

Notes

This draft assumes that the charity is only in England & Wales

There is no need to include the list of powers in square brackets in Clause 4(1) to (5), but it may be helpful to do so. If a charity has specific powers, legal advice should be taken about whether it may wish to include them.

Clause 9(4): these periods ensure that the charity can stand down at the same time.

Clause 20(1) assumes that the CIO will have a

Charitable Incorporated Organisation (CIO) constitution (where the only voting members are the CIO's charity trustees) is set out in the Simply Docs.

Date of constitution: []

1. Name

The name of the Charitable Incorporated Organisation (CIO) is <<full name of charity>>

2. National location of principal office

The CIO must have a principal office in [England][Wales]. The principal office of the CIO is in []

3. Objects

The object[s] of the CIO [is][are]

.....
.....
.....

Nothing in this constitution shall authorise the CIO to dispose of the property of the CIO for the purposes which are not charitable.

4. Powers

The CIO has power to do anything which is necessary for the purposes of its objects, whether its object[s] or is conducive or incidental to doing so.

[In particular, the CIO has power to]

- (1) borrow money and to charge the repayment of the money borrowed on any property of the CIO, whether or not it is mortgage land; of its property as security for the repayment of the money borrowed, so long as it complies as appropriate with sections 85 and 86 of the Charities Act 2011;
- (2) buy, take on lease or in exchange, or otherwise acquire any property and to maintain and equip it for use in connection with its objects; acquire any property and to maintain and equip it for use in connection with its objects;
- (3) sell, lease or otherwise dispose of any property belonging to the CIO. In exercising this power, the CIO must comply as appropriate with sections 117 and 118 of the Charities Act 2011.

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- for carrying out the work of the trustee only to the extent that it is limited to charity trustees and the conditions of that clause;

- manager and arrange for the
in the name of a nominee, in the
the trustees of a trust are

and solely towards the promotion of

- and solely towards the promotion of

- from the property of the CIO or
expenses properly incurred by him or

- liability insurance cover purchased
and subject to the conditions in,

- aid or transferred directly or
way of profit to any member of the

- or connected person receiving any

Connected persons

Trustee or connected person may

- Trustee or connected person may

- charity trustee or connected

- from the CIO on terms preferential
e public;

- land to the CIO;

- generation from, the CIO;

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is a benefit, direct or indirect, which

- (c) A charity trustee or connected person must not receive a benefit from the CIO as a beneficiary of the CIO if the majority of the trustees do not benefit as a beneficiary of the CIO or if it is available generally to the beneficiaries of the CIO.
- (2) In sub-clauses (1) of this clause:
 - (a) "the CIO" includes a company in which the CIO:
 - (i) holds more than 10% of the shares; or
 - (ii) controls more than 10% of the rights attached to the shares; or
 - (iii) has the right to appoint or remove directors to the board of the company;
 - (b) "connected person" has the same meaning as in the definition set out in clause 29 (Interpretation);

7. Conflicts of interest and conflicts of duty

A charity trustee must:

- (1) declare the nature and extent of any direct or indirect, which he or she has in connection with a proposed transaction or arrangement entered into by the CIO or in any transaction or arrangement previously been declared; and
- (2) absent himself or herself from any meeting of the charity trustees in which it is possible that a conflict of interest or conflict of duty between his or her duty to act solely in the interests of the CIO and any personal interest or interest of the charity (other than the charity's financial interest) may arise, but not limited to any financial interest.

Any charity trustee absenting himself or herself from a meeting of the charity trustees in accordance with this clause must not vote or be counted as voting by the charity trustees on the matter.

8. Liability of members to contribute to the assets of the CIO if it is wound up.

If the CIO is wound up, the members of the CIO shall be liable to contribute to its assets and to the payment of its debts in proportion to the amount of their liability to contribute to its assets and to the payment of its debts.

9. Charity trustees

(1) Functions and duties of charity trustees

The charity trustees shall manage the CIO and exercise the powers of the CIO. It is the duty of the charity trustees to ensure that the CIO is managed in accordance with the purposes of the CIO and that the CIO is managed in accordance with the purposes of the CIO.

- (a) to exercise his or her functions in his or her capacity as a trustee and in accordance with the purposes of the CIO; and
- (b) to exercise, in the performance of his or her functions, such care and skill as is reasonable in the circumstances, having regard to the purposes of the CIO and to the interests of the charity.

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(i) any special knowledge or experience that he or she has or holds himself or herself

(ii) if he or she acquires such knowledge or experience of the CIO in the course of a business or professional knowledge or experience that it is reasonable to expect him or her to bring in the course of that kind of business or professional

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(2) Eligibility for trusteeship

(a) Every charity trustee must be a natural person.

