

2011 No. 1396

CHARITIES

The Charities (Pre-consolidation Amendments) Order 2011

Made - - - - 2nd June 2011

Coming into force in accordance with article 1

This Order is made in exercise of the powers conferred by sections 74(2) and (7), 76 and 78(6) of the Charities Act 2006(a).

The Minister for the Cabinet Office is satisfied that the amendments made by this Order will facilitate, or are otherwise desirable in connection with, the consolidation of enactments relating to charities(b).

A draft of this Order has been laid before Parliament in accordance with section 74(4) and (5) of that Act and approved by resolution of each House of Parliament.

Accordingly, the Minister makes the following Order:

Citation and commencement

1. This Order may be cited as the Charities (Pre-consolidation Amendments) Order 2011 and comes into force (in accordance with section 76(3) of the Charities Act 2006) immediately before the Charities Act 2011 comes into force.

Amendments of enactments relating to charities

2.—(1) The Schedule (which contains amendments of enactments relating to charities) has effect.

(2) Subject to paragraph (3), any amendment made by the Schedule has the same extent as the provision amended.

(3) The amendment of section 1 of the Recreational Charities Act 1958(c) made by paragraph 1 of the Schedule has the same effect in relation to the law of Scotland and Northern Ireland as the amendment of that section by section 5 of the Charities Act 2006(d).

2nd June 2011

Nick Hurd
Parliamentary Secretary
Cabinet Office

(a) 2006 c.50.
(b) “Amendments” and “the enactments relating to charities” are defined in section 76(5) of the Charities Act 2006.
(c) 1958 c.17. Section 1 of the 1958 Act was amended by section 5(2) of the Charities Act 2006.
(d) As to the effect of the amendment of section 1 by section 5 of the Charities Act 2006 in relation to the law of Scotland or Northern Ireland see section 80(3) to (6) of the 2006 Act.

SCHEDULE

Article 2

AMENDMENTS OF ENACTMENTS RELATING TO CHARITIES

PART 1

AMENDMENTS OF RECREATIONAL CHARITIES ACT 1958 (c. 17)

1. In section 1(1) of the Recreational Charities Act 1958(a), for “the principle that a trust or institution to be charitable must be for the public benefit” substitute “the requirement in section 2(1)(b) of the Charities Act 2006 that a purpose falling within section 2(2) of that Act must be for the public benefit if it is to be a charitable purpose”.
2. Omit section 3(1) of that Act(b).
3. Omit section 5 of that Act.

PART 2

AMENDMENTS OF CHARITIES ACT 1993 (c. 10)

4. In section 1A(4) of the Charities Act 1993(c), for “other” substitute “of another”.
5. In section 2(1) of that Act(d) for “by that name a corporation sole having perpetual succession and using an official seal which” substitute “a corporation sole whose official seal”.
6. In section 3A of that Act(e)—
 - (a) in subsection (4)(c) after “any” insert “charity or”;
 - (b) for paragraph (c) of subsection (11) and the word “and” preceding that paragraph substitute—
 - “(c) subsections (6)(a) and (7)(a),
 - (d) in subsection (8), paragraph (a) and the words following paragraph (b),
 - (e) subsection (9), and
 - (f) this subsection.”.
- 7.—(1) In the following provisions of that Act, for “furnish” substitute “provide”—
 - (a) section 8(3)(a) and (b)(f);
 - (b) section 9(1)(a) and (b)(i) and (4)(g);
 - (c) section 28(9)(h);
 - (d) section 84(i).
- (2) In the following provisions of that Act, for “furnished” substitute “provided”—

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- (a) Section 1 was amended by the Charities Act 2006, section 5(2).
 - (b) Section 3 was amended by the Statute Law (Repeals) Act 2004 (c.14), Schedule 1.
 - (c) Section 1A was inserted by the Charities Act 2006, section 6(1).
 - (d) There are no amendments of section 2 relevant to this Order.
 - (e) Section 3A was inserted by the Charities Act 2006, section 9. There are no amendments of section 3A relevant to this Order.
 - (f) Section 8(3) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 102.
 - (g) Section 9(1) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 103. Section 9(4) was repealed, in relation to specified exempt charities, by the Charities Act 2006, Schedule 5, paragraph 3. The repeal is not yet fully in force.
 - (h) Section 28(9) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 121.
 - (i) Section 84 was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 163.

