

## Charitable Incorporate Organisations

A Charitable Incorporated Organisation (“CIO”) is a new legal structure created specifically for charities. Adopting this structure will enable any charity to secure the benefits of incorporation but, once incorporated as a CIO, registration will be with the Charities Commission (the “Commission”) and not Companies House and CIO’s will be wholly regulated by the Commission under the Charities Acts.

This is a new development because, until now, there has never been a specific structure for legal incorporation of charities, so that, if a charity were to incorporate under present regulations, this can only be achieved as a company under the Companies Act legislation. That alternative arrangement will continue for charities, including those already incorporated, but the new status will allow both charitable companies and unincorporated charities to convert to a CIO and therefore to obtain this new separate legal status.

The route to becoming a CIO will vary depending on the current status of the charity. An existing corporate charity can convert directly to a CIO whereas an unincorporated charity will need first to form a CIO and then to transfer its assets to the organisation.

This is an exciting development and for a number of reasons it is expected that a good number of presently unincorporated charities in particular will seek to take advantage of the CIO structure to change their charity’s status.

For smaller charities, registering and dealing with the Charity Commission will be advantageous because it will involve less onerous requirements in connection with preparing accounts and reporting than if they were incorporated under the Companies Act. For example, CIO’s will only have to prepare an annual report under the Charities Act whereas charitable companies have to meet the requirements of the Companies Act as well as the Charities Acts. This is likely to result in lower costs, and simpler and more flexible governing documents specifically geared to meet the charity’s needs.

What other advantages will be offered by conversion to a CIO? First of all a CIO will become a legal entity in its own right and the trustees and board of management will therefore be much less directly exposed to the liabilities and obligations of the charity. At present that personal liability is not too much of a problem for the trustees and managers of charities which simply receive and hold funds and pay out the income by way of charitable grants but many charities have premises, employ staff, undertake commercial activities and deal with the public, all of which activities expose the charity and, in the case of an unincorporated charity, potentially expose the trustees personally, to liabilities and obligations.

At present it is hoped that draft legislation will be tabled in late spring, with a view to the first CIO being incorporated shortly thereafter.

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*This Article states the law as at 1 February 2010. It is, however, provided for general guidance only and the author accepts no responsibility for any reliance placed upon that general guidance in specific circumstances. If you want to know more about any issues involving charities or charitable trusteeship, please contact Michael on the details above.*

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