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STATUTORY INSTRUMENTS

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**2011 No. 1728 (C. 65)**

**CHARITIES, ENGLAND AND WALES**

**The Charities Act 2006 (Commencement No. 8,  
Transitional Provisions and Savings) Order 2011**

*Made* - - - - *14th July 2011*

The Minister for the Cabinet Office makes the following Order in exercise of the powers conferred by section 79(2) and (3) of the Charities Act 2006<sup>(1)</sup>:

**Citation and interpretation**

**1.**—(1) This Order may be cited as the Charities Act 2006 (Commencement No. 8, Transitional Provisions and Savings) Order 2011.

(2) In this Order—

“the 1993 Act” means the Charities Act 1993<sup>(2)</sup>;

“the 2006 Act” means the Charities Act 2006;

“academy or sixth form college charity” means an exempt charity which—

(a) is included in paragraph (ca) or (cd) of Schedule 2 to the 1993 Act<sup>(3)</sup>; or

(b) falls within paragraph (w) of that Schedule and is administered by or on behalf of an institution included in paragraph (ca) or (cd);

“foundation or voluntary school charity” means an exempt charity which is included in paragraph (cb), (cc) or (wa) of Schedule 2 to the 1993 Act<sup>(4)</sup>;

“specified exempt charity” means an exempt charity which—

(c) is a foundation or voluntary school charity; or

(d) is an academy or sixth form college charity;

and references to “specified exempt charities” are to be construed accordingly.

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(1) 2006 c.50. For the definition of “the Minister” see section 78(6).

(2) 1993 c.10.

(3) Paragraph (ca) is inserted by the Academies Act 2010 (c.32), section 12(4); paragraph (cd) is inserted by the Charities Act 2006 (Changes in Exempt Charities) Order 2011 (S.I. 2011/1725).

(4) Paragraphs (cb), (cc) and (wa) are inserted by S.I. 2011/1725.

### **Commencement**

2. Subject to article 3, the day appointed for the commencement of the provisions of the 2006 Act specified in Column 1 of Schedule 1 is 1st August 2011 except that—

- (a) where a particular purpose is specified in Column 3 of that Schedule in relation to any such provision, the relevant provision comes into force on that day for that particular purpose only;
- (b) where any limitation is specified in Column 3 of that Schedule in relation to any such provision, the relevant provision comes into force on that day subject to the specified limitation.

### **Transitional provisions and savings**

3. Schedule 2 (which contains transitional provisions and savings) has effect.

14th July 2011

*Nick Hurd*  
Parliamentary Secretary  
Cabinet Office

## SCHEDULE 1

Article 2

## PROVISIONS OF THE 2006 ACT COMING INTO FORCE ON 1ST AUGUST 2011

<i>Provision(s) of the 2006 Act</i>	<i>Subject matter of provisions</i>	<i>Particular purpose or other limitation</i>
Section 12	Increased regulation of exempt charities under 1993 Act	In so far as it relates to the specified exempt charities.
Section 13(1) to (3)	General duty of principal regulator in relation to an exempt charity	In so far as they relate to the specified exempt charities.
Section 14	Commission to consult principal regulator before exercising powers in relation to exempt charity	In so far as it relates to the specified exempt charities.
Section 29(2)	Duty of auditor etc. of charity which is not a company to report matters to the Commission	In so far as it relates to the specified exempt charities.
Section 75(1) to (3)	Amendments, repeals, revocations and transitional provisions	In so far as they relate to the provisions of Schedules 8 to 10 to the 2006 Act commenced by article 2 of this Order.
Schedule 5	Exempt charities: increased regulation under 1993 Act	In so far as it relates to the specified exempt charities.
Schedule 8, paragraph 104	Minor and consequential amendments	In so far as it inserts a new section 10B into the 1993 Act, or refers to section 10B, for the purpose of enabling disclosure of information to and by principal regulators of specified exempt charities.
Schedule 8, paragraph 176	Minor and consequential amendments	In so far as it refers to section 10B of the 1993 Act for the purposes for which paragraph 104 of Schedule 8 to the 2006 Act has been commenced by article 2 of this Order.
Schedule 9	Repeals and revocations	In so far as they relate to the specified exempt charities the entries relating to sections 6(9), 9(4), 16(4)(c) and (5), 17(7), 28(10), 33(2) and (7), and 73(4) of the 1993 Act.
Schedule 10, paragraph 8	Transitional provisions and savings	In so far as it relates to the amendments made by section 29(2) of the 2006 Act

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<i>Provision(s) of the 2006 Act</i>	<i>Subject matter of provisions</i>	<i>Particular purpose or other limitation</i>
		(as commenced by article 2 of this Order) and the duty imposed by section 46(2A) of the 1993 Act (inserted by section 29(2)) in relation to the specified exempt charities.