- (a) section 9(3)(a);
- (b) section 31A(2)(b) and (c)(b).

(3) In the following provisions of that Act, for “furnishing” substitute “provision”—

- (a) section 85(1)(b)(c);
- (b) section 97(2)(a) and (b).

(4) Any regulations made or having effect as if made under section 85 of that Act are to be read as if any reference in the regulations to the furnishing of a document were a reference to the provision of the document.

8.—(1) In section 14(5)(c) of that Act, for “such claim” substitute “claims made in accordance with paragraph (b)”.

(2) In section 14(6)(a) of that Act(d), for “any such claims” substitute “claims made in accordance with subsection (5)(b)”.

9. In section 14B of that Act(e), after subsection (6) insert—

“(7) In this section references to the original purposes of a gift are to be read, where the application of the property given has been altered or regulated by a scheme or otherwise, as referring to the purposes for which the property is for the time being applicable.”.

10.—(1) In section 17(2) of that Act(f), omit “and a draft of the order shall be laid before Parliament”.

(2) After section 17(2) of that Act insert—

“(2A) Subject to subsections (3) and (5), an order under subsection (2) is subject to annulment in pursuance of a resolution of either House of Parliament.”.

(3) In section 17(3) of that Act—

- (a) omit “Without prejudice to the operation of section 6 of the Statutory Instruments Act 1946 in other cases,”, and
- (b) for “the order shall not be made unless the draft has been approved by” substitute “no order may be made unless a draft of the order has been laid before and approved by a”.

11.—(1) In section 18(12) of that Act(g), for “under this section otherwise than by virtue of subsection (1)” substitute “by virtue of subsection (2), (4) or (5)”.

(2) In section 22(3) of that Act(h), for “section 18” substitute “section 18(1)(iii)”.

12.—(1) In section 20(2)(b) of that Act(i), for “to the parish or community council (or, where a parish has no council, to the chairman of the parish meeting)” substitute “to—

- (i) the parish council or, if the parish has no council, the chairman of the parish meeting,
or
- (ii) the community council or, if the community has no council, the council of the county or the county borough.”.

(2) In section 79(7) of that Act(j), in paragraph (a) for “for references in subsections (1) and (2)” substitute “for references in subsection (1)” and after paragraph (a) insert—

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- (a) Section 9(3) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 103.
 - (b) Section 31A was inserted by the Charities Act 2006, section 26.
 - (c) Section 85(1) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 164.
 - (d) Section 14(6) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 107. There are other amendments of section 14 not relevant to this Order.
 - (e) Section 14B was inserted by the Charities Act 2006, section 18.
 - (f) Section 17(2) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 110, and by S.I. 2006/2951, Schedule, paragraph 4(j).
 - (g) Section 18(12) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 111.
 - (h) Section 22(3) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 114.
 - (i) Section 20 was substituted for that section as originally enacted by the Charities Act 2006, section 22.
 - (j) Section 79(7) was amended by the Local Government (Wales) Act 1994 (c. 19), Schedule 16, paragraph 101(4).

“(aa) for references in subsection (2)(a) to a parish, a parish council or a parish meeting there shall be substituted respectively references to a community, a community council or the council of the county or (as the case may be) county borough;”.

13. In section 22(1) of that Act, after “orders of the court” insert “in the same way”.

14. In section 26(3) of that Act—

(a) for “thereby authorised” substitute “authorised by the order”, and

(b) for “therewith” substitute “with that authority”.

