

Constitutional Amendments proposed by the Secretary General of The World Federation of KSIMC to be tabled at Triennial Conference 2017.

Preamble:

As The World Federation of KSIMC is a registered charity in England, it has to abide with the rules and regulations of 'the Charities Act' of the UK. There have been a number of developments in charity law since the constitution was last reviewed in this respect and therefore the Secretariat having sought advice from two separate charity law firms whether the current Constitution is compliant with The Charities Acts, it is proposing the following amendments to bring the Constitution in line with the new changes and in addition to bring clarity and transparency where there may be any ambiguity.

1. The Charities Act is constantly developing and for ease to have a definition of the Charities Act and amend clauses where it is referred to as a specific year.

Proposed Amendments:

1 (a) To add a new clause 2.1 "The Charities Act" shall mean the Charities Acts 1992 to 2016 and any statutory modification thereof."

1 (b) Clauses 2.1 to 2.19 of the Constitution be renumbered accordingly to 2.2 to 2.20.

1 (c) Clause 5.11 replace 'Charities Act 1993' to "Charities Acts".

1 (d) Clause 5.12 replace 'Charities Act 1993' to "Charities Acts".

1 (e) Clause 5.14 replace 'Charities Act 1993' to "Charities Acts".

2. Office Bearers and the Trustees:

Section 177 of The Charities Act 2011 defines the 'charity trustees' as being 'persons having the general control and management of the administration of the charity'.

Therefore, to bring clarity that the Office Bearers are the Trustees (currently restricted to the President, the Vice President and the Honorary Treasurer (clause 23.1) and to bring in line with Charities Act and in addition the rule that a trustee as to be a UK resident no longer applies, the following amendments are being proposed.

Proposed Amendments:

2 (a) Clause 2.10 (old 2.9) be amended so as to include the words "and who shall be the charity trustees for the purposes of the Charities Acts", following the words "in accordance with the Constitution".

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‘the Office Bearers’ shall mean the President, Vice President, Secretary General and the Honorary Treasurer, Assistant Secretary General and Assistant Honorary Treasurer for the time being of the Federation elected and/or appointed in accordance with the Constitution **and who shall be the charity trustees for the purposes of the Charities Acts.**

2 (b) Clause 2.11 (old 2.10) To replace in entirety “the Trustees’ shall mean the Trustees, being Khoja Shia Ithna-Asheri member of the Community, for the time being holding the property of the Federation in accordance with the Constitution; **with “The Trustees” shall be the Office Bearers being Khoja Shia Ithna-Asheri members of the community.**

2 (c) Clause 19.1.1 To add an additional paragraph “It is noted that for the purposes of the Charities Acts, the Office Bearers are the charity trustees who bear ultimate responsibility for the management and administration of the Federation.”

2 (d) Clause 23.1 To replace ‘Subject to Sub-Clause 24.1 all properties and funds of the Federation shall be vested in the President, the Vice President and the Honorary Treasurer as the Trustees provided that if any of the said persons is for the time being not resident in the United Kingdom the Executive Council shall appoint another member of the Executive Council who is resident in the United Kingdom to act as one of the Trustees in his place for so long as such person is not resident in the United Kingdom.’ **WITH “Subject to sub-clause 24.1 all properties and funds of the Federation shall be vested in the Office Bearers as the trustees.”**

3. Duties of Secretary General:

To bring clarity:

Proposed Amendment:

3 (a) Clause 22.2 to replace ‘be responsible for giving notices of all meetings of the Conference, the Executive Council and the Trustees’ **WITH “be responsible for giving notices of all meetings of the Office Bearers, Conference and the Executive Council;”**

4. Financial Statement:

To meet the requirements of the regulatory bodies. To reflect the more modern provisions relating to accounts, annual reports and annual returns. The proposed Clause 25 is now consistent with the most up to date provisions set out in charity law. It is to replace Clause 24.4 entirely.

Proposed Amendments:

4 (a) Clause 24.4 to be deleted in its entirety and replace with a new Clause 25 as set out below:

25. Accounts, Annual Report, Annual Return

25.1 The Honorary Treasurer and Office Bearers must comply with their obligations under the Charities Acts with regard to:

25.1.1. the keeping of accounting records for the charity;

25.1.2. the preparation of annual statements of account for the charity;

25.1.3 the transmission of the statements of account to the Commission;

25.1.4 the preparation of an Annual Report and its transmission to the Commission;

25.1.5 the preparation of an Annual Return and its transmission to the Commission.

25.2 Accounts must be prepared in accordance with the provisions of any Statement of Recommended Practice issued by the Commission, unless the Honorary Treasurer and Office Bearers are required to prepare accounts in accordance with the provisions of such a Statement prepared by another body.

25.3 The accounts of the Federation shall be submitted to the Executive Council each year and to the Conference at each Ordinary Conference who shall be permitted to ask the Honorary Treasurer and Office Bearers for such detail as they may require.

25.4 The Honorary Treasurer and Office Bearers shall comply with the requirements in the Charities Acts and any Statement of Recommended Practice issued by the Commission as to the audit / independent examination of the accounts.”

5. Renumbering of clauses:

Proposed amendment:

5 (a) As a result of above amendments, Clauses 25 to 27 be renumbered accordingly as 26 to 28.

Kumail Manji
Secretary General