AND MISCELLANEOUS MODIFICATIONS

| <i>Provision of the 1986 Act</i> | <i>Modification(s)</i> |
|---|---|
| The First Group of Parts | |
| Company Insolvency; Companies Winding Up | |
| Part 1 (Company voluntary arrangements) | |
| Section 1 | Omission of subsections (4) to (6). |
| Section 4A | Omission of subsection (5). |
| Section 5 | Omission of subsection (5). |
| Section 6 | In subsection (1)(a), omission of “member”; |

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| | omission of subsection (2A); in subsection (4), omission of “or in the case of an application under subsection (2A), as to the ground mentioned in that subsection”; and omission of subsection (8). Omission of subsection (3). |
| Section 6A | |
| | Part 3 (Receivership) |
| Section 29 | In subsection (1)(a) and (b) omission of “in the Companies Act or”. |
| section 38 | In subsection (1) omission of “for registration”. |
| section 72 | In subsection (1) substitution of “England and Wales” for “either part of Great Britain; and substitution of “Scotland” for “the other part of Great Britain”. |
| Section 73 | In subsection (1) omission “within the meaning given to that expression by section 735 of the Companies Act”. |
| section 88 | Omission of the words from “Any transfer” to “liquidator, and”. |
| section 107 | Substitution of “the liquidator shall apply to the court or the Charity Commission for a scheme directing the application of the property in accordance with the directions of the CIO contained in ” for “ shall (unless the articles otherwise provide) be distributed among the members according to their rights and interests in the company”. |
| section 109 | In subsection (1) omission of “for registration”. |
| Section 111 | In subsection (2) substitution of “he may require the liquidator to abstain from carrying the resolution into effect” for the words from “he may require the liquidator” to “by arbitration under this section”; and omission of subsections (3) and (4). |
| Section 117 | In subsection (2) omission of the words from “Where the amount” to “subject to this section”; and omission of subsections (3) and (7). |
| section 124 | In subsection (1) omission of “or by the designated officer for a magistrates’ court in the exercise of the power conferred by section 87A of the Magistrates’ Court Act 1980 (enforcement of fines imposed on companies)”; omission of subsections (2) and (3); in subsection (3A) substitution of “subsection (1)(d) of section 122 as it applies to CIOs” for “section 122(1)(fa)”; and omission of subsections (4) to (4A). |
| section 126 | Omission of subsection (2). |
| section 127 | In subsection (1) omission of the words from “and any transfer” to “the company’s members”. |
| section 130 | Omission of subsection (3). |
| section 143 | In subsection (1) substitution of “applied in accordance with the directions contained in the |

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| | CIO's constitution in compliance with section 69B(2)(c) of the Charities Act 1993" for "to the persons entitled to it". |
| section 148 | In subsection (1) omission of "the Companies Act or". |
| section 149 | In subsection (1) substitution of "section 150 of this Act" for "the Companies Act or this Act"; and omission of subsections (2) and (3). |
| section 154 | Substitution of "apply any surplus in accordance with the directions contained in the CIO's constitution in compliance with section 69B(2)(c) of the Charities Act 1993" for "distribute any surplus among the persons entitled to it." |
| section 159 | Omission of "and the Companies Acts". |
| section 176A | Omission of subsection (4)(b). |
| section 177 | In subsection (2) omission of "or members generally". |
| section 195 | In subsection (3) omission of "the Companies Act or". |
| section 196 | In paragraph (b) omission of "the Companies Act". |
| section 206 | Omission of subsection (3). |
| section 208 | Omission of subsection (3). |
| section 210 | Omission of subsection (3). |
| section 211 | Omission of subsection (3). |
| section 214 | Omission of subsection (7). |
| section 216 | Omission of "or shadow director" from subsection (1); and Omission of subsection (8). |
| section 217 | Omission of subsection (6). |
| section 218 | In subsection (5) insertion of "as if the CIO were a company" after "a company's affairs". |
| section 235 | In subsection (3)(d) substitution of "body corporate" for "company" in subsection (3)(d). |
| section 249 | In subsection (1), omission of the words "or shadow director" from both places in which they occur. |
| section 251 | Omission of the definition of "shadow director". |
| section 388 | In subsection (4), omission of the definition of "company". |
| section 390 | After subsection (5) insertion of the following subsection— “(6) This section does not apply to a body corporate appointed as an interim receiver or manager under section 18 of the Charities Act 1993.”. |
| section 423 | Substitution of the following subsection for subsection (4)— “(4) In this section “the court” means- (a) the High court; or (b) any county court having jurisdiction to wind up the CIO.”. |

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section 426

Substitution of the following paragraph for paragraph (a) of subsection (10)—

“(a) provision extending to England and Wales and made by or under this Act, as it applies to CIOs, or sections 6, 7, 8A, 11, 13, 14 and 20 (with paragraphs 1 to 4A and 6 to 10 of Schedule 1) of the Company Directors Disqualification Act 1986, as they apply to CIOs”.

