

Community Interest Companies

Introduction

The Government developed the Community Interest Company (CIC) as a new type of company designed for social enterprises that wish to use their profits and assets for the benefit of the community. The first CICs were registered with Companies House in July 2005.

The CIC is aimed at organisations that meet the needs of local communities, eg childcare, affordable housing, leisure and community transport. It is not for core public services such as hospitals or schools, and it will certainly not be available for political parties or political campaigning.

The reason for this new legal form is that the Government is keen to create a modern vehicle for social enterprise to help raise its profile. It was designed for organisations which pursue social rather than simply commercial goals. Its main advantage is that it allows social enterprises to grow freely and access a range of capital.

CICs can be either a company limited by shares or a company limited by guarantee, with members/shareholders and directors. They have a Memorandum and Articles of Association (as present companies do) plus a Community Interest Statement. A new regulator was appointed to oversee and monitor CICs.

Key features to ensure the CIC will benefit the community:

1. The Community Interest Test

Every CIC is required to submit an annual community interest report to the Regulator of CICs demonstrating what it has done and how this has benefited the community, what directors' salaries and dividends have been paid and to what extent it has involved its community in its activities. This report will be placed on the public register at Companies House. The Community Interest Test will prove valuable when raising funds.

2. The Asset Lock

The profits/assets of a CIC are locked and may only be distributed to a specified community interest company or charity, not to members or investors.

[An asset lock is also available to Industrial and Provident Societies registering from 6 April 2006 (earlier IPSs which also registered as charities, of course, are restricted by charity legislation on disposal of assets). Current companies without charitable registration find it difficult to ensure that their assets remain for public benefit.]

3. The Regulator

The regulator has powers to investigate complaints and where it is found that a CIC is not working in the interest of the community he can take action by eg changing directors, vesting/disposing of property, share transfer, or winding up the company. He has said that he will exercise a “light touch”.

What other legal forms are available?

Currently, social enterprises which become incorporated trade either as
(i) private limited companies (usually “by guarantee” rather than with share capital) under the Companies Acts; or
ii) industrial & provident societies (IPS) under the Industrial & Provident Societies Acts.

IPs, although strong in the co-operative sector, are generally less well known, and have been updated less regularly than the Companies Acts. The introduction of an asset lock for new registrations from 6 April 2006 is seen as a valuable safeguard.

For further information on other models, refer to Co-operative Futures legal fact sheet L9.

Who would a CIC suit?

An existing charity

A CIC cannot become a charity, but a charity may wish to convert to a CIC, with the consent of the Charity Commission. In doing so, it will lose its charitable status including tax advantages. Charities, and all other (non-political) organisations, will be able to establish a CIC as a trading subsidiary.

Some charities may prefer to become “Charitable Incorporated Organisations”. This is another new corporate body proposed under the Charities Bill 2004, which will provide limited liability for registered charities, and regulation solely by the Charity Commission. Changes at the Charity Commission have delayed this legislation, which is not now expected before the end of 2006.

An existing company or co-operative

Subject to passing a special resolution, an existing company or co-operative that meets the needs of a local community may choose to adopt the CIC structure. The CIC will be recognised as an organisation serving the interests of the wider community, which could in turn lead to increased opportunities for fund-raising and public support. (Note: a company or co-operative which *only* benefits its members or employees will not be eligible.)

A new organisation

In deciding to become a CIC or other type of social enterprise such as a charity or co-operative business, organisations will need to assess the relative benefits of charitable tax concessions, kudos and regulation against the flexibility of a CIC or co-operative where, for example, directors can be paid.

Finance

CICs will be able to raise money through a range of sources including grants, donations, loans and limited access to equity finance (shares).

If there is a desire to encourage investment a CIC limited by shares should be formed, so that shareholders will be able to receive a capped dividend. If no returns are to be paid, then it is more appropriate to form a CIC limited by guarantee.

CICs will *not* benefit from the same tax advantages as charities, eg corporation tax relief, rate relief.

Issues

A number of issues concerning CICs have been raised:

- There is no requirement for a CIC to have any form of democratic participation or accountability to participants (currently available through an IPS). A CIC does not have to be owned by a “group or community”, potentially it can be led by an individual provided the “community interest” is evidenced and it has “involved its stakeholders in its activities”.
- There is a potential conflict of interest between investor shareholders and other members in a CIC. Investor shareholders must *not* control decision-making at meetings.
- The CIC Regulator has wide powers and can for example appoint an outside manager over the property and affairs of the CIC in the event of some malpractice.

To register

Co-operative Futures can assist organisations wishing to become CICs. We use model rules created by Co-operatives UK suitable for co-operative CICs.

The CIC Regulator will also be issuing detailed guidance on suitable memoranda and articles. Costs to register with Companies House will be: Incorporation £15, Conversion £15, Annual accounts & community interest report £15

Further information

CIC Regulator – www.cicregulator.gov.uk

Co-operatives UK - www.cooperatives-uk.coop

Companies House - creg@companieshouse.gov.uk www.dti.gov.uk/cics,
www.companieshouse.gov.uk

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