

---

DRAFT STATUTORY INSTRUMENTS

---

**2005 No.**

**CHARITIES**

The Charitable Incorporated Organisation Regulations 2005

<i>Made</i> - - - -	xxxx
<i>Laid before Parliament</i> - - -	xxxx
<i>Coming into force</i> -	- xxxx

The Secretary of State, in exercise of the powers conferred upon him by sections [69B(3)], [69L], [69O] of, and [paragraphs 10(2) and 13 of Schedule 5A to, the Charities Act 1993] and after such consultation as is mentioned in section 86(4) of that Act, where that section applies, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Charitable Incorporated Organisation Regulations 2005 and shall come into force on [            ].

**Interpretation**

2. In these Regulations—

“the 1985 Act” means the Companies Act 1985;

“the 1986 Act” means the Insolvency Act 1986;

“the 1993 Act” means the Charities Act 1993.

**Additional matters to be provided for in a CIO’s constitution**

3. – (1) The constitution of a CIO shall provide for the following matters, in addition to those for which it is required to provide by [section 69B(1) and (2) of the 1993 Act].

(2) The constitution of a CIO must provide -

(a) that none of the income or property of the CIO may be paid or

transferred, directly or indirectly, by way of dividend, bonus or otherwise by way of profit to any member of the CIO; and

(b) that no charity trustee of a CIO shall obtain any form of financial benefit from his position, unless that benefit is authorised by the constitution of the CIO, or by a statutory provision, or by the court or the Commission.

(3) The constitution of a CIO shall contain provisions relating to -

(a) any amplification or restriction of the power given by [paragraph 1(1) of Schedule 5A to the 1993 Act];

(b) retirement from membership of the CIO, and the circumstances in which, and the method by which, membership of the CIO may or shall be terminated

(c) the types of meetings of the members of the CIO, and the procedure for calling such meetings;

(d) the procedure at such meetings, including the number of members who shall form a quorum;

(e) any other authorised process of decision making by the members;

(f) the minimum number of charity trustees required to be in office for the transaction of the business of the CIO (if the minimum number is greater than one);

(g) the maximum number of charity trustees of the CIO who may be appointed (if the maximum number is limited);

(h) the appointment as charity trustees of the CIO of persons under the age of 18 years (if that is to be permitted), and any restrictions on such appointment;

(i) the types of meetings of the charity trustees of the CIO, and the procedure for calling such meetings;

(j) the procedure at such meetings, including the number of charity trustees who shall form a quorum;

(k) any other authorised process of decision making by the charity trustees;

(l) any amplification or restriction of the power to execute documents given by regulation 8 below;

(m) any amplification or restriction of the power of delegation given by regulation 9(1) below;

(n) any restriction of the power of delegation given by regulation 9(2) below; and

(o) the retirement or removal of the charity trustees of the CIO.

## **Winding up and insolvency of CIOs**

**4.-** (1) Subject to paragraphs (2) to (4) of this regulation, such of the following provisions of the 1986 Act as apply in England and Wales shall apply to CIOs -

(a) Parts I, II, III, IV, VI and VII of the First Group of Parts (company insolvency; companies winding up),

(b) the Third Group of Parts (miscellaneous matters bearing on both company and individual insolvency; general interpretation; final provisions).

(2) The provisions of the 1986 Act referred to in paragraph (1) of this regulation shall apply to CIOs, except where the context otherwise requires, with the following modifications -

(a) references to a company or to a limited company shall be treated as references to a CIO;

(b) references to the registrar of companies shall be treated as references to the Commission;

(c) references to a meeting of a company, or to a company in general meeting, or similar references, shall be treated as references to a meeting of the members of a CIO;

(d) references to a director, to a shadow director, or to an officer of a company shall be treated as references to a charity trustee of a CIO;

(e) references to the 1985 Act, or to any provisions of that Act, or to any provisions of the 1986 Act, shall be treated as references to those Acts or provisions as they apply to CIOs by virtue of these Regulations;

(f) references to the memorandum of association of a company, to the articles of association of a company, and to the memorandum and articles of association of a company, shall be treated as references to the constitution of a CIO;

(g) the modifications set out in Schedule 1 to these Regulations; and

(h) such further modifications as the context requires for the purpose of giving

effect to the 1986 Act as applied to CIOs by these Regulations.

(3) Notwithstanding anything in the previous two paragraphs of this regulation, the Commission shall not be required to record, keep, file, register or publish any document transmitted to it as a consequence of any provision of the 1986 Act which is modified by paragraph (2)(b) above.

(4) But [section 3(8) of the 1993 Act] shall apply to any such document as if it were a copy of the trusts of the CIO to which the document relates, and the Commission may, in addition, use electronic communication as a means of giving better effect to the right of public inspection which is conferred by that section as applied by this regulation.

### **Dissolution of CIOs**

5.– (1) References in this regulation to the 1986 Act shall be treated as references to that Act as applied by regulation 4 above to CIOs.