15. In section 36(4)(a) of that Act(b), omit “or of the Incorporated Society of Valuers and Auctioneers”.

16. In section 39(1) of that Act(c), for “registered disposition” substitute “registrable disposition”.

17.—(1) In section 43(1) of that Act(d), for “£100,000 or such other sum as is” substitute “the sum”.

(2) In section 43(9) of that Act(e), for “, of a charity for a financial year” substitute “for a financial year of a charity which is a company”.

18. In section 43A(5) of that Act(f), for “Commission” substitute “Charity Commission”.

19.—(1) In section 57(1) of that Act(g), for “and shall preserve all documents sent to it under this Part of this Act” substitute “and documents sent to the Commission under this Part shall be kept by the Commission for such period as it thinks fit”.

(2) For section 57(2) of that Act substitute—

“(2) Documents kept under this section are to be open to public inspection at all reasonable times; and any person who is provided with a copy or extract of any document kept under this section may require it to be certified by a certificate signed by a member of the staff of the Commission.”.

20. In section 69I(3)(b) of that Act(h), for “register of friendly societies” substitute “mutual societies register”.

21. In section 69M(5) of that Act(i), after “The resolution” insert “of the transferor CIO”.

22.—(1) In section 73D of that Act(j)—

(a) in subsection (1)(c) omit “, reporting accountant”;

(b) in subsection (5)—

(i) in paragraph (a) for “section 43B above”, and

(ii) in paragraph (b) for “that section”,

(a) Section 79(2) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 161.

(b) Section 36(4)(a) was amended by S.I. 2006/2951, Schedule, paragraph 4(o).

(c) Section 39(1) was amended by the Land Registration Act 2002 (c.9), Schedule 11, paragraph 29(1) and (5).

(d) Section 43(1) was substituted by the Charities Act 2006, section 28(1) and (2). Section 43(1), as substituted, was amended by S.I. 2009/508, article 10.

(e) Section 43(9) was substituted by S.I. 2008/527, article 2. Section 43(9), as substituted, was amended by S.I. 2008/948, Schedule 1, paragraph 192.

(f) Section 43A was inserted by S.I. 2005/1074, article 3. Section 43A(5) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 135.

(g) Section 57 was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 147.

(h) Section 69I was inserted by the Charities Act 2006, Schedule 7. Schedule 7 is not yet fully in force.

(i) Section 69M was inserted by the Charities Act 2006, Schedule 7. Schedule 7 is not yet fully in force.

(j) Section 73D was inserted by the Charities Act 2006, section 38. It was amended by S.I. 2008/948, Schedule 3, paragraph 11.

substitute “Part 6 (including Schedule 5A)(a)”.

(2) Nothing in sub-paragraph (1)(a) affects the operation of sections 73D and 73E(b) of the 1993 Act in relation to a person who is, or has been, a reporting accountant appointed to examine or report on a charity’s accounts relating to a financial year beginning before 1st April 2008.

23. In section 74B(11) of that Act(c), for “any reference to any obligation imposed on the charity trustees by or under section 74 includes” substitute “the references in sections 74(8)(b) and 74A(2) to any obligation imposed on the charity trustees by or under section 74 include”.

24.—(1) In section 79(2) of that Act, omit “, ratepayers”.

(2) Nothing in sub-paragraph (1) affects any appointment of a charity trustee made before the commencement of that sub-paragraph.

(3) Where, immediately before the commencement of sub-paragraph (1)—

(a) the charity trustees of a parochial charity included one or more persons elected by ratepayers, or

(b) the sole charity trustee of a parochial charity was elected by ratepayers,

then, on and after the commencement of that sub-paragraph, section 79(2) of that Act has effect in relation to that parochial charity as if the person or persons so elected had been elected by the local government electors.

25. In section 80(1) of that Act(d), after “in relation to a charity” insert “; and for the purposes of section 31A(10) as it has effect by virtue of this subsection, the reference in section 31A(10)(b) to the charity trustees of the charity is to be read as a reference to the persons having the general control and management of the administration of the recognised body”.

