

What are the differences between incorporation of trustees as a board or of a society as a board?

The Charitable Trusts Act 1957 has different procedures for trustees who apply and for members of a society who apply to incorporate as a charitable trust board. All applications are made to the Registrar of Incorporated Societies.

Applications by trustees

A majority (or all) of the trustees must complete a form that states

- the name to be given to the board,
- the address of its registered office,
- an address for communications from the Registrar

They must also attach a copy – certified by a trustee – of the document that created the charitable trust. If there have been subsequent amendments to that document, those amendments should also be attached.

One of the applicants must also complete a statutory declaration that, in effect, says that all the documentation relating to the trust and the trust property has been provided.

An application cannot be made if the trustees are already incorporated.

Applications by members of a society

- The Charitable Trusts Act 1957 also allows the members of an unincorporated association called a 'society' that has rules that express a charitable purpose to incorporate as a board.
- This kind of society has nothing to do with an incorporated society under the Incorporated Societies Act 1908.
- There must be at least five members in the society.
- On incorporation, the members of the society become members of the board.
- Where a society has numerous members, it could be inconvenient to have them all on the board, so they might prefer to transfer the property that they hold jointly to trustees who will hold it for them, called trustees for the general purposes of a society. Those trustees can then apply instead to incorporate as a Board.

An application cannot be made if the society or trustees for the general purposes of the society are already incorporated.

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How do you apply?

Complete an application form

At least five members of the society must complete a form that states:

- the name to be given to the board
- the address of its registered office
- an address for communications from the Registrar
- a note on how the applicants were authorised to apply.

Usually the majority of members will have approved this application or the members have met and resolved to apply or a specific rule permits this application.

Attach a copy of the rules

They must also attach a copy of the rules. The rules must be certified by one of the applicants. On rare occasions there are no rules, in which case the Act requires a statutory declaration that sets out:

- the charitable purpose,
- how people become and cease to be members and
- how the society operates.

Complete a statutory declaration

One of the applicants must also complete a statutory declaration to the effect that the members of the society have authorised the application and how this came about.