(2) Subject to paragraph (3) below, it shall be the duty of the charity trustees of a CIO

-

(a) to apply to the Commission for the removal of the CIO from the register of charities if, in accordance with the provisions of its constitution, it has been decided to dissolve the CIO without the CIO being wound up in accordance with the provisions of the 1986 Act; and

(b) to notify the Commission when the liabilities of the CIO have been settled and the remaining property of the CIO has been applied in accordance with the directions referred to in [section 69B(2)(c) of the 1993 Act].

(3) No such application may be made unless the liabilities of the CIO have been settled in full.

(4) Subject to the provisions of paragraph (6) below, the Commission shall remove the CIO from the register when it has received such application and notification.

(5) Subject to the provisions of that paragraph, the Commission shall also remove from the register –

(a) any CIO which it considers is no longer a charity; and

(c) any CIO which does not operate.

(6) The Commission shall not so remove a CIO from the register until after the expiration of 3 months from the publication by it of notice in such manner as it thinks fit, inviting any person to show cause why the CIO should not be removed from the register.

(7) The Commission shall also remove from the register -

(a) any CIO in respect of which it has received -

(i) an account and return in the circumstances stated in section 201(1) of the 1986 Act; or

(ii) an application under section 202(2) of that Act; or

(iii) a notice in the circumstances stated in section 205(1) of that Act,

at the expiration of 3 months from the receipt of such account and return, application or notice;

(b) any CIO which it is required to remove from the register as a consequence of a decision of the Tribunal; and

(c) any CIO which has been dissolved in accordance with [section 69J(3)(b) or section 69K(8)(b) of the 1993 Act].

(8) The operation of paragraph (7)(a) of this regulation is subject to any order under section 201(3) of the 1986 Act, and to any directions under sections 203 or 205(3).

(8) A CIO which is removed from the register otherwise than under paragraph (7)(c) above is dissolved on its removal from the register.

(9) The liability (if any) of every charity trustee and member of a CIO which has been dissolved continues and may be enforced as if the CIO had not been dissolved.

(10) When a CIO is dissolved as the result of its removal from the register under this regulation -

(a) the Commission shall give public notice of such removal in such manner as it thinks fit; and

(b) all property and rights whatsoever vested in or held in trust for the CIO immediately before its dissolution (including leasehold property, and property held by the CIO on trust) shall vest, or the right to call for a transfer of such property and rights shall vest, in the official custodian.

(11) The title to any such property or rights may be disclaimed by the official custodian.

(12) The previous two paragraphs of this regulation have effect subject to and without

prejudice to the restoration of the CIO to the register in accordance with the provisions of regulation 6 below.

(13) Any property which becomes, as the result of the operation of paragraph (10)(b) above, held by the official custodian, other than property which was, immediately before its dissolution, held by the CIO on trust, is held by the official custodian on trust for the furtherance of such charitable purposes as the Commission may by scheme established of its own motion direct.

(14) The Commission may of its own motion establish a scheme in respect of any property which becomes, as the result of the operation of paragraph (10)(b) above, held by the official custodian, and which was, immediately before its dissolution, held by the CIO on trust.

(15) The provisions of section 20 of the 1993 Act shall apply to any scheme established under either of the previous two paragraphs of this regulation.

(16) The provisions of [Schedule 1C to the 1993 Act] shall apply to any such scheme as if it were an order made under section 18(2) of that Act, with the modification that in column 2 of the relevant entry in the Table in Schedule 1C, the following is substituted -

“The persons are any person who was a charity trustee of the CIO immediately before its dissolution, and any other person who is or may be affected by the making of the order.”

(17) No such scheme shall be established until after the expiration of 3 months from the date of the notice referred to in paragraph (10)(a) above.

(18) Nothing in this regulation affects the power of the court to wind up a CIO which has been removed from the register under any provision of this regulation other than paragraph 7(c), except that a CIO shall not be wound up after a scheme has been made in respect of its property under paragraph (13) above, and any period permitted by rules made under [section 2B(3) of the 1993 Act] for appealing against the order establishing that scheme has expired.

### **Restoration of CIOs to the register**

**6. -** (1) The Commission may restore to the register of charities any CIO which has been removed from the register under any provision of regulation 5 above other than paragraph (7)(c).

(2) The Commission shall restore to the register any CIO which has been so removed if the Tribunal so directs.

(3) But no CIO shall be restored to the register after a scheme has been made in respect of its property under paragraph (13) of regulation 5 above, and the period permitted for appealing against the order establishing that scheme has expired.

(4) A CIO which is so restored to the register shall be treated for all purposes as if it had never been removed from the register, and any property or rights transferred to the official custodian by or by virtue of regulation 5(10)(b) above, or the property or rights representing the same, shall vest, or the right to call for a transfer of such property and rights shall vest, in the CIO.