26. In section 82 of that Act—

(a) in subsection (1), for “assurances or other deeds or instruments” substitute “documents”, and

(b) in subsections (1), (2)(a), (3) and (4) for “deed or instrument” substitute “document”.

27. In section 84 of that Act(e), for “open to inspection under Parts II to VI of this Act or section 75D” substitute “open to or available for inspection under any provision of this Act”.

28. Section 86(3) of that Act(f) has effect, except for the purposes of section 2B(9) of that Act(g), subject to the following amendments—

(a) in paragraph (a), after “cases” insert “or descriptions of case or different purposes or areas”, and

(b) in paragraph (b), after “consequential” insert “, transitory”.

29. In section 89 of that Act(h)—

(a) in subsection (2), omit “(without prejudice to the requirements of this Act where the order is subject to appeal)”; and

(b) in subsection (5), after “so made” insert “and may include transitional provisions or savings”.

(a) Schedule 5A was inserted by the Charities Act 2006, Schedule 6; it was amended by S.I. 2008/527, article 8 and S.I. 2008/948, Schedule 1, paragraph 192(1) and (10).

(b) Section 73E was inserted by the Charities Act 2006, section 38. It was amended by S.I. 2008/948, Schedule 3, paragraph 12.

(c) Section 74B was substituted (together with section 74 and 74A), for section 74 as originally enacted, by the Charities Act 2006, section 40.

(d) Section 80(1) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 162.

(e) Section 84 was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 163.

(f) Section 86(3) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 165 and by S.I. 2006/2951, Schedule, paragraph 4(y).

(g) Section 2B was inserted by the Charities Act 2006, section 8(1). There are amendments of section 2B not relevant to this Order.

(h) Section 89 was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 168.

30. In the definition of “financial year” in section 97(1) of that Act(a), for the words following paragraph (b) substitute “but this is subject to any provision of regulations made by virtue of paragraph 3(5) of Schedule 5A to this Act (financial years of subsidiary undertakings).”.

31. In the Table in Schedule 1C to the 1993 Act(b)—

- (a) in the first entry relating to section 56(4) of the 1993 Act, in column 1, omit “of a charity”;
- (b) in the entry relating to section 61(1) or (2) of that Act—
 - (i) in column 1 omit “a charity which is”; and
 - (ii) in column 2 omit “(b) the charity itself”;
- (c) in each of the entries relating to section 50(1), 56(4) and 61(1) or (2) of that Act, in column 2, after “trustees of the charity” insert “(within the meaning of section 62 of this Act)”;
- (d) for the entry relating to section 69(4) of that Act substitute—

<i>1</i>	<i>2</i>	<i>3</i>
Order made by the Commission under section 69(4) of this Act(c) in relation to a charity which is a company, or a decision of the Commission not to make such an order in relation to such a charity.	The persons are— (a) the charity trustees of the charity, (b) the charity itself, (c) in the case of a decision not to make an order, the auditor, and (d) any other person who is or may be affected by the order or the decision.	Power to— (a) quash the order or decision and (if appropriate) remit the matter to the Commission; (b) substitute for the order any other order of a kind the Commission could have made; (c) make any order which the Commission could have made.”

- (e) in—
 - (i) the second entry relating to section 69E of that Act, in column 1,
 - (ii) the entry relating to section 69H of that Act, in column 1, and
 - (iii) the second entry relating to section 69K of that Act(d), in column 1, for “not to grant” substitute “to refuse”;
- (f) in the second entry relating to section 69M(1) of that Act, in column 1, for “not to confirm” substitute “to refuse to confirm”;
- (g) after the entry relating to section 96(5) or (6) of that Act(e) insert—