Schedules to the 1986 Act

Schedule A1 (Moratorium Where Directors Propose Voluntary Arrangement)

Schedule A1 - paragraph 2

Substitution of the following paragraph for paragraph 2—

“2. A CIO is eligible for a moratorium unless it is excluded from being eligible by virtue of paragraph 4.”

Schedule A1 - paragraph 12

Omission of paragraph 12(3); and

(b) substitution of the following paragraph for sub-paragraph (5)—

“(5) For the purposes of this paragraph “excepted petition” means a petition presented by —

(a) the Attorney General under section 63(1) of the Charities Act 1993; or

(b) the Charity Commission under section 63(2) of that Act.”

Schedule A1 - paragraph 38

In sub-paragraph (1) omission of “member”.

Schedule A1 - paragraph 40

In the opening words of sub-paragraph (2) omission of “member”; and

substitution of the following paragraph for paragraph (a) of sub-paragraph (2)—

“(a) that the CIO’s affairs, business and property are being or have been managed by the charity trustees in a manner which is unfairly prejudicial to—

(i) the interest of its creditors generally;

(ii) the interest of some part of its creditors (including at least the petitioner).”.

Schedule A1 - paragraph 41

Omission of sub-paragraph (5).

Schedule A1 - paragraph 42

Omission of sub-paragraph (3).

Schedule B1 (Administration)

Schedule B1 - paragraph 40

After sub-paragraph (1) insertion of the following sub-paragraph—

“(1A) Subparagraph (1)(b) does not apply to an excepted petition”; and

for sub-paragraph (2) substitution of the following sub-paragraph—

“(2) For the purposes of this paragraph “excepted petition” means a petition presented by —

(a) the Attorney General under section 63(1) of the Charities Act 1993; or

(b) the Charity Commission under section 63(2) of that Act.”.

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| Schedule B1 - paragraph 42 | After sub-paragraph (3) insertion of the following sub-paragraph— “(3A) Sub-paragraph (3) does not apply to an order made on an excepted petition.”; and for sub-paragraph (4) substitution of the following sub-paragraph— “(4) For the purposes of this paragraph “excepted petition” means a petition presented by — (a) the Attorney General under section 63(1) of the Charities Act 1993; or (b) the Charity Commission under section 63(2) of that Act.”. |
| Schedule B1 - paragraph 49 | Omission of sub-paragraph (3)(b). |
| Schedule B1 - paragraph 73 | Omission of sub-paragraph (2)(c). |
| Schedule B1 - paragraph 74 | Omission of references to “member” or “members” from sub-paragraphs (1) and (2); and omission of sub-paragraph (6)(b). |
| Schedule B1 - paragraph 111 | Omission of sub-paragraphs (1A) and (1B). |

SCHEDULE 2

Regulation 16

APPLICATION OF SUBORDINATE LEGISLATION MADE UNDER THE INSOLVENCY ACT 1986

1.—(1) The subordinate legislation made under the 1986 Act specified in sub-paragraph (2) applies to CIOs.

(2) The specified subordinate legislation is—

- (a) The Insolvency Rules 1986;
- (b) The Insolvency Act 1986 (Prescribed Part) Order 2003;
- (c) Insolvency Practitioners Regulations 2005;
- (d) Insolvency Practitioners (Recognised Professional Bodies) Order 1986;
- (e) The Insolvency Proceedings (Monetary Limits) Order 1986;
- (f) Insolvency Practitioners Tribunal (Conduct of Investigations) Rules 1986;
- (g) The Insolvency Regulations 1994, as amended by the Insolvency (Amendment) Regulations 2000;
- (h) The Insolvency Proceedings (Fees) Order 2004;
- (i) Civil Proceedings (Fees) Order 2008