(b) No individual may be appointed as a trustee of the CIO:

- if he or she is under 18 years of age;

- if he or she would be disqualified from holding office under the provisions of clause 12(1)(f).

(c) No one is entitled to be appointed or re-appointed until he or she has been acknowledged, in whatever way, by the charity trustees or the charity trustee, as a trustee of the office of charity trustee.

(d) [At least one of the trustees must be 18 years of age or over. If there is no trustee aged 18 years or over, the remaining trustees may only act to call a meeting of the charity trustees to appoint a new charity trustee.] **OR** [All of the trustees of the CIO must be 18 years of age or over.]

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(3) Number of charity trustees

(a) There must be at least [three] charity trustees. If the number falls below this minimum, the charity trustees must call a meeting of the charity trustees to appoint a new charity trustee.

(b) The maximum number of charity trustees may not exceed the maximum number of charity trustees that the charity trustees may not appoint if the number of charity trustees would exceed the maximum.

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(4) First charity trustees

The first charity trustees are as follows or the following terms;

<<full name and title of each trustee
<<full name and title of each trustee
<<full name and title of each trustee

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10. Appointment of charity trustees

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- (1) Apart from the first charity trustee, the charity trustee must be appointed for a term of [three] years by a resolution of the charity trustees at a specially convened meeting of the charity trustees.

- (2) In selecting individuals for appointment as charity trustees, the charity trustees must have regard to the skills, knowledge and experience needed for the effective administration of the CIO.

11. Information for new charity trustees

The charity trustees will make available to each new charity trustee, on or before his or her first appointment:

- (a) a copy of the current annual report; and
- (b) a copy of the CIO's annual report and statement of accounts.

12. Retirement and removal of charity trustees

- (1) A charity trustee ceases to hold office if:
- (a) he or she retires by notifying the charity trustees in writing if enough charity trustees will remain in office when he or she retires and a meeting takes effect to form a quorum for the charity trustees;
 - (b) he or she is absent without the authority of the charity trustees from all their meetings held within a period of six months and the charity trustees resolve that his or her office should be vacated;
 - (c) he or she dies;
 - (d) he or she is, in the written opinion of a registered medical practitioner or a registered mental health professional, treating that person, permanently or temporarily incapable of acting as a charity trustee and for a period of more than three months;
 - (e) he or she is removed by the charity trustees in accordance with sub-clause (2) of this clause; or
 - (f) he or she is disqualified from acting as a charity trustee by virtue of sections 178-180 of the Charities Act 2006 (disqualification on grounds of bankruptcy or conviction of an offence relating to the management or modification of that office).
- (2) A charity trustee shall be removed from office if a decision to remove that trustee is made by the charity trustees for any purpose on at least 14 clear days' notice and at least a [two-thirds] majority of the votes cast at the meeting are in favour of the removal. The charity trustee shall be entitled to vote on that decision or be counted in the quorum present at the meeting.
- (3) A decision to remove a charity trustee shall not take effect unless the individual concerned has received at least 21 clear days' notice in writing of the proposal to remove him or her as a charity trustee, specifying the reasons for the proposal and has been given a reasonable opportunity of making oral representations to the other charity trustees.

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- (4) Any person retiring as a charity trustee who has served for [three] consecutive terms may be reappointed.

reappointment. [A charity trustee may not be reappointed for a [fourth] consecutive term unless there has been an interval of at least [one year].]

13. Taking of decisions by charity trustees

Any decision may be taken either:

- at a meeting of the charity trustees;
- by resolution in writing or electronically, which may comprise either a single resolution or a series of resolutions in like form to each other, and each charity trustee has signified their agreement.

all of the charity trustees, which documents containing the text of the resolution, and each charity trustee has signified their agreement.

14. Delegation by charity trustees

- (1) The charity trustees may delegate any of their powers or functions to a committee or committees, and, if they do so, may determine the terms and conditions on which the delegation is made. They may at any time alter those terms and conditions, or revoke the delegation.

any of their powers or functions to a committee or committees, and, if they do so, may determine the terms and conditions on which the delegation is made. They may at any time alter those terms and conditions, or revoke the delegation.

- (2) This power is in addition to any other power of delegation conferred on the charity trustees by the General Regulations and any other regulations, but is subject to the following requirements:

in the General Regulations and any other regulations, but is subject to the following requirements:

- (a) a committee may co-opt members, but at least one member of each committee must be a charity trustee;
- (b) the acts and proceedings of the committee must be brought to the attention of the charity trustees as soon as is reasonably practicable; and
- (c) the charity trustees must review the arrangements which they have made for the delegation.

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15. Meetings of charity trustees

(1) Calling meetings

- (a) Any charity trustee may call a meeting of the charity trustees.
- (b) Subject to that, the charity trustees may determine how their meetings are to be called, and what notice is to be given.

charity trustees.

de how their meetings are to be called, and what notice is to be given.

