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STATUTORY INSTRUMENTS

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**2008 No. 945 (C. 46)**

**CHARITIES**

**The Charities Act 2006 (Commencement No. 4,  
Transitional Provisions and Savings) Order 2008**

*Made - - - - 31st March 2008*

The Minister for the Cabinet Office makes the following Order in exercise of the powers conferred by section 79(2) and (3) of the Charities Act 2006<sup>(1)</sup>:

**Citation and interpretation**

1.—(1) This Order may be cited as the Charities Act 2006 (Commencement No. 4, Transitional Provisions and Savings) Order 2008.

(2) In this Order—

“the 2006 Act” means the Charities Act 2006;

“the Commission” means the Charity Commission;

“financial year” has the same meaning as in the 1993 Act<sup>(2)</sup>;

“miners’ welfare trusts” means trusts to which section 2 of the Recreational Charities Act 1958<sup>(3)</sup> applies immediately before 1st April 2009;

“the status provisions” means—

(a) sections 1 to 3 and 5(2) of the 2006 Act; and

(b) section 5(1) of the 2006 Act in so far as it relates to section 5(2) of that Act.

**Commencement**

2. Subject to articles 4 to 9, the day appointed for the commencement of the provisions of the 2006 Act specified in Column 1 of Schedule 1 is 1st April 2008 except—

(a) where a particular purpose is specified in Column 3 of that Schedule in relation to any such provision, the relevant provision comes into force on that date for that particular purpose only;

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(1) 2006 c.50

(2) “Financial year” is defined in section 97(1) of the Charities Act 1993. The relevant Regulations are, in relation to financial years beginning on or before 31st March 2008, the Charities (Accounts and Reports) Regulations 2005 (S.I. 2005/572) and, in relation to financial years beginning on or after 1st April 2008 or transferred years, the Charities (Accounts and Reports) Regulations 2008 (S.I. 2008/629). “Transferred years” is defined in regulation 4 of the 2008 Regulations.

(3) 1958 c. 17

- (b) where any other limitation is specified in Column 3 of that Schedule in relation to any such provision, the relevant provision comes into force on that date subject to the specified limitation.
3. Subject to articles 10 and 11, the day appointed for the commencement of the provisions of the 2006 Act specified in Column 1 of Schedule 2 is 1st April 2009 except—
- (a) where a particular purpose is specified in Column 3 of that Schedule in relation to any such provision, the relevant provision comes into force on that date for that particular purpose only;
  - (b) where any other limitation is specified in Column 3 of that Schedule in relation to any such provision, the relevant provision comes into force on that date subject to the specified limitation.

**Transitional provisions and savings in respect of provisions of the 2006 Act commenced on 1st April 2008**

4. The commencement of the status provisions by this Order—
- (a) does not affect—
    - (i) any proceedings brought in the court or to the Charity Tribunal in respect of any decision, order or direction made or any other matter arising before 1st April 2008;
    - (ii) any order made or judgment given in any proceedings mentioned in paragraph (i) whether that order is made or judgment given before or after 1st April 2008;
  - (b) does not affect the validity of anything done before 1st April 2008 on the basis that an institution was or was not, as the case may be, a charity;
  - (c) does not require anything to be treated as charitable at any time before 1st April 2008 that was not charitable before that date;
  - (d) does not require anything to be treated as not being charitable at any time before 1st April 2008 that was charitable before that date.
5. Where an institution ceases to be a charity on 1st April 2008 as a consequence of the commencement of any of the status provisions by this Order, section 4 of the 1993 Act does not apply to that institution during the period beginning on 1st April 2008 and ending on the date on which it is removed from the register of charities by the Commission.
6. Section 4(6) of the 2006 Act does not apply in relation to the exercise of a power or duty by a charity trustee of a charity—
- (a) on or after 1st April 2008; and
  - (b) in respect of a financial year of the charity beginning before that date.
7. The amendment made by paragraph 133(2) of Schedule 8 to the 2006 Act (amendment of section 42 of the 1993 Act) applies only in relation to regulations made by the Minister under section 42 of the 1993 Act in respect of a financial year of a charity beginning on or after 1st April 2008.
8. The amendment made by paragraph 139(6) of Schedule 8 to the 2006 Act (amendment of section 46 of the 1993 Act) applies only in relation to a report required to be prepared under section 46(5) of the 1993 Act in respect of a financial year of a charity beginning on or after 1st April 2008.
9. Despite the repeal of Part 1 of the 1992 Act by Schedule 9 to the 2006 Act, no vesting or transfer of property in pursuance of any provision of that Part of the 1992 Act, or of any provision of the Charities Act 1960 as amended by that Part, before 1st April 2008 operates as a breach of covenant or condition against alienation or gives rise to a forfeiture.