SCHEDULE 3

Regulation 17

MODIFICATIONS TO THE COMPANY DIRECTORS DISQUALIFICATION ACT 1986

| <i>Provision of the 1986 Act</i> | <i>Modification(s)</i> |
|----------------------------------|---|
| section 1 | In subsection (1) substitution of “a court, under section 6, shall” for “a court may, and under |

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| section 1A | section 6 and 9 shall”. Substitution of “section 7” for “sections 7 and 8”. |
| section 6 | Omission of subsection (3C). |
| section 8A | In subsection (2) omission of “himself”; omission of subsection (2A);and For subsection (3) substitution of the following subsection— “(3) In this section “the court” means the High Court.”. |
| section 9 | In subsection (2) omission of the words “and in this section and that Schedule “director” includes a shadow director”. |
| section 16 | Omission of subsection (2); and (b) omission of paragraphs (c) to (e) from subsection (4). |
| section 17 | Omission of subsection (2); For subsection (3) substitution of the following subsection— “(3) Where a person is subject to a disqualification undertaking accepted at any time under section 7, any application for leave for the purposes of section 1A(1)(a) shall be made to the High Court.”; and omission of subsections (3A); in subsection (4) substitution of “section 1(1)(a) or 1A(1)(a)” for “section 1(1)(a), 1A(1)(a) or 9B(4)”; and omission of subsections (5) to (7). |
| section 20 | In subsection (1) substitution of “sections 6, 7 or 10” for “sections 6 to 10, 15 or 19(c)”. |
| section 21 | Omission of subsection (4). |
| section 22 | Omission of subsections (2), (4) and (5); In subsection (6) omission of the definition of “officer”; and omission of subsection (7). |
| Schedule 1 | For paragraph 4 substitution of the following paragraphs— “4. The extent of the charity trustee’s responsibility for the failure by the CIO to comply with— (a) section 48 of the Charities Act 1993; or (b) any obligation imposed by regulations made under section 69Q of that Act— (i) to keep and maintain a register of charity trustees of the CIO; (ii) to keep and maintain a register of members of the CIO; (iii) to keep either of those registers at a specified location; (iv) to keep and maintain a register of charges over the CIO’s assets.”; (b) substitution of the following paragraph for paragraph 4A— “4A. The extent of the charity trustee’s |

responsibility for the failure of the charity trustees of the CIO to comply with section 41 of the Charities Act 1993.”; and

(c) substitution of the following paragraph for paragraph 5—

“5. The extent of the charity trustee’s responsibility for any failure by the charity trustees of the CIO to—

(a) comply with section 42 of the Charities Act 1993; or

(b) any requirement as to form and content of the annual statement of accounts imposed by regulations made under that section.”.

SCHEDULE 4

Regulation 50

SUBMISSION OF ACCOUNTS, REPORTS AND RETURNS IN RESPECT OF RELEVANT FINANCIAL YEARS OF A RESTORED CIO

PART 1

MODIFICATIONS TO PART 6 OF THE 1993 ACT

Modifications to section 42 of the 1993 Act

1.—(1) The modifications to section 42 of the 1993 Act are specified in this paragraph.

(2) The modifications are—

(a) in subsection (1) after “subject to” insertion of “subsection (1A) or (3)”;

(b) after subsection (1), insertion of the following subsection—

“(1A) Subsection (1) above applies only in respect of a financial year of a restored CIO which is a relevant financial year if the Commission requests, in writing, that the charity trustees prepare accounts in respect of that financial year”;

(c) for subsection (4) substitution of the following subsection—

“(4) The charity trustees of a restored CIO shall preserve—

(a) any statement of accounts prepared by them under subsection (1) above in respect of a relevant financial year, or

(b) any account and statement prepared by them under subsection (3) above in respect of such a financial year,

for at least six years from the date on which those accounts are transmitted to the Commission in accordance with subsection (10) or (as the case may be) section 45(3) below.”; and

(d) after subsection (8) insertion of the following subsections—

“(9) Subsection (10) below applies to a relevant financial year of a restored CIO if the Commission—

(a) has made a request in accordance with subsection (1A) above in respect of that financial year; but

(b) has not made a request under section 45(1A) below in respect of that financial year.

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(10) If this subsection applies, the charity trustees of the restored CIO must transmit to the Commission within the required period a copy of the statement of accounts prepared for the financial year in question under subsection (1) above or (as the case may be) a copy of the account and statement so prepared under subsection (3) above together with—

- (a) where the accounts of the CIO for that year have been audited under section 43 below, a copy of the report made by the auditor on that statement of accounts or (as the case may be) on that account and statement;
- (b) where the accounts of the CIO for that year have been examined under section 43 below, a copy of the report made by the person carrying out the examination.