(2) Chairing of meetings

The charity trustees may appoint or co-opt a person to chair their meetings and may at any time revoke such appointment. If no person is appointed, or if the person appointed is unwilling to preside or is not present at the time of the meeting, the charity trustees present may appoint a person to chair that meeting.

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(3) **Procedure at meetings**

- (a) No decision shall be made unless a quorum is present at the time when the decision is made. The quorum shall be the number of charity trustees nearest to one third of the total number of charity trustees, whichever is greater, or such larger number as the trustees may decide from time to time. A charity trustee who is absent from the quorum present when any decision is made about the charity or she is not entitled to vote.
- (b) Questions arising at meetings shall be decided by a majority of those eligible to vote.
- [(c) In the case of an equality of votes, the trustee who chairs the meeting shall have a second or casting vote.]

(4) **Participation in meetings**

- (a) A meeting may be held by any means agreed by the charity trustees in which each trustee is able to communicate with all the other participants.
- (b) Any charity trustee present at a meeting by suitable electronic means shall qualify as being present at the meeting.
- (c) Meetings held by electronic means shall comply with rules for meetings, including chairing and the right to speak.

16. **Membership of the CIO**

- (1) The members of the CIO shall be the persons eligible to be members of the charity. Membership of the CIO cannot be transferred to any other person for the time being. The only persons who shall be members of the CIO are the charity trustees. Membership of the CIO shall cease for any person who is not a charity trustee automatically.
- (2) Any member and charity trustee who ceases to be a member of the charity shall cease to be a member of the CIO.

17. **Decisions which must be made by the CIO**

- (1) Any decision to:
 - (a) amend the constitution of the charity;
 - (b) amalgamate the CIO with one or more other CIOs, in accordance with section 11(1) of the 2011; or
 - (c) wind up or dissolve the charity (or transfer its business to any other charity)

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- It must be made in accordance with the provisions of the Companies Act 2006 (the Act) (the Companies Act 2006 (the Act)), clause 28 (Voluntary Liquidation) of the Companies Act 2006 (the Act), the General Law of the Republic of the Philippines (the General Law of the Republic of the Philippines). Those provisions require the members voting at a general

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- who had previously vacate office;
- who was not entitled interest or otherwise

if, without the vote of that charity trustee being counted in the quorum, the decision has been made at a meeting.

- (2) Sub-clause (1) of this clause may be conferred upon him or her, or a committee of charity trustees, if the resolution would have been void, or if the charity trustee

20. Execution of documents

- (1) The CIO shall execute documents.
- (2) A document is validly executed if it is signed by at least two of the charity trustees.

21. Use of electronic communications

The CIO will comply with the requirements in the Regulations and in particular:

- (a) the requirement to provide a copy of any document in hard copy form;
- (b) any requirements to provide information in a particular form or manner.

22. Keeping of Registers

The CIO must comply with its obligations in relation to the keeping of, and provision of access to, registers of its members and charity trustees.

23. Minutes

The charity trustees must keep minutes of the following:

- (1) appointments of officers made by the charity trustees;
- (2) proceedings at general meetings of the charity trustees;
- (3) meetings of the charity trustees including:
- the names of the trustees attending;

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Regulations in relation to the keeping of, and provision of access to, registers of its members and charity

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- the decisions made
- where appropriate to

(4) decisions made by the charity in meetings.

24. Accounting records, accounts and returns, register maintenance

- (1) The charity trustees must comply with the requirements of the Charities Act 2011 with regard to the keeping of accounts, the preparation and scrutiny of statements of account, and the submission of annual reports and returns. The statements of account, reports and returns must be sent to the Charity Commission, regardless of the income of the charity, by the end of the financial year end.
- (2) The charity trustees must comply with the requirements of the Charities Act 2011 to inform the Commission within 28 days of any change in the details of the charity entered on the Central Register of Charities.

25. Rules

The charity trustees may from time to time make such rules or byelaws as they may deem necessary or expedient for the conduct and management of the CIO, but such rules or bye laws must not be inconsistent with any provision of this Act. Copies of any such rules or byelaws in force must be made available to any member of the CIO on request.

26. Disputes

If a dispute arises between members of the CIO, or between a member of the CIO and the CIO, done by the members under this constitution, and the parties to the dispute agree, the parties to the dispute may refer the dispute to mediation before resorting to litigation. No court shall have jurisdiction to question the validity or propriety of anything done by the members under this constitution, and no dispute cannot be resolved by arbitration, and the parties to the dispute may refer the dispute by agreement to settle the dispute by arbitration.