<i>1</i>	<i>2</i>	<i>3</i>
Order made by the Commission under paragraph 6(5), or by virtue of paragraph 7(2), of Schedule 5A to this Act requiring the group accounts of a parent charity to be audited.	The persons are— (a) the charity trustees of the parent charity, (b) (if a body corporate) the parent charity itself, and (c) any other person who may be affected by the order.	Power to— (a) quash the order; (b) substitute for the order any other order which could have been made by the Commission; (c) add to the order anything

- (a) Section 97(1) was amended by S.I. 2008/948, Schedule 1, paragraphs 192(1) and (9). There are other amendments of section 97(1) not relevant to this Order.
- (b) Schedule 1C was inserted by the Charities Act 2006, Schedule 4 (Schedule 4 is not yet fully in force). Schedule 1C was amended by S.I. 2009/1834, Schedule 1, paragraph 14, by S.I. 2009/1941, Schedule 1, paragraph 139 and by S.I. 2009/3348, article 4(3).
- (c) Section 69(4) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 154.
- (d) Sections 69E, 69H and 69K were inserted by the Charities Act 2006, Schedule 7, paragraph 1.
- (e) Section 96(6) was inserted by the Charities (Amendment) Act 1995, section 1. Sub-sections 96(5) and (6) were amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 173.

<p>Order made by the Commission by virtue of paragraph 8(4) of Schedule 5A to this Act in relation to a member of a group, or a decision of the Commission not to make such an order in relation to a member of a group.</p>	<p>The persons are—</p> <p>(a) the charity trustees of the member of the group,</p> <p>(b) (if a body corporate) the member of the group itself,</p> <p>(c) in the case of a decision not to make an order, the auditor, independent examiner or examiner, and</p> <p>(d) any other person who is or may be affected by the order or the decision.</p>	<p>which would have been contained in an order made by the Commission.</p> <p>Power to—</p> <p>(a) quash the order or decision and (if appropriate) remit the matter to the Commission;</p> <p>(b) substitute for the order any other order of a kind the Commission could have made;</p> <p>(c) make any order which the Commission could have made.</p> <p>”</p>
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32. In Schedule 3 to that Act(a), in column 2, in paragraphs 1, 2(iii), 3, 3A, 4(iii) and 4A(iii), for “comprising” substitute “which includes” and in paragraphs 5 and 6, for “comprising or adjacent to the area in column 1” substitute “which—

- (i) includes, or include, the area in column 1, or
- (ii) is, or are, adjacent to the area in column 1”.

33. In Schedule 5A to that Act—

- (a) at the end of paragraph 6(7) insert “; and references in this Act to an auditor have effect in relation to sub-paragraph (4)(c) as references to the Auditor General for Wales acting under sub-paragraph (4)(c) as an auditor.”;
- (b) in paragraph 8—
 - (i) in sub-paragraph (2)(e), for “or those applied” substitute “or of section 43(3) of this Act as applied”;
 - (ii) at the end of sub-paragraph (4) insert “and for this purpose the reference in section 44(2)(b) to the charity trustees for the time being of the charity concerned is to be construed as a reference to the charity trustees for the time being of such member of the group as the Commission thinks appropriate.”; and
- (c) in paragraph 9(1) omit “and (7)”.

34. For the avoidance of doubt, in Schedule 7 to that Act, the reference to section 10 of the Universities of Durham and Newcastle-upon-Tyne Act 1963(b) is to be read as being, and as always having been, a reference to section 18 of the 1963 Act.

PART 3

AMENDMENTS OF CHARITIES ACT 2006 (c. 50)

35. In section 74(4)(a) and (6) of the Charities Act 2006, for “section 11” substitute “section 11(11)(a) or (b) or (13)”.

PART 4

AMENDMENTS RELATING TO THE MEANING OF “CHARITY”

36. In—

- (a) Schedule 3 was amended by the Local Government (Wales) Act 1994, Schedule 16, paragraph 101(5) and (6).
- (b) 1963 c. xi. Schedule 1 to the 1963 Act was amended by the University and College Estates Act 1964 (c.51), Schedule 4.