(11) For the purposes of subsection (10) above, “required period” means—

- (a) the period of ten months from the date on which the request was made by the Commission under subsection (1A) above; or
- (b) such longer period as the Commission may for any special reason allow in the case of those accounts.

(12) Any documents transmitted to the Commission under subsection (10) above shall be kept by the Commission for such period as it thinks fit.”.

Modifications to section 43 of the 1993 Act

2.—(1) The modifications to section 43 of the 1993 Act are specified in this paragraph.

(2) The modifications are—

- (a) in subsection (4)(a) substitution of “the date on which the Commission made a request for the accounts in accordance with section 42(1A) above” for “the end of that year”; and
- (b) after section 43(10) of the 1993 Act, insertion of the following subsection—

“(11) Nothing in this section applies in relation to any financial year of a restored CIO—

- (a) which is a relevant financial year; and
- (b) in respect of which the Commission has not made a request for accounts under section 42(1A) above.”.

Modifications to section 45 of the 1993 Act

3.—(1) The modifications to section 45 of the 1993 Act are specified in this paragraph.

(2) The modifications are—

- (a) at the start of subsection (1) insertion of “Subject to subsection (1A) below”;
- (b) after subsection (1) insertion of the following subsection—

“(1A) Subsection (1) above applies only in respect of a financial year of a restored CIO which is a relevant financial year if the Commission requests, in writing, that the charity trustees of that CIO prepare an annual report in respect of that financial year.”;

- (c) for subsection (3) substitution of the following subsection—

“(3) Where the Commission requests that the charity trustees of a restored CIO prepare an annual report in respect of a financial year that is a relevant financial year, the annual report required to be prepared under this section in accordance with that request shall be transmitted to the Commission by the charity trustees—

- (a) within ten months of the date on which the Commission made the relevant request under subsection (1A) above; or
- (b) within such longer period as the Commission may for any special reason allow in the case of that report.”;

- (d) omission of subsections (3A) and (3B); and

- (e) for subsection (5) substitution of the following subsection—

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“(5) The requirement in subsection (4) to attach copies of statements of account or (as the case may be) account and statement and relevant reports made by the auditor or person carrying out the examination of those accounts applies only if the Commission has made a request under section 42(1A) above in respect of the financial year of the restored CIO in respect of which the annual report is to be prepared.”.

Modifications to section 47 of the 1993 Act

4.—(1) The modifications to section 47 of the 1993 Act are specified in this paragraph.

(2) The modifications are—

- (a) in subsection (1) insertion of “42(11) or” after “section”;
- (b) after section 47(5) of the 1993 Act insertion of the following subsections—

“(6) Subject to subsection (7), where any person—

- (a) requests the charity trustees of a restored CIO in writing to provide him with a copy of the CIO’s accounts for a relevant financial year which are not the CIO’s most recent accounts; and
- (b) pays them such reasonable fee (if any) as they may require in respect of the costs of complying with the request,

those trustees must comply with request within the period of two months beginning with the date on which it is made.

(7) The charity trustees of a restored CIO are not required to comply with a request made under subsection (6) above if the Commission has not made a request, in accordance with section 42(1A) above, that accounts be produced for the financial year in question.

(8) For the purposes of subsection (6) above “most recent accounts” has the meaning given by subsection (3) above.

(9) Subject to subsection (10), where any person—

- (a) requests the charity trustees of a restored CIO in writing to provide him with a copy of the CIO’s annual report for a relevant financial year which is not the CIO’s most recent annual report; and
- (b) pays them such reasonable fee (if any) as they may require in respect of the costs of complying with the request,

those trustees shall comply with the request within the period of two months beginning with the date on which it is made.

(10) The charity trustees of a restored CIO are not required to comply with a request made under subsection (9) above if the Commission has not made a request, in accordance with section 45(1A) above, that an annual report be prepared for the financial year in question.

(11) For the purposes of subsection (9) above “most recent annual report” has the meaning given by subsection (5) above.”.

Modifications to section 48 of the 1993 Act

5. For subsection (2) of section 48 of the 1993 Act substitution of the following subsection—

“(2) Where the charity trustees of a restored CIO are required to prepare an annual return in respect of a relevant financial year, those trustees are required to transmit that return to the Commission—

- (a) within the period of ten months beginning with the date on which the CIO is restored to the register; or
- (b) within such longer period as the Commission may for any special reason allow in the case of that return.”.

