

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Twelfth Delegated Legislation Committee

CHARITABLE INCORPORATED ORGANISATIONS  
(INSOLVENCY AND DISSOLUTION)  
(AMENDMENT) (NO. 2) REGULATIONS 2020

*Thursday 24 September 2020*

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

**not later than**

**Monday 28 September 2020**

© Parliamentary Copyright House of Commons 2020

*This publication may be reproduced under the terms of the Open Parliament licence, which is published at [www.parliament.uk/site-information/copyright/](http://www.parliament.uk/site-information/copyright/).*

**The Committee consisted of the following Members:**

*Chair:* MR PHILIP HOLLOBONE

Blake, Olivia ( <i>Sheffield, Hallam</i> ) (Lab)	† Lewer, Andrew ( <i>Northampton South</i> ) (Con)
† Caulfield, Maria ( <i>Lewes</i> ) (Con)	† Lopresti, Jack ( <i>Filton and Bradley Stoke</i> ) (Con)
† Hart, Sally-Ann ( <i>Hastings and Rye</i> ) (Con)	† Maskell, Rachael ( <i>York Central</i> ) (Lab/Co-op)
† Henry, Darren ( <i>Broxtowe</i> ) (Con)	Spellar, John ( <i>Warley</i> ) (Lab)
† Holden, Mr Richard ( <i>North West Durham</i> ) (Con)	Sultana, Zarah ( <i>Coventry South</i> ) (Lab)
Hopkins, Rachel ( <i>Luton South</i> ) (Lab)	† Tami, Mark ( <i>Alyn and Deeside</i> ) (Lab)
Johnson, Dame Diana ( <i>Kingston upon Hull North</i> ) (Lab)	† Warman, Matt ( <i>Parliamentary Under-Secretary of State for Digital, Culture, Media and Sport</i> )
† Jupp, Simon ( <i>East Devon</i> ) (Con)	
† Lamont, John ( <i>Berwickshire, Roxburgh and Selkirk</i> ) (Con)	Joanna Dodd, <i>Committee Clerk</i>
† Levy, Ian ( <i>Blyth Valley</i> ) (Con)	† <b>attended the Committee</b>

# Twelfth Delegated Legislation Committee

Thursday 24 September 2020

[MR PHILIP HOLLOBONE *in the Chair*]

## Charitable Incorporated Organisations (Insolvency and Dissolution) (Amendment) (No. 2) Regulations 2020

11.30 am

**The Parliamentary Under-Secretary of State for Digital, Culture, Media and Sport (Matt Warman):** I beg to move,

That the Committee has considered the Charitable Incorporated Organisations (Insolvency and Dissolution) (Amendment) (No. 2) Regulations 2020 (S.I. 2020, No. 856).

It is a pleasure to open the debate under your chairmanship, Mr Hollobone. The title of the regulations may not be short, but they are a short, technical measure. The Committee does not need reminding of the unprecedented events of 2020. However, I would like to take this opportunity to highlight the pivotal role that charities are playing in the national fight against the coronavirus.

Charities are the backbone and beating heart of our communities, and when our nation faced its greatest peacetime challenge, they rose to the occasion. They are fighting loneliness and isolation, giving shelter to the homeless and victims of domestic abuse, and providing meals to those in need. Charities are supporting those who need it most, at the time when they need it most. Their contribution is helping to ensure that our nation is well placed to bounce back from the pandemic. I pay tribute to their remarkable effort.

The Government have supported that effort with an unprecedented £750 million package of support, specifically for charities, social enterprises and the voluntary sector. That was in addition to cross-sectoral support measures such as the coronavirus job retention scheme. Charities have always made significant contributions to our communities, which is why the sustainability of that vital sector is key to this Government. A robust regulatory framework that creates public trust and allows charities to operate effectively is important to the Department for Digital, Culture, Media and Sport, and the regulations contribute towards that vision.

On 25 June 2020, the Corporate Insolvency and Governance Act 2020 received Royal Assent. Among the package of measures that it delivered was an amendment to insolvency law allowing corporate bodies, including charitable incorporated organisations, to continue trading while exploring options for rescue and restructure to avoid insolvency, and to provide them with temporary flexibility to hold their annual general meetings online or postpone them. That is to ensure that such meetings are held safely, and in line with restrictions.

The Act also introduced a new freestanding moratorium procedure, intended to give the relevant bodies regulated breathing space to explore restructure options, free from creditor action. The new moratorium provisions were applied by adding a new part A1 to the Insolvency

Act 1986. The regulations that we are discussing today make minor and technical modifications to the way the 1986 Act applies to CIOs via the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012. Most of the modifications disapply provisions of the moratorium procedure that are not applicable or relevant to CIOs. They ensure the effective application of the moratorium provisions.

Our approach in applying the new moratorium procedure to CIOs was to disapply provisions considered unnecessary or extremely unlikely to have any practical impact, to simplify the moratorium procedure for CIOs. That included disapplying section A51 of the Insolvency Act 1986.

However, on 6 July 2020 the Department for Work and Pensions used the provision to enact secondary legislation to extend their Pension Protection Fund moratorium provisions to CIOs. We assess the likelihood of the Pension Protection Fund needing to intervene in a moratorium with respect to a CIO as extremely low. However, DCMS recognises the value of ensuring that all corporate forms are covered by the provision, and will bring forward legislation. In the meantime, we do not anticipate any practical impacts.