**Transitional provisions and savings in respect of provisions of the 2006 Act commenced on 1st April 2009**

**10.**—(1) The commencement of section 5(3) of the 2006 Act by this Order—

- (a) does not affect—
  - (i) any proceedings brought in the court or to the Charity Tribunal in respect of any decision, order or direction made or any other matter arising before 1st April 2009;
  - (ii) any order made or judgment given in any proceedings mentioned in paragraph (i) whether that order is made or judgment given before or after 1st April 2009;
- (b) does not affect the validity of anything done before 1st April 2009 on the basis that miners' welfare trusts were charitable;
- (c) does not require any miners' welfare trusts to be treated as not being charitable at any time before 1st April 2009.

(2) Where miners' welfare trusts cease to be charitable on 1st April 2009 as a consequence of the commencement of section 5(3) of the 2006 Act by this Order, section 4 of the 1993 Act does not apply to those trusts during the period beginning on 1st April 2009 and ending on the date on which the trusts are removed from the register of charities by the Commission.

**11.**—(1) The commencement of section 5(4) of the 2006 Act by this Order—

- (a) does not affect—
  - (i) any proceedings brought in the court or to the Charity Tribunal in respect of any decision, order or direction made or any other matter arising before 1st April 2009;
  - (ii) any order made or judgment given in any proceedings mentioned in paragraph (i) whether that order is made or judgment given before or after 1st April 2009;
- (b) does not affect the validity of anything done before 1st April 2009 on the basis that a registered sports club was or was not, as the case may be, a charity;
- (c) does not require any registered sports club established for charitable purposes to be treated as not being so established at any time before 1st April 2009.

(2) Where a registered sports club ceases to be a charity on 1st April 2009 as a consequence of the commencement of section 5(4) of the 2006 Act by this Order, section 4 of the 1993 Act does not apply to that club during the period beginning on 1st April 2009 and ending on the date on which it is removed from the register of charities by the Commission.

31st March 2008

*Phil Hope*  
Parliamentary Secretary  
Cabinet Office

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## SCHEDULE 1

Article 2

## PROVISIONS OF THE 2006 ACT COMING INTO FORCE ON 1ST APRIL 2008

<i>Provision(s) of the 2006 Act</i>	<i>Subject matter of provisions</i>	<i>Particular purpose or other limitation</i>
Section 1	Meaning of charity	
Section 2	Meaning of “charitable purpose”	For all remaining purposes
Section 3	The “public benefit” test	For all remaining purposes
Section 4(6)	Guidance as to the operation of the public benefit requirement	
Section 5(1)	Special provisions about recreational charities, sports clubs etc.	In so far as it relates to section 5(2) of the 2006 Act
Section 5(2)	Special provisions about recreational charities, sports clubs etc.	
Section 29(1)	Duty of auditor etc. of charity which is not a company to report matters to the Commission	
Section 30	Group Accounts	For all remaining purposes
Section 33	Duty of auditor etc. of charitable company to report matters to the Commission	
Section 38	Power of Commission to relieve trustees, auditors etc. from liability for breach of trust or duty	In so far as it refers to group accounts as required to be prepared under new Schedule 5A to the 1993 Act.
Section 75(1) to (3)	Amendments, repeals, revocations and transitional provisions	In so far as they relate to the provisions of Schedules 8 to 10 commenced by article 2 of this Order.
Schedule 6	Group Accounts	For all remaining purposes
Schedule 8, paragraphs 39, 90(4), 133, 139(6), 173(2) and (3)(b), 174(a) and 212(3)	Minor and consequential amendments	
Schedule 9	Repeals and revocations	Only those entries relating to: Part 1 of (so far as unrepealed) and Schedule 5 to the 1992 Act, section 96(4) of the 1993 Act and sections 28 and 29(7) and (8) of the Deregulation and Contracting Out Act 1994 (c. 40).

<i>Provision(s) of the 2006 Act</i>	<i>Subject matter of provisions</i>	<i>Particular purpose or other limitation</i>
Schedule 10, paragraph 8	Transitional provisions and savings	In so far as it relates to the amendments made by section 29(1) of the 2006 Act (as commenced by article 2 of this Order) and the duty imposed by new section 44A(2) of the 1993 Act.
Schedule 10, paragraphs 10, 17 and 28	Transitional provisions and savings	
Schedule 10, paragraph 29	Transitional provisions and savings	Save for paragraph 29(2)(a)