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Modifications to section 49 of the 1993 Act

- 6.—(1) The modifications to section 49 of the 1993 Act are specified in this paragraph.
- (2) The modifications are—
- (a) for paragraph (a) of subsection (1) substitution of the following paragraph—
“(a) by section 42(10) or 45(3) above (taken with subsection (4), as applicable), or”;
and
 - (b) for paragraph (b) of subsection (1) substitution of the following paragraph—
“(b) by section 47(2), (6) or (9) or 48(2) above”.

Further modifications to Part 6 of the 1993 Act

- 7.—(1) Part 6 of the 1993 Act is further modified in accordance with this paragraph.
- (2) After section 49A insertion of the following section—

“Interpretation of Part 6

49B. For the purposes of this Part—

- (a) “post-restoration financial year” means, in relation to a restored CIO, the financial year of the CIO which ends immediately after its restoration to the register;
- (b) “pre-restoration financial year” means, in relation to a restored CIO, a financial year of the CIO in relation to which the period for transmission to the Commission of the annual report and annual return for that financial year ended—
 - (i) after the date on which the CIO was dissolved; but
 - (ii) before the date on which the CIO was restored to the register;
- (c) “relevant financial year” means a financial year which is—
 - (i) a pre-restoration financial year; or
 - (ii) a restoration financial year;
- (d) “restoration financial year” “restoration financial year” means, in relation to a restored CIO, a financial year of the CIO—
 - (i) which began prior to the date on which the CIO was restored to the register;
and
 - (ii) in respect of which the period for transmission—
 - (aa) began before the date on which the CIO was restored to the register;
but
 - (bb) ends after the date on which the CIO was restored to the register;
- (e) “restored CIO” means a CIO which is restored to the register in accordance with regulations made by the Minister under section 69N of this Act.”.

PART 2

MODIFICATIONS TO SCHEDULE 5A TO THE 1993 ACT

Modifications to paragraph 1 of Schedule 5A to the 1993 Act

8. After paragraph 1(7) insertion of the following sub-paragraphs—
- “(8) Section 49B applies for the purpose of the interpretation of the following terms used in this Schedule—

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- (a) pre-restoration financial year; and
 - (b) relevant financial year.
- (9) In this Schedule “restored parent CIO” means a CIO which—
- (a) is restored to the register in accordance with regulations made by the Minister under section 69N of this Act; and
 - (b) is a parent charity.”.

Modifications to paragraph 3 of Schedule 5A to the 1993 Act

9.—(1) The modifications to paragraph 3 of Schedule 5A to the 1993 Act are specified in this paragraph.

(2) The modifications are—

- (a) in sub-paragraph (6)(a) insertion of “(if the Commission has requested accounts to be prepared under section 42(1A) of this Act in respect of the relevant financial year)” after “Act”; and
- (b) in sub-paragraph (7) substitution of “paragraphs 4 and 4A” for “paragraph 4”.

Insertion of a new paragraph 4A to Schedule 5A to the 1993 Act

10. After paragraph 4 of Schedule 5A to the 1993 Act insertion of the following paragraph—

“Exceptions relating to the requirement to prepare group accounts in respect of relevant financial years

4A.—(1) The requirement in paragraph 3(2) does not apply to the charity trustees of a restored parent CIO in relation to a relevant financial year unless the Commission requests, in writing, that those trustees prepare group accounts for that financial year.

(2) Despite paragraph (1), the Commission may not require the charity trustees of a restored parent CIO to prepare group accounts in respect of a relevant financial year if, by virtue of paragraph 4, the requirement in paragraph 3(2) does not apply to the charity trustees in relation to that financial year.”.

Modifications to paragraph 5 of Schedule 5A to the 1993 Act

11. For paragraph 5(1) of Schedule 5A to the 1993 Act substitution of the following sub-paragraph—

“(1) The charity trustees of a restored parent CIO shall preserve any group accounts required to be prepared by them under paragraph 3(2) in respect of a relevant financial year for at least six years from the date on which those accounts are transmitted to the Commission in accordance with—

- (a) where the Commission has requested that the charity trustees prepare an annual report for that financial year in accordance with section 45(1A) of this Act, paragraph 10; or
- (b) in any other case, paragraph 10A.”.

