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Charities Act 2006

The Charities Act 2006 became law on 8th November 2006. This new “modernising” piece of legislation covers a variety of issues, but the key ones are as follows:

- *The basic charitable “tests”*: to qualify as a charity, a body must be set up for purely “charitable purposes” which must be for the “public benefit”. However, definitions of what constitutes a “charitable purpose” and what is of “public benefit” have never been included in any UK legislation. The new Act is no exception and so we must continue to rely on the existing case law. Supporters of this non-legislative approach argue that this does allow the law to accommodate the broad range of entities that currently operate within the not-for-profit sector and thereby encourages diversity. Several new charitable purposes are now ‘acknowledged’ in the new legislation e.g. the advancement of animal welfare and promoting the efficiency of the emergency services. Also, significantly, it will no longer be assumed that the relief of poverty, or the advancement of education or religion, are causes that are of public benefit and therefore ‘charitable’.
- *The CIO*: the new statute also introduces a corporate entity designed specifically for use by charities - the charitable incorporated organisation or CIO. Like an existing charitable company, a CIO has a separate legal identity to its members (who have limited liability for its debts and other obligations) but the regulatory requirements for CIOs are designed to be far less onerous, and so less costly e.g. a CIO need only be registered with the Charity Commission and not Companies House as well. Converting from a corporate charity to a CIO will not be compulsory, but the procedure will be relatively simple. The CIO could be an attractive option for existing unincorporated charities (e.g. trusts) that wish to benefit from limited liability, as well as for existing charitable companies that no longer wish to report to both the Charity Commission and Companies House. The introduction of the CIO should also streamline the process of establishing and registering a corporate charity and so encourage the formation of new charities in circumstances where quick and simple administration is important.
- *The Charity Commission and the Charity Tribunal* the 2006 Act abolishes the office of the Charity Commissioners, transfers their functions to the Charity Commission (which is a corporate body) and sets out specific new regulatory objectives for the Charity Commission - these place greater emphasis on public confidence, compliance, social/economic impact and accountability. The new Act also establishes the Charity Tribunal which will have jurisdiction to hear appeals in respect of decisions and other actions of the Charity Commission (rather than aggrieved parties needing to lodge an appeal in the High Court).

However, the new Act will not be implemented immediately – draft regulations for the introduction of the CIO are not expected until later this year. So watch this space.

If you have any queries regarding the Charity Law 2006 or charity law generally, please contact Matthew Miller at matthewmiller@boltburdon.co.uk or on 020 7288 4739. Or, for further details of the services we provide to our range of business and private clients, please visit our website at: www.boltburdon.co.uk.

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