- (a) sections 5A(7)(a) and 7D(5)(a) of the Industrial and Provident Societies Act 1965(a), and
- (b) paragraph 2 of Schedule 5 to the Reserve Forces Act 1996(b),

for “as in the Charities Act 1993” substitute “as it has under section 1(1) of the Charities Act 2006”.

37.—(1) In the provisions listed in sub-paragraph (2), omit “within the meaning of the Charities Act 1993”.

(2) The provisions are—

- (a) section 1(3A) of the Leasehold Reform Act 1967(c);
- (b) section 5(3)(f) of the Rent (Agriculture) Act 1976(d);
- (c) section 15(2)(b) of the Rent Act 1977(e);
- (d) Grounds 6 and 14A of Schedule 2 to the Housing Act 1988(f);
- (e) paragraph 1(4)(a) of Schedule 3A to the Environmental Protection Act 1990(g);
- (f) section 33M of the Further and Higher Education Act 1992(h);
- (g) section 5(2) of the Leasehold Reform, Housing and Urban Development Act 1993(i);
- (h) the definition of “charitable housing trust” in section 158(1) of the Housing Act 1996(j).

38. In—

- (a) section 4A(6) of the Friendly and Industrial and Provident Societies Act 1968(k), and
- (b) section 32A(6) of the Friendly Societies Act 1974(l),

for “within the meaning of the Charities Act 1993,” substitute “as defined by section 1(1) of the Charities Act 2006,”.

39. In section 4(13) of the Redundant Churches and other Religious Buildings Act 1969(m)—

- (a) omit the words following the definition of “prescribed charity”;
- (b) before the definition of “the Commission” insert—

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- (a) 1965 c.12. Section 5A was inserted by the Co-operatives and Community Benefit Societies Act 2003 (c.15), section 2. Section 7D was inserted by the Co-operatives and Community Benefit Societies Act 2003, section 3, and amended by the Charities Act 2006, Schedule 8, paragraph 47. The 1965 Act is prospectively re-named by the Co-operative and Community Benefit Societies and Credit Unions Act 2010 (c.7), section 2.
 - (b) 1996 c.14. There are no amendments of Schedule 5 relevant to this Order.
 - (c) 1967 c.88. Section 1(3A) was inserted by the Leasehold Reform, Housing and Urban Development Act 1993 (c.28), section 67. Section 1(3A) was amended by the Housing Act 1996 (c.52), Schedule 9, paragraph 2(2), and by the Housing and Regeneration Act 2008 (c.17), Schedule 16. The amendments made by the 2008 Act are not yet fully in force.
 - (d) 1976 c.80. Section 5(3)(f) was amended by the Rent Act 1977 (c.42), Schedule 23, paragraph 73, and by the Charities Act 1993, Schedule 6, paragraph 30. There are other amendments of section 5 of the 1976 Act not relevant to this Order.
 - (e) 1977 c.42. Section 15(2)(b) was amended by the Charities Act 1993, Schedule 6, paragraph 30. There are other amendments of section 15(2) not relevant to this Order.
 - (f) 1988 c.50. Ground 6 of Schedule 2 was amended by the Local Government and Housing Act 1989 (c.42), Schedule 11, paragraph 109, by the Charities Act 1993, Schedule 6, paragraph 30, by the Housing Act 1996 (c.52), Schedule 19, by S.I. 1996/2325, Schedule 2 paragraph 18 and by S.I. 2010/866, Schedule 2, paragraphs 63 and 74. Ground 14A of Schedule 2 was inserted by the Housing Act 1996, section 149. Ground 14A of Schedule 2 was amended by the Civil Partnership Act 2004 (c.33), Schedule 8, paragraph 43 and by S.I. 2010/866, Schedule 2, paragraph 63.
 - (g) 1990 c.43. Schedule 3A was inserted by the Clean Neighbourhoods and Environment Act 2005 (c.16), section 23(2).
 - (h) 1992 c.13. Section 33M was inserted by the Apprenticeships, Skills, Children and Learning Act 2009 (c.22), Schedule 8, paragraphs 1 and 3.
 - (i) 1993 c.28. Section 5(2) was amended by the Housing Act 1996, Schedule 9, paragraph 3(2), and by the Common and Leasehold Reform Act 2002 (c.15), Schedule 14.
 - (j) 1996 c.52. Section 158(1) was amended by the Anti-social Behaviour Act 2003 (c.38), section 13(7).
 - (k) 1968 c.55. Section 4A was inserted by S.I. 1996/1738, article 8. There are amendments of section 4A not relevant to this Order. The 1968 Act is prospectively re-named by the Co-operative and Community Benefit Societies and Credit Unions Act 2010, section 2.
 - (l) 1974 c.46. Section 32A was inserted by S.I. 1996/1738, article 10. There are amendments of section 32A not relevant to this Order.
 - (m) 1969 c.22. Section 4 was substituted by the Charities Act 1992 (c.41), Schedule 5, paragraph 1. Section 4(13) was amended by the Charities Act 1993, Schedule 6, paragraph 10.