Modifications to paragraph 6 of Schedule 5A to the 1993 Act

12.—(1) The modifications to paragraph 6 of Schedule 5A to the 1993 Act are specified in this paragraph.

(2) The modifications are—

- (a) for sub-paragraph (3) substitution of the following sub-paragraph—

“(3) This paragraph also applies where—

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- (a) group accounts are prepared for a relevant financial year of a restored parent CIO;
 - (b) the Commission has made a request under section 42(1A) of this Act that the charity trustees of the restored parent CIO prepare accounts under that section of this Act for that year; and
 - (c) the appropriate audit provision applies to the restored parent CIO's own accounts for that year.”
- (b) in sub-paragraph (5) substitution of “the date on which the Commission made a request for the accounts in accordance with paragraph 4A(1)” for “the end of that year.”; and
- (c) for sub-paragraph (8) substitution of the following sub-paragraph—
- “(8) If this paragraph applies in relation to a relevant financial year of a restored parent CIO by virtue of sub-paragraph (1), the appropriate audit provision shall apply in relation to that CIO's own accounts for that year—
- (a) if the Commission has made a request under section 42(1A) that such accounts be prepared for that year; and
 - (b) if such a request has been made, whether or not the appropriate audit requirement would otherwise apply.”.

Modifications to paragraph 10 of Schedule 5A to the 1993 Act

13.—(1) The modifications to paragraph 10 of Schedule 5A to the 1993 Act are specified in this paragraph.

(2) The modifications are—

- (a) for sub-paragraph (1) substitution of the following sub-paragraph—

“(1) This paragraph applies where—

 - (a) group accounts are prepared for a relevant financial year of a restored parent CIO under paragraph 3(2); and
 - (b) the Commission has made a request under section 45(1A) of this Act that the charity trustees of that CIO prepare an annual report in respect of that year.”.
- (b) the omission of sub-paragraph (4); and
- (c) in sub-paragraph (5) substitution of “section 45(3) of this Act” for “sub-paragraph (4) above”.

Insertion of new paragraph 10A of Schedule 5A to the 1993 Act

14. After paragraph 10 of Schedule 5A to the 1993 Act, insertion of the following paragraph—

“Transmission of group accounts to the Commission where no request has been made for an annual report

10A.—(1) This paragraph applies where—

- (a) group accounts are prepared for a relevant financial year of a restored parent CIO under paragraph 3(2); and
 - (b) the Commission has not made a request under section 45(1A) of this Act that the charity trustees of that CIO prepare an annual report in respect of that year.
- (2) If this paragraph applies—
- (a) in any case where the Commission has made a request under section 42(1A) of this Act in respect of that financial year, when transmitted to the Commission under section 42(10) above, the restored parent CIO's own accounts shall have attached to it both—
 - (i) a copy of the group accounts prepared for that year under paragraph 3(2); and
 - (ii) a copy of the report made by the auditor on those accounts;

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- (b) in any other case, a copy of the group accounts prepared for that year under paragraph 3(2) must be transmitted to the Commission by the charity trustees of the CIO within—
 - (i) the period of ten months beginning with the date on which the Commission made a request under paragraph 4A; or
 - (ii) such longer period as the Commission may for special reason allow in the case of those accounts.”.

Insertion of new paragraph 13A of Schedule 5A to the 1993 Act

15. After paragraph 13 of Schedule 5A to the 1993 Act insertion of the following paragraph—

Public inspection of group accounts for relevant financial year

“13A. In section 47(6) of this Act the reference to a CIO’s accounts includes, in relation to a restored parent CIO’s charity trustees who have prepared group accounts in respect of a relevant financial year, the group accounts prepared by them in respect of that year.”.

Modifications to paragraph 14 of Schedule 5A to the 1993 Act

16. For paragraph 14 of the Schedule 5A to the 1993 Act substitution of the following paragraph—

“14.—(1) Section 49(1) of this Act applies in relation to a requirement within sub-paragraph (2) as it applies in relation to a requirement within section 49(1)(a).

(2) A requirement is within this sub-paragraph where it is imposed—

- (a) by section 42(10) (taken with paragraph 10A above);
- (b) by section 45(3) (taken with section 45(4) of this Act and paragraph 10(5) above);
- (c) by paragraph 10A above.

(3) In section 49(1)(b) the reference to section 47(6) of this Act includes a reference to that section as extended by paragraph 13A above.”.