### **Provisions about the administration of CIOs**

7. – (1) The provisions of the 1985 Act specified in the first column of Schedule 2 to these Regulations shall, so far as they apply in England and Wales, apply to CIOs, except where the context otherwise requires, with the following modifications -

(a) references to a company, or to a limited company, or to a company registered in England and Wales shall be treated as references to a CIO;

(b) references to the registrar of companies shall be treated as references to the Commission;

(c) references to a meeting of a company, or to company in general meeting, or similar references, shall be treated as references to a meeting of the members of a CIO;

(d) references to a director, or to a shadow director, or to an officer of a company shall be treated as references to a charity trustee of a CIO;

(e) references to the 1986 Act, or to any provisions of that Act, or to any provisions of the 1985 Act, shall be treated as references to those Acts or provisions as they apply to CIOs by virtue of these Regulations;

(f) references to the memorandum of association of a company, to the articles of association of a company, and to the memorandum and articles of association of a company, shall be treated as references to the constitution of a CIO;

(g) the modifications, if any, specified in the second column of Schedule 2 opposite the provision specified in the first column; and

(h) such further modifications as the context requires for the purpose of giving effect to the 1985 Act as applied to CIOs by these Regulations.

(2) Notwithstanding anything in the previous paragraph of this regulation the Commission shall not be required to record, keep, file, register or publish any document transmitted to it as a consequence of any provision of the 1985 Act which is modified by paragraph (1)(b) above.

(3) But [section 3(8) of the 1993 Act] shall apply to any such document as if it were a copy of the trusts of the CIO to which the document relates, and the Commission may,

in addition, use electronic communication as a means of giving better effect to the right of public inspection which is conferred by that section as applied by this regulation.

### **Procedure of CIOs**

**8.** - (1) Subject to paragraph (3) of this regulation, not less than 21 days notice of any general meeting which is convened to consider the passing of any such resolution as is referred to in [section 69I(4) or section 69K(1) of, or paragraph 14(1) of Schedule 5A to, the 1993 Act] shall be given to all members of a CIO entitled to vote at the meeting.

(2) Subject to that paragraph, the notice shall contain particulars of any resolution which it is intended to propose at the meeting.

(3) If it is so agreed by a majority in number of the members having the right to attend and vote at such a meeting, being a majority together representing not less than 95% of the total voting rights at that meeting, the relevant resolution may be proposed and passed even though the requirements of either or both of the previous two paragraphs of this regulation have not been complied with.

### **Execution of documents by CIOs**

**9.** - Section 60 of the 1993 Act shall apply to a CIO with the following modifications –

(a) In subsections (1), (2), (3), and (7), for “an incorporated body” substitute “a CIO”;

(b) In subsection 3(a), for the words following “signed by” substitute “any two or more of its charity trustees, or, where the CIO has only one charity trustee, by that person”;

(c) Omit subsections 3(b), (4), (5) and (6); and

(d) In subsection (8), for “such a body” substitute “a CIO”, and for paragraphs (a) and (b) substitute “any two or more of its charity trustees, or, where the CIO has only one charity trustee, by that person”.

### **Delegation and the appointment of nominees and custodians**

**10.** – (1) Part IV and section 32 of the Trustee Act 2000 shall apply to a CIO as if it were a charitable trust which is not an exempt charity, and as if the charity trustees of the CIO were the trustees of that trust.

(2) This is subject to the following modifications -

(a) For section 13(1) substitute the following –

“A person who is authorised under section 11 to exercise a function is (whatever the terms of the agency) subject to any specific duties or restrictions attached to the function.”;

(b) Omit subsections (3) to (5) of section 13;

(c) In section 14(1) omit “29 to ”;

(d) In section 17(2), and in section 26, for “this Act” substitute “those provisions of this Act which apply to CIOs by virtue of [regulation 9 of the CIO Regulations 2005]”;

(e) In subsections (2) and (3) of section 21, and in section 26, for “trust instrument” substitute “constitution of the CIO”;

(f) In subsections (1) and (2) of section 23, for “paragraph 3 of Schedule 1” substitute “[paragraph 10 of Schedule 5A to the Charities Act 1993]”;

(g) Omit section 27; and

(h) In section 32(1) omit “or any other enactment or any provision of subordinate legislation, or by the trust instrument”.

(3) Section 25 of the Trustee Act 1925 shall apply to a CIO as if it were a trust, and as if each charity trustee of the CIO were a trustee of that trust.

(4) This is subject to the following modifications -

(a) In subsection 4(a), for “any instrument creating the trust” substitute “the constitution of the CIO”;

(b) In subsection (5), for “single trust so identified” substitute “the constitution of the CIO”;

(c) In subsection (6), for “or details of one trust” substitute “of the CIO”, and after “1925” insert “as it applies to CIOs by virtue of [regulation 9 of the CIO Regulations 2005]”;

(d) In subsection (8) for “instrument creating the trust” substitute “the constitution of the CIO”; and

(e) Omit subsections (9) and (10).

(5) The constitution of a CIO shall not extend the power of delegation conferred by the previous two paragraphs of this regulation.

### **Authentication of documents relating to a CIO**

**11.** - (1) The copy of the proposed constitution of a CIO which is supplied to the Commission in accordance with [section 69E(2)(a) of the 1993 Act], or in accordance

with that section as applied by [section 69G(4) or by section 69I(3) of that Act], shall be in writing, and be signed by or on behalf of the applicant, or each of the applicants.

