

2009 No. 508

CHARITIES, ENGLAND AND WALES

**The Charities Acts 1992 and 1993 (Substitution of Sums) Order
2009**

<i>Made</i>	- - - -	<i>5th March 2009</i>
<i>Laid before Parliament</i>		<i>11th March 2009</i>
<i>Coming into force</i>	- -	<i>1st April 2009</i>

The Minister for the Cabinet Office makes the following Order in exercise of the powers conferred by sections 58(1)(a) and (10), 60B(6), 61(8) and 77(3) of the Charities Act 1992(b) and by sections 40(4), 42(6), 43(8)(a), 45(9), 86(3) and 97(1)(c) of the Charities Act 1993(d).

In accordance with section 86(4) of the Charities Act 1993 the Minister has consulted such persons and bodies of persons as the Minister considers appropriate.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Charities Acts 1992 and 1993 (Substitution of Sums) Order 2009 and comes into force on 1st April 2009.

(2) In this Order—

“the 1992 Act” means the Charities Act 1992;

“the 1993 Act” means the Charities Act 1993;

“financial year” has the meaning given by the 1993 Act.

Amendments to the 1992 Act

2. The 1992 Act is amended as follows.

3. In section 58(3)—

(a) in paragraph (a)(i) for “£5” substitute “£10”;

(a) See the definition of “the Minister” in subsection (1).

(b) 1992 c.41. Section 58 was amended by the Deregulation and Contracting Out Act 1994 (c. 40), section 25, the Charities Act 2006 (c. 50), Schedule 8, paragraph 90 and S.I. 2006/2951, Schedule, paragraph 3(a). Section 60B was inserted by the Charities Act 2006, section 68, but only subsections (4) to (6) of section 60B are currently in force. Section 61 was amended by S.I. 2006/2951, Schedule, paragraph 3(b). Section 77 was amended by S.I. 2006.2951, Schedule, paragraph 3(e). There are other amendments to the Charities Act 1992 not relevant to this Order.

(c) See the definition of “the Minister” in subsection (1).

(d) 1993 c.10. Section 40 was amended by S.I. 2006/2951, Schedule, paragraph 4(p). Section 42 was amended by S.I. 1995/2696, article 2(3) and S.I. 2006/2951, Schedule, paragraph 4(q). Section 43 was amended by the Charities Act 2006, section 28. Section 45 was amended by the Deregulation and Contracting Out Act 1994 (c.40), section 29, the Charities Act 2006, paragraph 138 and S.I. 2006/2951, Schedule, paragraph 4(t). Section 86 was amended by the Charities Act 2006, Schedule 8, paragraph 165 and S.I. 2006/2951, Schedule, paragraph 4(y). Section 97 was amended by the Charities Act 2006, Schedule 8, paragraph 174. There are other amendments to the Charities Act 1993 not relevant to this Order.

(b) in paragraph (a)(ii) for “£500” substitute “£1,000”;

(c) in paragraph (b) for “£500” substitute “£1,000”.

4. In section 60(4) and (5) for “£50”, in each place it occurs, substitute “£100”.

5. In section 60B(2) and (5)(a)—

(a) in paragraph (a)(i) for “£5” substitute “£10”;

(b) in paragraph (a)(ii) for “£500” substitute “£1,000”;

(c) in paragraph (b) for “£500” substitute “£1,000”.

6. In section 61—

(a) in subsection (1)(a) for “£50” substitute “£100”;

(b) in subsection (2) for “£50”, in both places, substitute “£100”;

(c) in subsection (3)(a) for “£50” substitute “£100”.

Amendments to the 1993 Act

7. The 1993 Act is amended as follows.

8. In section 40(2) for “£500” substitute “£1,000”.

9. In section 42(3) for “£100,000”(b) substitute “£250,000”.

10. In section 43—

(a) in subsection (1)(b) for “£2.8 million” substitute “£3.26 million”;

(b) in subsection (3) for “£10,000” substitute “£25,000”.