I want to bring one further issue to the attention of the Committee, which is that the regulations modify the initial regulations made on 6 July, which contained a number of errors and needed to be corrected, although we do not believe that any stakeholder suffered detriment due to the error. We have, however, written to the Joint Committee on Statutory Instruments to apologise for that.

The error having been corrected, the regulations will benefit CIOs that wish to make use of the moratorium procedure and strengthen our important charity sector.

11.34 am

**Rachael Maskell (York Central) (Lab/Co-op):** We have important regulations to debate and I thank the Minister for his opening remarks, particularly for his comments on the Pension Protection Fund, which is so important to people working in the sector.

The Corporate Insolvency and Governance Act 2020 had consequential impacts on CIOs, and therefore some variations have had to be applied. CIOs are registered at Companies House and regulated by the Charity Commission. These charitable businesses are separately constructed under law, and therefore have specific regulations to govern them. There are currently around 22,500 CIOs across England and Wales, and the jurisdiction of the regulations covers both England and Wales. However, it is worth noting that CIOs covered by the Housing Act 1996, such as social housing providers, are exempt from the regulations.

The Charities Act 2011 makes provision for insolvency, which was first set out in the 2012 regulations. The Corporate Insolvency and Government Act improves provision for organisations facing insolvency, with additional measures in place. The first set of regulations that appertained to CIOs had to be revoked owing to errors, as the Minister explained, which means there has been a delay in introducing the revised regulations. Will the Minister clarify his comments on the impact that the delay has had? Has any organisation been negatively impacted because of the delay?

I want to highlight that, tragically, these regulations might be called upon in the coming weeks. The voluntary and community sector faces a £12.4 billion deficit. Although the Government brought forward a tiny proportion of that—£750 million—to deal with an increased demand due to covid-19, it was for additionality and not for addressing the core challenge facing the sector. It was barely a sticking plaster over the gaping wound in the sector's finances. Unless urgent measures are introduced, we could see many CIOs move into insolvency and dissolution. I urge the Minister to take that eleventh-hour issue back to his Department. Too many organisations in the sector are now on the brink.

Today's measures first seek to provide minor technical modifications to existing legislation. During a moratorium period, for which no insolvency proceedings can be instigated against a CIO or charitable business, the regulations provide a minor degree of protection. The free-standing moratorium period is described as giving an organisation a breathing space during which time some creditors cannot take specific types of enforcement and action. Why are all creditors not put in that position in order to create a proper breathing space for all the organisations at risk? Normally this period is 20 business days, but is extendable with creditors' consent or a court order. However, we know that 20 business days is no time at all to turn an organisation around, so why was 20 days chosen and what impact will it have? How will the Minister make it easier for organisations to extend that time? More time will be needed. Many of the organisations are large businesses and will need support, but many are also small and dependent on trustees to oversee their affairs.

During this time, an organisation can seek to reorganise its affairs and explore other routes to find a rescue, remedy or even a restructure to try to save the day, but for many it might be too late. Importantly, during this period trustees continue to govern the CIOs, rather than an administrator or other insolvency practitioner. However, an insolvency practitioner does have oversight of proceedings during the moratorium, and if they see no prospect of recovery or opportunity to pay critical debts, they can move to the insolvency process. Will they move to the insolvency process within the 20-day period, or does it extend beyond that?

The process places huge pressure and liabilities on trustees, however, so I urge the Government to revisit it. Some 70,000 trustees across the voluntary and community sector carry out significant work, and I pay tribute to them all. They need greater protections. In the same way, dissolution cannot be applied for during the moratorium.

In the light of the delay, the Government are calling for the immediate enforcement of the regulations, but what impact does the Minister believe that will have? For organisations currently going through insolvency, if they have not started the insolvency process, will they

now be able to access the moratorium breathing space, as they would have had the regulations been passed earlier, to give them that benefit and to see if they can rescue their CIO?

We want to provide maximum protection to the whole of civil society at such a difficult time. The sector is fragile, frightened and, despite its extraordinary efforts, failing. Although I support these measures, I trust that the Minister hears that he could avoid the situation arising in the first place if his Department now comes forward with the ultimate remedy to insolvency: proper funding for the sector.

11.41 am

**Matt Warman:** I thank the hon. Member for York Central for her support. The regulations have been in effect since 12 August, so some of the organisations that she mentions will have already had the opportunity to benefit from them. We do not believe that prior to that period, when the original regulations were in effect, any CIO had cause to make use of them, so the impact is genuinely as low as it could be.

The hon. Lady asked several questions about the notice period and creditors. These DCMS regulations are in line with wider Department for Business, Energy and Industrial Strategy policy, but I am happy to ask my BEIS colleagues to write to her, if appropriate, or to write to her myself, depending on where the balance ends up.

The hon. Lady paid tribute to the work of trustees, as we all should. They are a hugely important part of our charity sector and take on far greater responsibilities than is often widely understood. It is important to recognise that role.

On the hon. Lady's broader point about support for the charity sector, I simply say that the Government have put in place a significant package of support for charities and for the broader economy, much of which also applies to charities. As she knows, the Chancellor will make a statement shortly that will provide broader support to the economy as well. I look forward to working with the charity sector and my colleagues in the Lords, under whose brief this area more generally falls, to make sure that charities receive maximum support.

Hon. Members on both sides of the House are acutely aware of how important charities' role is. We look forward to playing as much of a role as we can to support them and the broader economy. With that, I commend the regulations, which are part of that broader support package, to the Committee.

*Question put and agreed to.*

11.44 am

*Committee rose.*