(2) Any copy resolution which is sent to the Commission pursuant to the provisions of [section 69G(5), section 69I(4), or section 69K(2) of the 1993 Act, or of paragraph 15(1)(a) of schedule 5A to that Act] shall be in writing, and be signed by one or more of the charity trustees of the CIO to which the resolution relates, and shall state the date on which the resolution was passed.

(3) The copy amended constitution of a CIO which is sent to the Commission pursuant to the provisions of [paragraph 15(1)(a) of Schedule 5A to the 1993 Act] shall be in writing, and be signed by one or more of the charity trustees of the CIO.

### **Electronic Communication**

**12.** - (1) Notwithstanding any statutory provision to the contrary, electronic communications may be used for the delivery to the Commission of any document relating to a CIO, to a proposed CIO, or to a dissolved CIO, provided that such delivery is in such form and manner as is directed by the Commission.

(2) No requirement as to the need for writing, or for signature or sealing, shall apply to any such document, but any such document shall be authenticated in such manner as is directed by the Commission.

(3) Where the document relates to a CIO, or to a dissolved CIO, it must contain in a prominent position the name and registered number of the CIO or dissolved CIO to which it relates.

(4) If a document is delivered to the Commission which does not comply with the requirements imposed by or under this regulation, the Commission may serve on the person by whom the document was delivered (or, if there are two or more such persons, on any of them) a notice indicating the respect in which the document does not comply.

(5) Where the Commission serves such a notice, then unless a replacement document -

(a) is delivered to it within 14 days after the service of the notice, and

(b) complies with the requirements of this regulation, or is not rejected by it for failure to comply with those requirements,

the original document shall be deemed not to have been delivered to it.

But for the purposes of any enactment imposing a penalty for failure to deliver, so far as it imposes a penalty for continued contravention, no account shall be taken of the period between the delivery of the original document and the end of the period of 14 days after service of the Commission's notice.

6) In this section references to the delivery of a document include references to the forwarding, lodging, registering, sending or submission of a document and to the giving of a notice, and cognate expressions are to be construed accordingly.

(7) Where electronic communications are used in accordance with the previous paragraphs of this regulation for the delivery of a document to the Commission, the Commission may use electronic communications for the delivery to the CIO of any document in response.

(8) Notwithstanding anything in [paragraph 14(5) of Schedule 5A to the 1993 Act], the Commission may, with the agreement of the relevant CIO, use electronic communications to deliver its consent to the making of the constitutional amendment.

(9) Paragraph (1) of this regulation shall not apply to any document or class of document specified by the Commission.

### **Application of the charity registration provisions of the 1993 Act to the registration of CIOs**

**13.** - (1) The reference to “section 3A” in section 3(3)(a) of the 1993 Act shall, in relation to a CIO, be treated as a reference to section 69F (or, as the case may be, section 69H, or section 69J) of that Act.

(2) Sub-sections (4) to (6) of section 3 shall not apply to CIOs.

(3) The reference to “section 3B” in section 3(8) shall, in relation to a CIO, or proposed CIO, be treated as a reference to [section 69E(2) (including that provision as applied by section 69G(4) and section 69I(3)) of, and paragraph 15(1) of Schedule 5A to, the 1993 Act].

(4) [Section 3A of the 1993 Act] shall not apply to CIOs.

(5) [Subsections (1) and (2) of section 3B of the 1993 Act] shall not apply to CIOs.

(6) [Section 3B(3)] shall apply to CIOs as if “(or the last charity trustees)” and (in paragraph (a)) “if the institution ceases to exist, or” were omitted.

(7) [Section 3B(4)(a)] shall apply to CIOs as if “or with a further copy of the amended constitution sent to the Commission in accordance with [paragraph 15(1) of Schedule 5A below]” were inserted at the end.

### **Appeals against decisions of the Commission relating to CIOs**

**14.** – (1) Schedule 1C to the 1993 Act applies to CIOs with the following modifications.

(2) For the first entry in column 1 of the Table in Schedule 1C substitute the following

-

“Decision of the Commission to refuse or grant an application under [section 69E or section 69F of this Act].

“Decision of the Commission to remove a CIO from the register under any provision of [regulation 5 of the CIO Regulations 2005 other than paragraph 7(c) of that regulation].

Decision of the Commission not to remove a CIO from the register under that regulation.

Decision of the Commission to restore a CIO to the register under [regulation 6] of those Regulations.

Decision of the Commission not to restore a CIO to the register under that regulation.”

(3) In the first entry in column 2 of the Table, for paragraph (b) substitute “the CIO, or any person whose application has been refused under [section 69E of this Act], or, in the case of a CIO which has been dissolved, any person who was, or claims to have been, a charity trustee of the CIO immediately before its dissolution.”