11. In section 45(3) and (3A)(c) for “£10,000” substitute “£25,000”.

Transitional provisions and savings

12. The amendments made by article 3 do not affect the operation of Part 2 of the 1992 Act in relation to any solicitation of money or other property made before 1st April 2009 by a person to whom paragraph (b) of the definition of “professional fund-raiser” in section 58(1) of that Act applied on the date the solicitation was made.

13. The amendments made by article 4 do not affect the requirements of section 60(5) of the 1992 Act in relation to any payment of £50 or more made before 1st April 2009.

14. The amendments made by article 6 do not affect—

(a) the operation of section 61(1) or (3) of the 1992 Act in relation to any payment of £50 or more made in response to any solicitation or representation made before 1st April 2009; or

(b) the operation of section 61(2) of the 1992 Act in relation to an agreement entered into in response to any solicitation or representation made before 1st April 2009 under which the donor is or may be liable to pay an amount or aggregate amount of £50 or more.

15. The amendment made by article 8 does not apply to rentcharges released before 1st April 2009.

16. The amendments made by articles 9, 10 and 11 apply to any financial year of a charity ending on or after 1st April 2009.

(a) Section 60B was inserted by the Charities Act 2006 (c.50), section 68.

(b) The sum of £100,000 was substituted by S.I. 1995/2696, article 2(3).

(c) Subsection (3A) was inserted by the Deregulation and Contracting Out Act 1994 (c.40), section 29(2).

Consequential revocation

17. Paragraphs (3) and (4) of article 2 of the Charities Act 1993 (Substitution of Sums) Order 1995^(a) are revoked.

5th March 2009

Kevin Brennan
Parliamentary Secretary
Cabinet Office

^(a) S.I. 1995/2696.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Charities Act 1992 (“the 1992 Act”) and the Charities Act 1993 (“the 1993 Act”) by substituting the sums specified in the Order. The effect of the Order is to increase the financial thresholds which trigger some of the regulatory requirements applying to charities.

Article 3 changes the definition of “professional fund-raiser” in section 58 of the 1992 Act by increasing the applicable remuneration threshold.

Article 4 amends section 60 of the 1992 Act to reflect the change made by article 6.

Article 5 amends section 60B of the 1992 Act by increasing the remuneration threshold below which lower paid collectors are excluded from the provisions of section 60A by the 1992 Act.

Article 6 amends section 61 of the 1992 Act by increasing the minimum donation entitling donors to cancel payments or agreements made in response to appeals.

Article 8 amends section 40 of the 1993 Act by increasing the consideration up to which a charity can recover the costs of proving title to a rentcharge.

Article 9 amends section 42 of the 1993 Act by increasing the amount of gross income in any financial year at or below which a charity may elect to prepare a receipts and payments account and a statement of assets and liabilities instead of a statement of accounts.

Article 10 amends section 43 of the 1993 Act by increasing the asset threshold which applies for the purpose of determining whether a charity is required to have its accounts audited and by increasing the amount of gross income in any financial year beyond which a charity is required to have its accounts independently examined or audited.

Article 11 amends section 45 of the 1993 Act by increasing the level of gross income in any financial year above which a charity is required to submit its annual report and accounts to the Charity Commission.

Articles 12 to 16 make transitional provisions and savings.

Article 17 revokes the provisions of the Charities Act 1993 (Substitution of Sums) Order 1995 (S.I. 1995/2696) rendered obsolete by this Order.

A full impact assessment of the effect that this Order will have on the costs of business and the voluntary sector is available from the Office of the Third Sector, 2nd Floor, Admiralty Arch, South Side, The Mall, London SW1A 2WH (020 7276 6028) and is annexed to the Explanatory Memorandum which is available alongside this Order on the OPSI website (<http://www.opsi.gov.uk>).

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