““charity” has the meaning given by section 96 of the Charities Act 1993(a);” and
(c) after the definition of “the Commission” insert—
““the court” has the same meaning as in the Charities Act 1993;”.

40.—(1) In the provisions listed in sub-paragraph (2), omit the definition of “charity”.

(2) The provisions are—

- (a) section 622(1) of the Housing Act 1985(b);
- (b) section 169(9) of the Local Government and Housing Act 1989(c);
- (c) section 58(1) of the Charities Act 1992(d);
- (d) section 23A(10) of, and paragraph 8A(6) of Schedule 22 to, the School Standards and Framework Act 1998(e).

41. Omit section 38 of the Housing Associations Act 1985(f).

42. In section 60(1) of the Landlord and Tenant Act 1987(g), omit ““charity” means a charity within the meaning of the Charities Act 1993, and”.

43. In—

- (a) section 125A of the Education Reform Act 1988(h), and
- (b) section 22A of the Further and Higher Education Act 1992(i),

omit “within the meaning of the Charities Act 1993” and for “Schedule 2 to that Act” substitute “Schedule 2 to the Charities Act 1993(j)”.

44. In—

- (a) section 128(5) of the Education Reform Act 1988(k), and
- (b) sections 27(5) and 33N(10) of the Further and Higher Education Act 1992(l),

for ““charity” and “charitable purposes” have the same meanings” substitute ““charitable purposes” has the same meaning”.

45. In section 58(1)(a) of the Housing Act 1996(m), for ““charity” and “trusts”, in relation to a charity, have” substitute ““trusts”, in relation to a charity, has” and in section 64 of that Act omit the entry relating to “charity”.