(4) In the Table, insert the following additional rows -

1	2	3
<p>Decision of the Commission to refuse an application for conversion under section 69G.</p> <p>Decision of the Commission to refuse an application for amalgamation under section 69I.</p> <p>Decision of the Commission to refuse confirmation of a transfer resolution under section 69K.</p>	<p>The persons are any institution whose application has been refused or, as the case may be, the CIO which has resolved to transfer its property to another CIO.</p>	<p>Power to quash the decision and</p> <p>(a) to remit the matter to the Commission,</p> <p>(b) direct the Commission to grant the application or, as the case may be, provide the confirmation.</p>
<p>Decision of the Commission to grant an application for amalgamation under section 69I.</p> <p>Decision of the Commission to provide confirmation of a transfer resolution under section 69K.</p>	<p>The persons are any creditor of the CIO which has resolved to amalgamate with another CIO or to transfer its property to another CIO.</p>	<p>Power to quash the decision and (if appropriate) to remit the matter to the Commission.</p>

### **Modification of the Duty of Care**

**15.** - The constitution of a CIO may contain provisions disapplying the duty set out in [paragraph 10(1) of schedule 5A to the 1993 Act], but that duty shall not be disappplied to the extent that a charity trustee of a CIO is exonerated from any of the

following liabilities -

- (a) a liability to pay a fine imposed in criminal proceedings;
- (b) a liability to pay a sum payable to a regulatory authority by way of penalty in respect of non-compliance with any requirement of a regulatory nature (however arising);
- (c) a liability to pay costs of unsuccessfully defending criminal prosecutions for offences arising out of the fraud, dishonesty or wilful or reckless misconduct of the charity trustee;
- (d) a liability to the CIO which results from conduct that the charity trustee knew or must be assumed to have known was not in the best interests of the CIO or about which the person concerned did not care whether it was in the best interests of the CIO or not; or
- (e) any liability to make a payment under sections 213, 214 or 217 of the 1986 Act (as that Act is applied to CIOs by these Regulations) unless, in the case of a liability under section 214, the liability is not based on the knowledge prior to the insolvent liquidation of the CIO (or reckless failure to acquire that knowledge) that there was no reasonable prospect that the CIO would avoid going into insolvent liquidation.

SCHEDULE 1

Regulation 4

MODIFICATIONS TO THE 1986 ACT

<i>Provisions</i>	<i>Modifications</i>
Section 1(those who may propose an arrangement)	Omit subsection (4).
Section 4A (approval of arrangement)	Omit subsection (5).
Section 7A	Omit section 7A.
Section 73 (alternative modes of winding up)	In subsection (1) omit ",within the meaning given to that expression by section 735 of the Companies Act,".
Section 74 (liability as contributories of present and past members)	For section 74 substitute the following -  " <b>74.</b> - When a CIO is wound up, every present and past member of the CIO is liable, to the extent (if any) stated in the constitution of the CIO pursuant to section 69B(1)(d) of the Charities Act 1993, to contribute to its assets to any amount sufficient for payment of its debts and liabilities, and the expenses of the winding up, and for the adjustment of the rights of the contributories among themselves."
Section 75 to 78	Omit sections 75 to 78.
Section 79 (meaning of "contributory")	Omit subsection (3).
Section 83 (companies registered under Companies Act, Part XXII, Chapter II)	Omit section 83.
Section 84 (circumstances in which company may be wound up voluntarily)	
Subsection (1)	In paragraph (b) omit "special" and in paragraph (c) omit "extraordinary".
Subsection (3)	For subsection (3) substitute the following –

	<p>“A copy of any resolution passed under subsection (1) must be sent to the Charity Commission.”</p>
<p>Section 88 (avoidance of share transfers, etc. after winding-up resolution)</p>	<p>Omit section 88.</p>
<p>Section 91 (appointment of liquidator)</p>	<p>After subsection (2) insert -</p> <p>" (3) Subsections (3) and (4) of section 92 shall apply for the purposes of this section as they apply for the purposes of that section."</p>
<p>Section 92 (power to fill vacancy in office of liquidator)</p>	<p>Insert a new subsection (4) as follows –</p> <p>" (4) The quorum required for a meeting of the members of the CIO shall be any quorum required by the CIO constitution for meetings of the members of the CIO and if no requirement for a quorum has been agreed upon the quorum shall be 2 members."</p>
<p>Section 93 (general company meeting at each year's end)</p>	<p>Insert a new subsection (4) as follows -</p> <p>" (4) subsections (3) and (4) of section 92 shall apply for the purposes of this section as they apply for the purposes of that section."</p>
<p>Section 94 (final meeting prior to dissolution)</p>	<p>Insert a new subsection (5A) as follows -</p> <p>" (5A) Subsections (3) and (4) of section 92 shall apply for the purposes of this section as they apply for the purposes of that section."</p>
<p>Section 105 (meetings of company and creditors at each year's end)</p>	<p>Insert a new subsection (5) as follows -</p> <p>" (5) Subsections (3) and (4) of section 92 shall apply for the purposes of this section as they apply for the purposes of that section."</p>
<p>Section 106 (final meeting prior to dissolution)</p>	<p>After subsection (5), insert a new subsection (5A) as follows -</p> <p>" (5A) Subsections (3) and (4) of section 92 shall apply for the purposes of this section as they apply for the purposes of that section."</p>