## SCHEDULE 2

Article 3

## TRANSITIONAL PROVISIONS AND SAVINGS

**Inquiries under section 8 of the 1993 Act**

1.—(1) Where the Commission has instituted an inquiry under section 8 of the 1993 Act before 1st August 2011, the inquiry may extend to an academy or sixth form college charity as if it had been requested by the principal regulator of that charity.

(2) Subject to sub-paragraph (3), the Commission must not institute any inquiry under section 8 (as amended by the provisions of the 2006 Act commenced by article 2 of this Order for the purposes specified in Schedule 1) on or after 1st August 2011—

- (a) in relation to a foundation or voluntary school charity and in respect of any period beginning before that day; or
- (b) which covers any period beginning before that day and would extend to a foundation or voluntary school charity.

(3) The Commission may, if—

- (a) a request is made by the principal regulator of a foundation or voluntary school charity; and
- (b) it considers it appropriate to do so,

institute an inquiry under section 8 of the 1993 Act on or after 1st August 2011 into that charity in respect of a relevant matter.

(4) For the purposes of this paragraph a matter is a relevant matter if—

- (a) it initially arose before 1st August 2011 but during the current financial year of the charity; and
- (b) the Commission was not aware of it before that day.

(5) In this paragraph—

“current financial year” means, in relation to a charity, a financial year—

- (a) which began before 1st August 2011; but
- (b) ends on or after that day;

“financial year” has the meaning given by section 97(1) of the 1993 Act.

**Costs in promoting a Bill before Parliament**

2. Where immediately before 1st August 2011 a foundation or voluntary school charity was preparing or promoting a Bill in Parliament, section 17(7) of the 1993 Act does not apply in respect of any expenditure incurred by that charity on or after that day in the preparation or promotion of that Bill.

### **Ongoing charity proceedings**

3.—(1) Any charity proceedings—

- (a) relating to a foundation or voluntary school charity; and
- (b) taken before 1st August 2011,

continue on or after that day as if they had been authorised by the Commission.

(2) In this paragraph “charity proceedings” has the meaning given by section 33(8) of the 1993 Act.

### **Persons acting as charity trustee or trustee while disqualified**

4.—(1) The Commission may not make any order under section 73(4) of the 1993 Act which would require a person (“P”) to—

- (a) repay to a foundation or voluntary school charity the whole or part of any relevant sum received by P by way of remuneration or expenses; or
- (b) pay to that charity the whole or part of the monetary value of any relevant benefit in kind received by P.

(2) For the purposes of this paragraph—

- (a) a sum by way of remuneration or expenses or a benefit in kind received by P is a relevant sum or benefit in kind if it is received by P in connection with P’s acting as a charity trustee of or trustee for the foundation or voluntary school charity at any time—
  - (i) before 1st August 2011; and
  - (ii) when P was disqualified by section 72 of the 1993 Act for acting as such a trustee; and
- (b) it does not matter whether the sum or benefit is received by P before, on or after 1st August 2011.

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order brings into force certain provisions of the Charities Act 2006 for the purposes of specified categories of exempt charity, namely: (1) the governing bodies of foundation, voluntary and foundation special schools, and foundation bodies established under section 21 of the Schools Standards and Framework Act 1998; (2) sixth form college corporations; (3) qualifying academy proprietors under section 12 of the Academies Act 2010; and (4) certain connected charities.

The provisions specified in Schedule 1 to this Order are brought into force on 1st August 2011, subject to the transitional provisions and savings specified in Schedule 2.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

Various provisions of the Charities Act 2006 have been brought into force by commencement orders made before the date of this Order. The relevant provisions of that Act are set out in the following table.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
s.1	01.04.2008	S.I. 2008/945
s.2:		
partially	27.02.2007	S.I. 2007/309
for all remaining purposes	01.04.2008	S.I. 2008/945
s.3:		
partially	27.02.2007	S.I. 2007/309
for all remaining purposes	01.04.2008	S.I. 2008/945
s.4:		
partially	27.02.2007	S.I. 2007/309
for all remaining purposes	01.04.2008	S.I. 2008/945
s.5:		
partially	01.04.2008	S.I. 2008/945
partially	01.04.2009	S.I. 2008/945, as amended by S.I. 2009/841
for all remaining purposes	01.04.2010	S.I. 2008/945, as amended by S.I. 2009/841
s.6	27.02.2007	S.I. 2007/309
s.7:		
partially	27.02.2007	S.I. 2007/309
for all remaining purposes	18.03.2008	S.I. 2008/751
s.8:		
partially	27.02.2007	S.I. 2007/309
for all remaining purposes	18.03.2008	S.I. 2008/751
s.9:		
	27.02.2007	S.I. 2007/309