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- (a) Section 96, so far as relating to the meaning of charity, was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 173 and by the Church of England (Miscellaneous Provisions) Measure 2000 (No. 1), section 11.
 - (b) 1985 c.68. The definition of “charity” in section 622(1) was amended by the Charities Act 1993, Schedule 6, paragraph 30. There are other amendments of section 622(1) not relevant to this Order.
 - (c) There are amendments of section 169 not relevant to this Order.
 - (d) The definition of “charity” in section 58(1) was amended by the Charities Act 1993, Schedule 6, paragraph 29(5). There are other amendments of section 58(1) not relevant to this Order.
 - (e) 1998 c.31. Section 23A was inserted by the Education and Inspections Act 2006 (c.40), section 33. Paragraph 8A of Schedule 22 was inserted by the Education and Inspections Act 2006, Schedule 4, paragraph 13. There are amendments of section 23A(10) and paragraph 8A not relevant to this Order.
 - (f) 1985 c.69. Section 38 was amended by the Charities Act 1993, Schedule 6, paragraph 21 and by S.I. 1996/2325, Schedule 1. Section 38 was repealed, in relation to Scotland, by the Housing (Scotland) Act 2001 (asp.10), Schedule 10, paragraph 11.
 - (g) 1987 c.31. The definition of “charity” in section 60(1) was amended by the Charities Act 1993, Schedule 6, paragraph 30. There are other amendments of section 60 not relevant to this Order.
 - (h) 1988 c.40. Section 125A was substituted, for section 125A as inserted by the Teaching and Higher Education Act 1998 (c.30), section 41, by the Charities Act 2006, Schedule 8, paragraph 85. Section 125A, as substituted, was amended by S.I. 2010/500, Schedule 1, paragraph 3.
 - (i) Section 22A was substituted, for section 22A as inserted by the Teaching and Higher Education Act 1998 (c.30), section 41, by the Charities Act 2006, Schedule 8, paragraph 88.
 - (j) There are amendments to Schedule 2 not relevant to this Order.
 - (k) Section 128(5) was amended by the Charities Act 1993, Schedule 6, paragraph 30.
 - (l) Section 27(5) was amended by the Further Education and Training Act 2007 (c.25), Schedule 1, paragraph 8. Section 33N was inserted by the Apprenticeships, Skills, Children and Learning Act 2009, Schedule 8, paragraphs 1 and 3. There are amendments of section 33N not relevant to this Order.
 - (m) 1996 c.52. Section 58(1) was amended by the Charities Act 2006, Schedule 8, paragraphs 183 and 191.

46.—(1) In section 23(4)(a) of the School Standards and Framework Act 1998, for ““charity” and “institution” have” substitute ““institution” has”.

(2) In Schedule 1 to that Act(**a**), in paragraph 10, for “within the meaning of the Charities Act 1993, and is an institution to which section 3A(4)(b) of that Act” substitute “and is an institution to which section 3A(4)(b) of the Charities Act 1993”.

47. In section 63(1) of the Companies (Audit, Investigations and Community Enterprise) Act 2004(**b**), in the definition of “English charity”, for “within the meaning of the Charities Act 1993 (see section 96 of that Act)” substitute “as defined by section 1(1) of the Charities Act 2006”.

48. In—

- (a) section 42(1) of the Criminal Justice and Court Services Act 2000(**c**), and
- (b) paragraphs 4(7) and 8(6) of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006(**d**),

for ““charity” and “charity trustee” have the same meanings” substitute ““charity trustee” has the same meaning”.

(a) Paragraph 10 of Schedule 1 was amended by the Charities Act 2006, Schedule 8, paragraphs 193 and 195.
(b) 2004 c.27. The definition of “charity” in section 63(1) was substituted for the definition, as originally enacted, by S.I. 2007/1093, Schedule 4, paragraph 24(3). The definition of “English charity” in section 63(1) was inserted by S.I. 2007/1093, Schedule 4, paragraph 24(4).
(c) 2000 c.43. There are amendments of section 42 not relevant to this Order.
(d) 2006 c.47. Schedule 4, paragraph 4(7) was amended by S.I. 2009/2610, article 26 and by S.I. 2010/1154, articles 2 and 5.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes minor amendments to the Recreational Charities Act 1958, the Charities Acts 1993 and 2006 and other legislation which facilitate, or are otherwise desirable in connection with, the consolidation of charity legislation by the Charities Act 2011. The Order will come into force immediately before the 2011 Act comes into force.

The amendments in the Schedule to the Order can be categorised broadly as: desirable to clarify the legislation or remove an element of ambiguity from it or necessary to remedy missed consequential provisions or clarify the definition of charity that is to apply for the purpose of various Acts of Parliament.

A detailed explanation for each provision of the Schedule has been included in the annex to the Explanatory Memorandum which is available alongside the Order on www.legislation.gov.uk.

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

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STATUTORY INSTRUMENTS

2011 No. 1396

CHARITIES

The Charities (Pre-consolidation Amendments) Order 2011

£5.75