

SCHEDULE 1

CONSEQUENTIAL AMENDMENTS

226. For section 36 of that Act (new companies) substitute—

“36 Formation of company as a community interest company

(1) If a company is to be formed as a community interest company, the documents delivered to the registrar of companies under section 9 of the Companies Act 2006 (registration documents) must be accompanied by the prescribed formation documents.

(2) The “prescribed formation documents” means such declarations or statements as are required by regulations to accompany the application, in such form as may be approved in accordance with the regulations.

(3) On receiving the documents delivered under that section and the prescribed formation documents, the registrar must (instead of registering the documents)—

- (a) forward a copy of each of the documents to the Regulator, and
- (b) retain the documents pending the Regulator's decision.

36A Formation as community interest company: decision on eligibility

(1) The Regulator must decide whether the company is eligible to be formed as a community interest company.

(2) A company is eligible to be formed as a community interest company if—

- (a) its articles comply with the requirements imposed by and by virtue of section 32,
- (b) its proposed name complies with section 33, and
- (c) the Regulator, having regard to the application and accompanying documents and any other relevant considerations, considers that the company—
 - (i) will satisfy the community interest test, and
 - (ii) is not an excluded company.

(3) The Regulator must give notice of the decision to the registrar of companies (but the registrar is not required to record it).

36B Formation as community interest company: implementation of decision on eligibility

(1) If the Regulator decides that the company is eligible to be formed as a community interest company, the registrar of companies must—

- (a) proceed in accordance with sections 14 and 15 of the Companies Act 2006 (registration and issue of certificate of incorporation), and
- (b) if the company is entered on the register, retain and record the prescribed formation documents.

(2) The certificate of incorporation must state that the company is a community interest company and is conclusive evidence that the company is a community interest company.

(3) If the Regulator decides that the company is not eligible to be formed as a community interest company, any subscriber to the memorandum of association may appeal to the Appeal Officer against the decision.”.

Changes to legislation:

There are currently no known outstanding effects for the The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009, Paragraph 226.