

Draft Order laid before Parliament under section 73(4) of the Charities Act 2011, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No.

CHARITIES

The Charities (Incorporated Church Building Society) (England and Wales) Order 2013

Approved by both Houses of Parliament

Made - - - - - ***
Coming into force - - - - - *in accordance with article 1*

The Charity Commission for England and Wales has settled the Scheme set out in the Appendix to this Order in accordance with 73(1)(a) of the Charities Act 2011(1) (“the 2011 Act”) with a view to its being given effect under section 73(2) of that Act.

The Scheme alters the provisions of the Church Building Society Act 1828(2) which is a public general Act of Parliament, therefore a draft of this Order has been laid before Parliament and approved by a resolution of each House in accordance with section 73(4) of the 2011 Act.

Accordingly, the Minister for the Cabinet Office makes the following Order in exercise of the powers in section 73(2) and 353(1)(3) of the 2011 Act:

Citation and commencement

1. This Order may be cited as the Charities (Incorporated Church Building Society) (England and Wales) Order 2013 and comes into force at the end of the period of fourteen days beginning with the day on which this Order is made.

The Scheme

2. The Scheme set out in the Appendix to this Order has effect.

(1) 2011 c.25.
(2) 1828 c.42. Sections 1, 12 and 15 of the 1828 Act were repealed by section 1 of, and the Schedule to, the Statute Law Revision Act 1873 (c.91).
(3) See the definition of “the Minister”.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory
Instrument: *The Charities (Incorporated Church Building Society) (England and Wales) Order 2013 No. 641*

Address
Date

Name
Parliamentary Secretary
Cabinet Office

APPENDIX

Scheme for the administration of the charity known as the Incorporated Church Building Society
The Incorporated Society for Promoting the Enlargement, Building and Repairing of Churches and Chapels (“the charity”) is registered with the Charity Commission for England and Wales (“the Commission”) as the Incorporated Church Building Society under number 212752 and is regulated by the Church Building Society Act 1828 (9 Geo IV Cap 42) (“the 1828 Act”);

In pursuance of section 73(7) of the Charities Act 2011 (“the 2011 Act”), the trustees of the charity (“the existing trustees”) have made an application to the Commission for a scheme for the administration of the charity and have been notified of the Commission’s intention to proceed with the Scheme;

It appears to the Commission that a scheme should be established for the administration of the charity, but that it is necessary for this Scheme to make provision which goes beyond the powers exercisable by them apart from section 73 of the 2011 Act.

In pursuance of section 88 of the 2011 Act public notice of the Commission’s proposals for this Scheme has been given and no representations have been received in respect of them;

Therefore, in pursuance of section 73(1) of the 2011 Act, the Commission settles the following Scheme:

The Administration of the Charity

1.—(1) The provisions of the 1828 Act cease to have effect with the exception of the preamble and sections 2 (incorporation of the charity), 10 (Royal Letters), 11 (Accounts of the Society) and 16 (Public Act).

(2) The charity and its property must be administered in accordance with the provisions of this Scheme and the remaining provisions of the 1828 Act.

Object of the charity

2. The Object of the charity is to maintain, build, enlarge and repair consecrated or dedicated churches and chapels and other places of worship of the Church of England by making grants upon application.

The Trustee

3. The charitable company known as The National Churches Trust (Registered Company Number 06265201 & Registered Charity Number 1119845) (“the Trustee”) acting in accordance with its usual procedures is the Trustee of the charity in place of the existing trustees.

The Members

4. The Trustee is the sole member of the charity and all other existing members of the charity cease to be members.

Powers of the Trustee

5. In addition to any other powers which it has, the Trustee may exercise the following powers in furtherance of the Object of the charity: the power to—

- (a) make rules and regulations consistent with this scheme for the management of the charity;
- (b) make grants and loans on such terms as the Trustee thinks fit;

- (c) allow investments to be held in the name of a corporate body as the Trustee's nominee and pay reasonable remuneration for the service provided, but only if the corporate body is incorporated in, or has established a branch or place of business in, England or Wales;
- (d) promote or carry out research;
- (e) provide advice;
- (f) publish or distribute information;
- (g) co-operate with other bodies;
- (h) support, administer or set up other charities;
- (i) raise funds, but not by means of taxable trading;
- (j) borrow money and give security for loans, but only in accordance with the restrictions imposed by the 2011 Act;
- (k) acquire or hire property of any kind;
- (l) let or dispose of property of any kind, but only in accordance with the restrictions imposed by the 2011 Act;
- (m) set aside funds for special purposes or as reserves against future expenditure;
- (n) deposit or invest in funds in any manner, but to invest only after obtaining such advice from a financial expert as the Trustee considers necessary and having regard to the suitability of investments and the need for diversification;
- (o) delegate the management of investments to a financial expert, but only on terms that—
 - (i) the investment policy is set down in writing for the financial expert by the Trustee;
 - (ii) every transaction is reported promptly to the Trustee;
 - (iii) the performance of the investments is reviewed regularly with the Trustee;
 - (iv) the Trustee is entitled to cancel the delegation arrangement at any time;
 - (v) the investment policy and the delegation arrangement are reviewed at least once a year;
 - (vi) all payments due to the financial expert are on a scale or at a level which is agreed in advance and are notified promptly to the Trustee on receipt; and
 - (vii) the financial expert must not do anything outside the powers of the Trustee;
- (p) deposit documents and physical assets with any company registered or having a place of business in England and Wales as custodian and pay any reasonable fee required;
- (q) insure the property of the charity against any foreseeable risk and take out other insurance policies to protect the charity when required;
- (r) pay for indemnity insurance for the Trustee in accordance with section 189 of the 2011 Act;
- (s) employ such paid or unpaid agents, staff or advisers, who may not be directors of the Trustee, as are necessary for the proper pursuit of the Object of the charity; and
- (t) enter into contracts to provide services to or on behalf of other bodies.

The charity's expendable funds

6.—(1) The Trustee must first apply—

- (a) the charity's income; and
- (b) if the Trustee thinks fit, the charity's expendable endowment,

in meeting the proper costs of administering the charity and of managing its assets.

(2) After payment of these costs the Trustee must apply the remaining income in furthering the Object of the charity.

(3) The Trustee may also apply expendable endowment for the Object of the charity.

President and Vice-Presidents

7. The offices of President and Vice-president cease to exist by virtue of the provision in paragraph 1 of this Scheme and the persons holding those offices immediately before the coming into force of this Scheme cease to hold office.

Questions relating to the scheme

8. The Commission may decide any question put to them concerning—

(a) the interpretation of this Scheme; or

(b) the propriety or validity of anything done or intended to be done under it.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to a Scheme of the Charity Commission relating to the Incorporated Society for Promoting the Enlargement, Building and Repairing of Churches and Chapels (“the charity”). The Object of the charity set out in the Scheme is to maintain, build, enlarge and repair consecrated or dedicated churches and chapels and other places of worship of the Church of England by making grants upon application.

The charity is regulated by the Church Building Society Act 1828 (c.42). The Scheme makes new provision for the administration of the charity and dis-applies provisions made by the 1828 Act which are inconsistent with, or rendered otiose by, the provisions of the Scheme.