Section 107 (distribution of CIO's property)	For "(unless the articles otherwise provide) be distributed among the members according to their rights and interests in the company" substitute "be applied in accordance with the directions contained in the constitution of the CIO pursuant to section 69B(2)(c) of the Charities Act 1993."
Section 110 (acceptance of shares, etc., as consideration for sale of company property)	Omit section 110.
Section 111 (dissent from arrangement under section 110)	Omit section 111.
Section 117 (high court and county court jurisdiction)	
subsection (2)	Omit "Where the amount of a company's share capital paid up or credited as paid up does not exceed £120,000, then (subject to this section)", and for "registered" substitute "principal".
subsection (3)	Omit subsection (3).
Subsection (6)	For "registered" substitute "principal" (both places).
Subsection (7)	Omit subsection (7).
Section 122 (circumstances in which company may be wound up by the court)	For subsection (1) substitute the following - <p>" (1) A CIO may be wound up by the court if -</p> <p>(a) the members of the CIO have passed a resolution that the CIO be wound up by the court,</p> <p>(b) the CIO does not commence its business within a year from its incorporation or suspends its business for a whole year,</p> <p>(c) the CIO is unable to pay its debts,</p> <p>(d) at the time at which a moratorium for the CIO under section 1A comes to an end, no voluntary arrangement approved under Part I has effect in relation to the CIO, or</p> <p>(e) the court is of the opinion that it is just and equitable that the CIO should be wound up."</p>

Section 124 (application for winding up)	
Subsection (2)	Omit subsection (2).
Subsection (3)	Omit subsection (3).
Subsection (3A)	In subsection (3A), for “section 122(1)(fa)” substitute “section 122(1)(d)”.
Subsection (4)	Omit subsection (4).
Section 124A (petition for winding-up on grounds of public interest)	Omit section 124A.
Section 126 (power to stay or restrain proceedings against company)	Omit subsection (2).
Section 127 (avoidance of property dispositions, etc.)	Omit "transfer of shares or".
Section 130 (consequences of winding-up order)	.
Subsection (1)	Omit “who shall enter it in his records relating to the company”.
Subsection (3)	Omit subsection (3).
Section 149 (debts due from contributory to company)	
subsection (1)	Omit "the Companies Act or".
subsection (2)	Omit subsection (2).
subsection (3)	Omit ", whether limited or unlimited,".
Section 154	For “persons entitled to it” substitute “in accordance with the directions contained in the constitution of the CIO pursuant to section 69B(2)(c) of the Charities Act 1993.”

Section 165 (voluntary winding up)	
subsection (2)	In paragraph (a) for “an extraordinary” substitute “a”.
subsection (4)	In paragraph (c) omit “special or extraordinary”.
new subsection (4A)	Insert a new subsection (4A) as follows -  " (4A) Subsections (3) and (4) of section 92 shall apply for the purposes of this section as they apply for the purposes of that section."
Section 171 (removal, etc. (voluntary winding up))	Insert a new subsection (7) as follows –  " (7) Subsections (3) and (4) of section 92 are to apply for the purposes of this section as they apply for the purposes of that section."
Section 187 (power to make over assets to employees)	Omit section 187.
Section 194 (resolutions passed at adjourned meetings)	After "contributories" insert "or of the members of a CIO".
Section 195 (meetings to ascertain wishes of creditors or contributories)	In subsection (3) omit "the Companies Act or".
Section 201 (dissolution, voluntary winding up)	
Subsection (2)	Omit subsection (2).

Subsection (3)	Omit “However”.
Subsection (4)	Omit “for registration”.
Section 202 (early dissolution (England and Wales))	For subsection (5) substitute the following - “The Secretary of State may on the application of the official receiver or any other person who appears to the Secretary of State to be interested give directions under section 203 at any time before the end of 3 months from the date of the application.”
Section 203	In subsection (6) omit “for registration”.
Section 205	
Subsection (2)	Omit subsection (2).
Subsection (6)	Omit “for registration”.
Section 214 (wrongful trading)	Omit from "but the court shall not" to the end of the subsection.

Section 216 (Restriction on re-use of company names)	
Subsection (1)	Omit “on or after the appointed day”.
Subsection (8)	Omit subsection (8).
Section 217 (personal liability for debts following contravention of s 216).	Omit subsection (8).

Section 249 ("connected with a company")	For section 249 substitute the following -  <p style="text-align: center;"><b>“249.</b> - For the purposes of any provision in this Group of Parts, schedule 5 to the Charities Act 1993 applies for the purpose of determining whether or not a person is connected with a CIO.”</p>
Section 250 ("member" of a company)	Omit section 250.
Section 386 (categories of preferential debts)	In subsections (1) and (2) , omit the words "or an individual".
Section 387 ("the relevant date")	Omit subsections (5) and (6).
Section 388 (meaning of "act as insolvency practitioner")	
subsection (2)	Omit subsection (2).
subsection (3)	Omit subsection (3).
subsection (4)	Omit ""company" means a company within the meaning given by section 735(1) of the Companies Act or a company which may be wound up under Part V of this Act (unregistered companies);" and omit ""interim trustee" and "permanent trustee" mean the same as the Bankruptcy (Scotland) Act 1985".
Section 389 (acting without qualification an offence)	In subsection (1) omit the words "or an individual".
Section 402 (official petitioner)	Omit section 402.
Section 412 (individual insolvency rules (England and Wales))	Omit section 412.

