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STATUTORY INSTRUMENTS

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**2023 No. 643**

**The Charities Act 2022 (Commencement No. 2  
and Saving Provisions) Regulations 2023**

**Citation, extent and commencement**

1.—(1) These Regulations may be cited as the Charities Act 2022 (Commencement No. 2 and Saving Provisions) Regulations 2023.

(2) These Regulations extend to England and Wales, subject to paragraph (3).

(3) The amendment brought into effect by paragraph 20(v) of the Schedule has the same extent as the provision that it amends.

**Interpretation**

2.—(1) In these Regulations—

“the 2011 Act” means the Charities Act 2011(1);

“the 2022 Act” means the Charities Act 2022;

“appointed day” means 14th June 2023;

“the Tribunal” means in relation to any appeal made under the 2011 Act—

- (a) the Upper Tribunal, in any case where it is determined by or under Tribunal Procedure Rules that the Upper Tribunal is to hear the appeal, application or reference, or
- (b) the First-tier Tribunal, in any other case.

(2) For the purposes of regulations 4 and 5, relevant proceedings have been commenced when a notice, claim form or other document is sent or delivered to, or filed with, the Tribunal or court for the purpose of commencing the proceedings.

(3) In paragraph (2), court means—

- (a) the High Court, and
- (b) within the limits of its jurisdiction, any other court in England and Wales having a jurisdiction in respect of charities concurrent (within any limit of area or amount) with that of the High Court,

and includes any judge or officer of the court exercising the jurisdiction of the court.

**Provisions coming into force on 14th June 2023**

3. The day appointed for the coming into force of the provisions of the 2022 Act listed in the Schedule is 14th June 2023.

**Saving provision in relation to sections 10 and 11 of the 2022 Act**

4.—(1) In this regulation—

“relevant proceedings” means—

- (a) proceedings on an appeal brought to the Tribunal under section 319 of the 2011 Act<sup>(2)</sup> in relation to a decision of the Charity Commission under section 284 of the 2011 Act not to concur with a section 282(2) resolution, or
- (b) proceedings on an application for judicial review of the Charity Commission’s decision under section 284 of the 2011 Act to concur or not concur with a section 282(2) resolution;

“section 282(2) resolution” means a resolution of the charity trustees of a charity passed in accordance with section 282(2) of the 2011 Act.

(2) Paragraph (3) applies in relation to a charity (“the charity”) if before the appointed day—

- (a) the charity trustees of the charity have passed a section 282(2) resolution, and
- (b) any one of the following applies—
  - (i) the charity trustees of the charity have not sent a copy of the section 282(2) resolution, together with a statement of their reasons for passing it to the Charity Commission, as required by section 282(4) of the 2011 Act;
  - (ii) the charity trustees of the charity have complied with section 282(4) of the 2011 Act, and the period, specified in section 284(5)(b) of the 2011 Act, within which the Charity Commission must notify the charity trustees of the charity in writing that it concurs or does not concur with the section 282(2) resolution, has not expired;
  - (iii) the Charity Commission has informed the charity trustees of the charity in writing that it concurs with the section 282(2) resolution and the period for commencing proceedings on an application for judicial review in relation to that decision has not expired;
  - (iv) the Charity Commission has informed the charity trustees of the charity in writing that it does not concur with the section 282(2) resolution and the period for commencing relevant proceedings has not expired;
  - (v) relevant proceedings have been commenced.

(3) Sections 282, 284 and 353 of the 2011 Act continue to have effect on or after the appointed day in relation to the section 282(2) resolution as if sections 9, 10 and 11 of, and paragraph 17 of Schedule 2 to, the 2022 Act had not been commenced.

### **Saving provision in relation to section 14 of the 2022 Act**

5.—(1) In this regulation—

“relevant proceedings” means—

- (a) proceedings on an appeal brought to the Tribunal under section 319 of the 2011 Act in relation to a decision of the Charity Commission under section 291 of the 2011 Act not to concur with a section 289(2) resolution, or
- (b) proceedings on an application for judicial review of the Charity Commission’s decision under section 291 of the 2011 Act to concur or not to concur with a section 289(2) resolution;

“section 289(2) resolution” means a resolution of the charity trustees of a charity passed in accordance with section 289(2) of the 2011 Act.

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(2) Section 319 of the 2011 Act has effect to give the Upper and First-tier Tribunals powers to hear appeals against certain decisions, directions or orders of the Charity Commission. Schedule 6 to the 2011 Act lists those decisions, directions or orders of the Charity Commission which are subject to appeal to the Tribunals.

(2) Paragraphs (3) and (4) apply in relation to a charity (“the charity”) if, before the appointed day—

- (a) the charity trustees of the charity have passed a section 289(2) resolution, and
- (b) any one of the following applies—
  - (i) the charity trustees of the charity have not sent a copy of the section 289(2) resolution, together with a statement of their reasons for passing it to the Charity Commission, as required by section 289(4);
  - (ii) the charity trustees of the charity have complied with section 289(4), and the period, specified in section 291(5)(b) of the 2011 Act, within which the Charity Commission must notify the charity trustees of the charity in writing that it concurs or does not concur with the section 289(2) resolution, has not expired;
  - (iii) the Charity Commission has informed the charity trustees of the charity in writing that it concurs with the section 289(2) resolution and the period for commencing proceedings on an application for judicial review in relation to that decision has not expired;
  - (iv) the Charity Commission has informed the charity trustees of the charity in writing that it does not concur with the section 289(2) resolution and the period for commencing relevant proceedings has not expired;
  - (v) relevant proceedings have been commenced.

(3) Sections 288(7), 289 to 291 and 353 of the 2011 Act continue to have effect on or after the appointed day in relation to the charity trustees of the charity in respect of the section 289(2) resolution as if sections 9 and 14 of the 2022 Act had not been commenced.

(4) Schedules 6 and 11 of the 2011 Act continue to have effect on or after the appointed day in relation to the section 289(2) resolution as if paragraphs 24 and 25 of Schedule 2 to the 2022 Act had not been commenced.

12th June 2023

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