

EXPLANATORY MEMORANDUM TO
THE CHARITIES (EXCEPTION FROM REGISTRATION)
(AMENDMENT) REGULATIONS 2007

2007 No. 2655

1. This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 These Regulations amend the Charities (Exception from Registration) Regulations 1996 (“the 1996 Regulations”). The 1996 Regulations temporarily except certain religious charities from the requirement to register with the Charity Commission. This temporary exception is due to end on 1 October 2007. These regulations will extend the temporary exception until 1 October 2012. They also make a minor amendment to clarify the scope of the temporary exception.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 None

4. **Legislative Background**

- 4.1 The register of charities in England and Wales was established by the Charities Act 1960 (“the 1960 Act”), along with the legal requirement for most charities to register with the Charity Commission. The provision allowing the Charity Commission and the Minister to except some charities from registration was included in the 1960 Act. This was so that charities whose existence was publicly documented elsewhere and ones in whose existence there was not thought to be great public interest could be excused registration.

- 4.2 The current registration requirements are prescribed in section 3 of the Charities Act 1993 (“the 1993 Act”). Certain charities are excused from registration by virtue of section 3(5) of the 1993 Act. These charities include those that are excepted (either permanently or temporarily) from registration by regulations made by the Minister for the Cabinet Office.

- 4.4 Excepted charities, while they are not required to register, may, by virtue of section 3(2) of the 1993 Act, apply to register if they wish.

- 4.5 The great majority of excepted charities are one of these types: religious charities connected with particular denominations, voluntary schools, boy scout and girl guide charities and armed forces charities. These regulations deal only with excepted religious charities connected with particular denominations.
- 4.6 The temporary exception granted to certain religious charities by the 1996 Regulations would originally have expired on 1 March 2001. This was extended until 1 October 2002 by The Charities (Exception from Registration) (Amendment) Regulations 2001 and then again, by the Charities (Exception from Registration) (Amendment) Regulations 2002, until 1 October 2007. These Regulations extend the temporary exception until 1 October 2012 and revoke the 2002 Regulations.

5. Territorial Extent and Application

- 5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 Although excepted charities are subject to the Charity Commission's jurisdiction, some aspects of the general regulatory framework for charities set out in the Charities Act 1993 do not apply to them. An example is that they are not routinely required to submit annual reports and accounts to the Charity Commission. In 2002, the Prime Minister's Strategy Unit published a report on proposals for charity law reform, "*Private action, public benefit: a review of charities and the wider not-for-profit sector*"¹. In relation to excepted charities, it did not believe that there was any continuing justification for allowing such charities to escape these regulatory requirements. It asserted (para 7.89) that "to promote trust and confidence in the regulatory system as a whole it is important that all organisations with charitable status should be subject to the same accountability requirements".
- 7.2 The review recommended (para 7.91) that "excepted charities with incomes above the new proposed registration threshold should be required to register. A higher registration threshold could be set to ensure a manageable process of registration". The Government response to the Strategy Unit agreed and accepted its recommendation to set a higher initial registration threshold for excepted charities. This has been set in the Charities Act 2006 ("the 2006 Act") at £100,000 annual income, which is enshrined in new Section 3A(2) of the Charities Act 1993. This provision is expected to come into force on 1 October 2008. Those charities temporarily excepted by the 1996 Regulations which have an income below the £100,000 threshold will continue to be so excepted.

¹ http://www.cabinetoffice.gov.uk/strategy/work_areas/voluntary_sector/index.asp

- 7.3 New section 3A(8) of the 1993 Act precludes any lowering of the £100,000 threshold for excepted charities until the report on the impact of the 2006 Act, required by s.73 of the 2006 Act, has been completed. A planned review is scheduled to begin in 2011. This is why these regulations extend the exception of these religious charities until 1 October 2012.
- 7.4 These regulations also make a minor amendment to the 1996 regulations. It clarifies that charities connected with more than one of the bodies listed in Regulation 4(3) of the 1996 Regulations will be temporarily excepted if they meet the criteria in Regulation 4(2).

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

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