Section 415 (Fees orders (individual insolvency proceedings in England and Wales))	Omit section 415.
Section 416 (monetary limits (companies winding up))	
subsection (1)	Omit the words "section 117(2) (amount of company's share capital determining whether county court has jurisdiction to wind it up);" and the words "section 120(3) (the equivalent as respects sheriff court jurisdiction in Scotland);".
subsection (3)	In subsection (3), omit the words "117(2), 120(3) or".
Section 418 (monetary limits (bankruptcy))	Omit section 418.
Section 420 (insolvent partnerships)	Omit section 420.
Section 421 (insolvent estates of deceased persons)	Omit section 421.
Section 422 (recognised banks, etc.)	Omit section 422.
Section 427 (parliamentary disqualification)	Omit section 427.
Section 429 (disabilities on revocation or administration order against an individual)	Omit section 429.
Section 432 (offences by bodies corporate)	In subsection (2) omit "secretary or".
Section 435 (meaning of "associate")	Omit section 435.
Section 436 (expressions used generally)	The following definition shall be added to the section -  "CIO" means "CIO" has the meaning given it in section 97 of the Charities Act 1993."

Section 436A	Omit section 436A.
Section 437 (transitional provisions, and savings)	Omit section 437.

## SCHEDULE 2

### Regulation 7

#### PROVISIONS OF THE 1985 ACT APPLIED TO CIOs, AND MODIFICATIONS OF THOSE PROVISIONS

<i>Provisions</i>	<i>Modifications</i>
<i>Formalities of Carrying on Business</i>	
36 (company contracts England and Wales)	
36C (pre-incorporation contracts, deeds and obligations)	
37 (bills of exchange and promissory notes)	
38 (execution of deeds abroad)	
39 (power of company to have official seal for use abroad)	In subsection (1), omit the words "whose objects require or comprise the transaction of business in foreign countries may, if authorised by its articles", and before the word "have" insert the word "may".
41 (authentication of documents)	For "director, secretary or other authorised officer" substitute "charity trustee".
<i>Miscellaneous provisions about debentures</i>	
183 (transfer and registration)	
subsection (1)	Omit "shares in or".

subsection (2)	Omit "shareholder or" and "shares in or".
subsection (3)	Omit subsection (3).
subsection (4)	Omit subsection (4).
subsection (5)	Omit "shares or".
184 (certification of transfers)	In subsection (1), omit "shares in or" and "shares or".
185 (duty of company as to issue of certificates)	
subsection (1)	Omit "shares," in each of the four places that it occurs.
subsection (3)	Omit subsection (3).
subsection (4)	Omit "shares or" and "shares,".
<i>Debentures</i>	
190 (register of debenture holders)	
191 (right to inspect register)	
Subsection (1)	In paragraph (a), for the words "or any holder of shares in the company" substitute "or any charity trustee or member of the CIO".
Subsection (2)	Omit "or holder of shares".
subsection (6)	Omit "in the articles or".
192 (liability of trustees of debentures)	
193 (perpetual debentures)	
194 (power to re-issue redeemed debentures)	In subsection (1)(a), omit "in the articles or".

195 (contract to subscribe for debentures)	
196 (payment of debts out of assets subject to floating charge (England and Wales))	
<i>Register of directors</i>	
288 (register of directors and secretaries)	
Subsection (1)	Omit “and secretaries”, and for “sections 289 and 290” substitute “section 289”.
Subsection (2)	Omit subsection (2).
Subsection (3)	For “such fee as may be prescribed” substitute “such reasonable fee (if any) as the charity trustees of the CIO may require”.
Subsection (6)	Omit subsection (6).
289 (particulars of directors to be registered under s288)	
Subsection (1)	Substitute the following -  “The register kept by a CIO under section 288 shall contain the following particulars with respect to each charity trustee -  (a) in the case of an individual -  (I) his present name;  (ii) any former name;  (iii) an address at which he may be contacted.  (b) in the case of a corporation, its corporate name and the address of its registered or principal office.”
Subsection (3)	Omit subsection (3).
Subsection (4)	Omit subsection (4).
<i>Register of members</i>	
352 (obligation to keep and enter up register)	
subsection (3)	Omit sub-section (3).
subsection (3A)	Omit subsection (3A).

Subsection (4)	In subsection (4) omit “does not have a share capital but”.
352A (statement that company has only one member)	
subsection (1)	For “private company limited by shares or by guarantee” substitute “CIO”.
subsection (2)	For “private company limited by shares or by guarantee” substitute “CIO”.
354 (index of members)	
356 (inspection of register and index)	
Subsection (1)	For “such fee as may be prescribed” substitute “such reasonable fee (if any) as the charity trustees of the CIO may require”
Subsection (3)	For “such fee as may be prescribed” substitute “such reasonable fee (if any) as the charity trustees of the CIO may require”
358 (power to close register)	
359 (power of court to rectify register)	
Subsection (1)	After “the court” insert “or the Charity Commission”.
Subsection (2)	After “the court” insert “or the Charity Commission” and omit the words following “the register”.
Subsection (3)	After “the court” insert “or the Charity Commission”.
Subsection (4)	Omit subsection (4).
361 (register to be evidence)	
<i>Holding of meetings</i>	
371 (power of court to order meeting)	
Subsection (1)	Omit “or this Act” and after “the court” insert “or the Charity Commission”.
Subsection (2)	After “the court” insert “or the Charity Commission”.
<i>Records of proceedings</i>	
382 (minutes of meetings)	