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
partially	31.01.2009	S.I. 2008/3267
partially		
s.10	27.02.2007	S.I. 2007/309
s.11:	27.02.2007	S.I. 2007/309
partially	31.01.2009	S.I. 2008/3267
partially	01.06.2010	S.I. 2010/503
partially		
s.12 (partially)	01.06.2010	S.I. 2010/503
s.13 (partially)	01.06.2010	S.I. 2010/503
s.14 (partially)	01.06.2010	S.I. 2010/503
ss.15 and 16	18.03.2008	S.I. 2008/751
s.17:		
	27.02.2007	S.I. 2007/309
partially		
	18.03.2008	S.I. 2008/751
for all remaining purposes		
ss.18 to 21	18.03.2008	S.I. 2008/751
ss.22 to 28	27.02.2007	S.I. 2007/309
s.29:	01.04.2008	S.I. 2008/945
partially	01.06.2010	S.I. 2010/503
partially		
s.30:		
	27.02.2007	S.I. 2007/309
partially		
	01.04.2008	S.I. 2008/945
for all remaining purposes		
s.31	18.03.2008	S.I. 2008/751
s.32	27.02.2007	S.I. 2007/309
s.33	01.04.2008	S.I. 2008/945
s.34 (partially)	27.02.2007	S.I. 2007/309
s.35	27.02.2007	S.I. 2007/309
ss.36 and 37	18.03.2008	S.I. 2008/751
s.38:		
	27.02.2007	S.I. 2007/309
partially		
	01.04.2008	S.I. 2008/945

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
partially		
s.39	27.02.2007	S.I. 2007/309
ss.40 and 41	18.03.2008	S.I. 2008/751
s.42	27.02.2007	S.I. 2007/309
s.43	18.03.2008	S.I. 2008/751
s.44 (partially)	28.11.2007	S.I. 2007/3286
s.45 (partially)	01.04.2008	S.I. 2007/3286
s.46 (partially)	01.04.2008	S.I. 2007/3286
s.47 (partially)	01.04.2008	S.I. 2007/3286
s.67	01.04.2008	S.I. 2007/3286
s.68:	27.02.2007	S.I. 2007/309
partially	01.04.2008	S.I. 2007/3286
partially		
s.69	27.02.2007	S.I. 2007/309
s.70	01.04.2007	S.I. 2007/309
s.71	27.02.2007	S.I. 2007/309
s.72	27.02.2007	S.I. 2007/309
s.73	31.01.2009	S.I. 2008/3267
s.75:	27.02.2007	S.I. 2007/309
partially	28.11.2007	S.I. 2007/3286
partially	18.03.2008	S.I. 2008/751
partially	01.04.2008	S.I. 2007/3286 and S.I. 2008/945
partially	31.01.2009	S.I. 2008/3267
partially	30.09.2009	S.I. 2009/2648
partially	01.04.2010	S.I. 2008/945, as amended by S.I. 2009/841
partially		S.I. 2010/503
s.76	27.02.2007	S.I. 2007/309
Schedules 1 and 2	27.02.2007	S.I. 2007/309
Schedule 3	18.03.2008	S.I. 2008/751
Schedule 4:		

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
partially	27.02.2007	S.I. 2007/309
partially	18.03.2008	S.I. 2008/751
partially	31.01.2009	S.I. 2009/3267
Schedule 5 (partially)	01.06.2010	S.I. 2010/503
Schedule 6:		
partially	27.02.2007	S.I. 2007/309
	01.04.2008	S.I. 2008/945
for all remaining purposes		
Schedule 7 (partially)	27.02.2007	S.I. 2007/309
Schedule 8:		
partially	27.02.2007	S.I. 2007/309
	18.03.2008	S.I. 2008/751
partially	01.04.2008	S.I. 2007/3286 and S.I. 2008/945
partially	31.01.2009	S.I. 2008/3267
partially	30.09.2009	S.I. 2009/2648
partially	01.06.2010	S.I. 2010/503
Schedule 9:		
partially	27.02.2007	S.I. 2007/309
partially	28.11.2007	S.I. 2007/3286
partially	18.03.2008	S.I. 2008/751
partially	01.04.2008	S.I. 2008/945
partially	30.09.2009	S.I. 2009/2648
partially	01.04.2010	S.I. 2008/945, as amended by S.I. 2009/841
partially	01.06.2010	S.I. 2010/503
Schedule 10:		
partially	27.02.2007	S.I. 2007/309
partially	28.11.2007	S.I. 2007/3286
partially	18.03.2008	S.I. 2008/751
partially	01.04.2008	

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partially	31.01.2009	<a href="#">S.I. 2007/3286</a> and <a href="#">S.I. 2008/945</a>
partially	01.04.2010	<a href="#">S.I. 2008/3267</a>
partially	01.06.2010	<a href="#">S.I. 2008/945</a> , as amended by <a href="#">S.I.</a> <a href="#">2009/841</a>
partially		<a href="#">S.I. 2010/503</a>