27. Amendment of constitution

As provided by sections 224-227 of the Charities Act 2011

- (1) This constitution can only be amended by
- (a) by resolution agreed by a majority of the members of the CIO; or
 - (b) by a resolution passed by a majority of three quarters of those voting at a general meeting of the members of the CIO, in accordance with clause 18 (General Meetings of members).
- (2) Any alteration of clause 3 (Objects and purposes of the CIO), or of this clause, or of any provision of the constitution which would provide benefit to be obtained by charity or for the benefit of persons with them, requires the prior approval of the Charity Commission.
- (3) No amendment that is inconsistent with the provisions of the Charities Act 2011 or the General Regulations shall be made.

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- (4) A copy of every resolution and amendment to the constitution as amended must be submitted to the Commission for the CIO within 15 days beginning with the date of the meeting at which it was adopted. The amendment does not take effect until it has been registered with the Commission for the CIO.

28. Voluntary winding up or dissolution

- (1) As provided by the Dissolution Regulations, the CIO may be dissolved by resolution of its members. Any decision to dissolve the CIO can only be made:

- (a) at a general meeting of the CIO called in accordance with clause 18 (General Meetings) of which not less than 14 days' notice has been given to all members of the CIO;

- (i) by a resolution of the majority of those voting, or

- (ii) by a resolution of the majority of those voting taken without a vote and without any expression of opinion on the question put to the general meeting; or

- (b) by a resolution agreed by all members of the CIO.

- (2) Subject to the payment of any debts and other liabilities, the assets of the CIO shall be distributed as follows:

- (a) Any resolution for the dissolution of the CIO without winding up, or for the dissolution of the CIO directing how any remaining assets of the CIO shall be distributed, shall be subject to the following provisions, the charity trustees must decide how any remaining assets of the CIO shall be applied:

- (b) If the resolution does not specify how any remaining assets of the CIO shall be applied, the charity trustees must decide how any remaining assets of the CIO shall be applied.

- (c) In either case the remaining assets of the CIO shall be applied for charitable purposes the same as or similar to those for which the CIO was established.

- (3) The CIO must observe the provisions of the Dissolution Regulations in applying to the Commission for the CIO in the following particular:

- (a) the charity trustees must submit the following information to the Commission:

- (i) a copy of the resolution for the dissolution of the CIO;

- (ii) a declaration of the charity trustees that any debts and other liabilities of the CIO have been paid or otherwise provided for in full; and

- (iii) a statement of the charity trustees setting out the way in which any remaining assets of the CIO shall be applied prior to its dissolution in accordance with the provisions of the Dissolution Regulations.

, together with a copy of the CIO's constitution as amended by the end of the period of 15 days beginning with the date of the meeting at which the resolution, and the amendment does not take effect until it has been registered with the Commission for the CIO.

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CIO called in accordance with clause 18 (General Meetings) of which not less than 14 days' notice has been given to all members of the CIO;

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e members of the CIO;

that any debts and other liabilities of the CIO have been paid or otherwise provided for in full; and

setting out the way in which any remaining assets of the CIO shall be applied prior to its dissolution in accordance with the provisions of the Dissolution Regulations.

- (b) the charity trustees must send a copy of the application within seven days to every charity trustee of the CIO who is not a charity trustee of the charity.

- (4) If the CIO is to be wound up in any circumstances, the provisions of the Dissolution Regulations shall apply.

29. Interpretation

In this constitution:

“connected person” means:

- (a) a child, parent, grandchild, or grandparent of the charity trustee;
- (b) the spouse or civil partner of the charity trustee or any person falling within sub-clause (a) above;
- (c) a person carrying on business in partnership with the charity trustee or with any person falling within sub-clause (a) above;
- (d) an institution which is controlled by
 - (i) the charity trustee or any person falling within sub-clause (a), (b), or (c) above; or
 - (ii) by two or more persons each of whom is a charity trustee or falls within sub-clause (a) to (c) above;
- (e) a body corporate in which –
 - (i) the charity trustee or any person falling within sub-clauses (a) to (c) above has a substantial interest;
 - (ii) two or more persons each of whom is a charity trustee or falls within sub-clause (a) to (c) above have a substantial interest;

Section 118 of the Charities Act 2006 shall apply for the purposes of interpreting the terms used in this constitution.

“General Regulations” means the General Regulations 2012.

“Dissolution Regulations” means the Dissolution Regulations 2012.

The **“Communications Provisions”** means the Communications Provisions in [Part 10, Chapter 4] of the General Regulations 2012.

“Charity trustee” means a charity trustee of the charity.

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in any circumstances, the provisions of the Dissolution Regulations shall apply.

of the charity trustee;

any person falling within sub-clause (a) above;

the charity trustee or with any person falling within sub-clause (a) above;

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