SCHEDULE 2

Article 3

PROVISIONS OF THE 2006 ACT COMING INTO FORCE ON 1ST APRIL 2009

<i>Provision(s) of the 2006 Act</i>	<i>Subject matter of provisions</i>	<i>Particular purpose or other limitation</i>
Section 5(1)	Special provisions about recreational charities, sports clubs etc.	For all remaining purposes.
Section 5(3) to (5)	Special provisions about recreational charities, sports clubs etc.	
Section 75(2) and (3)	Amendments, repeals, revocations and transitional provisions	In so far as they relate to the provisions of Schedules 9 and 10 to the 2006 Act commenced by article 3 of this Order
Schedule 9	Repeals and revocations	Only the entry relating to section 2 of the Recreational Charities Act 1958 (c. 17).
Schedule 10, paragraph 2	Transitional provisions and savings	

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force provisions of the Charities Act 2006. The provisions specified in Schedule 1 to this Order are brought into force on 1st April 2008, subject to the transitional and savings provisions specified in articles 4 to 9 of this Order. The provisions specified in Schedule 2 to this Order are brought into force on 1st April 2009, subject to the transitional and savings provisions specified in articles 10 and 11 of this Order.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of the Act have been brought into force by a commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
s.2 (partially)	27.02.2007	S.I. 2007/309
s.3 (partially)	27.02.2007	S.I. 2007/309
s.4 (partially)	27.02.2007	S.I. 2007/309
s.6	27.02.2007	S.I. 2007/309
s.7:		
partially	27.02.2007	S.I. 2007/309
for all remaining purposes	18.03.2008	S.I. 2008/751
s.8:		
partially	27.02.2007	S.I. 2007/309
for all remaining purposes	18.03.2008	S.I. 2008/751
s.9 (partially)	27.02.2007	S.I. 2007/309
s.10	27.02.2007	S.I. 2007/309
s.11 (partially)	27.02.2007	S.I. 2007/309
ss. 15 and 16	18.03.2008	S.I. 2008/751
s.17:		
partially	27.02.2007	S.I. 2007/309
for all remaining purposes	18.03.2008	S.I. 2008/751
ss. 18 to 21	18.03.2008	S.I. 2008/751

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
ss. 22 to 28	27.02.2007	S.I. 2007/309
s.30 (partially)	27.02.2007	S.I. 2007/309
s. 31	18.03.2008	S.I. 2008/751
s.32	27.02.2007	S.I. 2007/309
s.34 (partially)	27.02.2007	S.I. 2007/309
s.35	27.02.2007	S.I. 2007/309
ss. 36 and 37	18.03.2008	S.I. 2008/751
s.38 (partially)	27.02.2007	S.I. 2007/309
s.39	27.02.2007	S.I. 2007/309
ss. 40 and 41	18.03.2008	S.I. 2008/751
s.42	27.02.2007	S.I. 2007/309
s.43	18.03.2008	S.I. 2008/751
s.44	28.11.2007	S.I. 2007/3286
s.45 (partially)	01.04.2008	S.I. 2007/3286
s.46	01.04.2008	S.I. 2007/3286
s.47 (partially)	01.04.2008	S.I. 2007/3286
s.67	01.04.2008	S.I. 2007/3286
s.68:		
partially	27.02.2007	S.I. 2007/309
partially	01.04.2008	S.I. 2007/3286
s.69	27.02.2007	S.I. 2007/309
s.70	01.04.2007	S.I. 2007/309
s.71	27.02.2007	S.I. 2007/309
s.72	27.02.2007	S.I. 2007/309
s.75:		
partially	27.02.2007	S.I. 2007/309
partially	28.11.2007	S.I. 2007/3286
partially	01.04.2008	S.I. 2007/3286
partially	18.03.2008	S.I. 2008/751
s.76	27.02.2007	S.I. 2007/309
Schedules 1 and 2	27.02.2007	S.I. 2007/309
Schedule 3	18.03.2008	S.I. 2008/751

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedule 4:	27.02.2007	S.I. 2007/309
partially	18.03.2008	S.I. 2008/751
partially		
Schedule 6 (partially)	27.02.2007	S.I. 2007/309
Schedule 7 (partially)	27.02.2007	S.I. 2007/309
Schedule 8:	27.02.2007	S.I. 2007/309
partially	18.03.2008	S.I. 2008/751
partially	01.04.2008	S.I. 2007/3286
partially		
Schedule 9:	27.02.2007	S.I. 2007/309
partially	28.11.2007	S.I. 2007/3286
partially	18.03.2008	S.I. 2008/751
partially		
Schedule 10:	27.02.2007	S.I. 2007/309
partially	28.11.2007	S.I. 2007/3286
partially	18.03.2008	S.I. 2008/751
partially	01.04.2008	S.I. 2007/3286
partially		