Subsection (1)	After “general meetings” insert “and”, and omit “and, where there are managers, all proceedings at meetings of its managers”.
Subsection (3)	Omit subsection (3).
Subsection (4)	Omit “or managers”.
383 (inspection of minute books)	
Subsection (1)	Omit “held on or after 1 <sup>st</sup> November 1929 shall be kept at the company’s registered office, and”.
Subsection (3)	For “such fee as may be prescribed” substitute “such reasonable fee (if any) as the charity trustees of the CIO may require”.
<i>Registration of charges</i>	
The following references are to sections of the 1985 Act which were replaced by section 92 of the Companies Act 1989. They will apply to CIOs until the said section 92 is commenced.	
395 (certain charges void if not registered)	In subsection (1) omit “for registration in the manner required by this Chapter”.
396 (charges which have to be registered)	In subsection (1) omit paragraphs (b) and (g).
397 (formalities of registration (debentures))	In subsection (1) omit “for entry in the register”.
398 (verification of charge on property outside United Kingdom)	
399 (company's duty to register charges it creates)	
Subsection (1)	Omit “for registration”, and for “requiring registration” substitute “particulars of which require to be given”, and for “registration of any such charge may be effected on the application of” substitute “particulars of any such charge may be given by”.
Subsection (2)	Omit subsection (2).
Subsection (3)	For “registration has been effected on the application of” substitute “particulars have been given by”.
400 (charges existing on property acquired)	

Subsection(1)	For the words following “kind”, substitute “particulars of which would, if it had been created by the CIO after the acquisition of the property, have been required to be given to the Charity Commission”.
Subsection (2)	Omit “for registration in manner required by this Chapter”.
403 (entries of satisfaction and release)	For this section substitute the following -  “Where particulars of any charge have been supplied to the Charity Commission in accordance with any of the previous provisions of this Chapter, the charity trustees of a CIO shall inform the Commission in writing if -  (a) the debt for which the charge was given has been paid or satisfied in whole or in part, or  (b) part of the property or undertaking charged has been released from the charge or has ceased to form part of the CIO’s property.”
404 (rectification of register of charges)	For this section substitute the following –  “The Charity Commission may, on the application of the CIO or a person interested, and on such terms and conditions as seem to it just and expedient permit –  (a) the correction of any particulars or information given under any of the preceding provisions of this Chapter; or  (b) the extension of the period allowed by those provisions for the giving of such particulars.”
405 (registration of enforcement of security)	
Subsection (1)	Omit “and the registrar shall enter the fact in the register of charges”.
Subsection (2)	Omit “and the registrar shall enter the fact in the register of charges”.
Subsection (3)	Omit subsection (3).

406 (companies to keep copies of instruments creating charges)	In subsection (1) for “requiring registration under this Chapter to be kept at its registered office” substitute “particulars of which have to be given to the Charity Commission under this Chapter to be kept at its principal office.”
407 (company's register of charges)	In subsection (1), for "registered" substitute "principal".
408 (right to inspect instruments which create charges etc.)	In subsection (1) for “requiring registration under this Chapter with the registrar of companies” substitute “particulars of which are required to be given to the Charity Commission under this Chapter” and omit "in general meeting".
<i>Exclusion of deemed notice</i>	
Section 711A (exclusion of deemed notice)	For subsection (1) substitute the following -  “A person shall not be taken to have notice of any matter relating to a CIO merely because of its being contained in a document which the Charity Commission is required to make available for public inspection in accordance with regulation 4(4) or 7(3) of [the CIO Regulations 2005] or being made available by the CIO for inspection.”
<i>Miscellaneous and supplementary provisions</i>	
721 (production and inspection of books where offence suspected)	In subsection (2)(b), for the words "the secretary of the company or such other" substitute "such".
722 (form of company registers, etc.)	
723 (use of computers for company records)	Omit subsection (2).
723A (obligations of company as to inspections of registers, & etc.)	
726 (costs and expenses in actions by certain limited companies)	Omit subsection (2).
728 (enforcement of High Court orders)	
730 and schedule 24 (punishment of offences)	Omit all provisions which are not relevant to provisions of the 1985 Act which are applied to CIOs by this schedule.
731 (summary proceedings)	
<i>Interpretation</i>	

735A (relationship of this Act to the Insolvency Act).	In subsection (1), delete all the references to provisions of the 1985 Act other than the references to section 728, and delete the words “and also the Company Directors Disqualification Act 1986”.
744 (expressions used generally in this Act)	Omit the definitions of expressions not used in provisions which apply to CIOs and insert the following definition - " "CIO" has the meaning given it in section 97 of the Charities Act 1993."
744A (index of defined expressions)	Omit the references to expressions not used in provisions which apply to CIOs.