

2013 No. 1775 (C. 73)

CHARITIES, ENGLAND AND WALES

The Charities Act 2011 (Commencement No. 2) Order 2013

Made - - - -

15th July 2013

The Minister for the Cabinet Office makes the following Order in exercise of the powers conferred by paragraph 29 of Schedule 9 to the Charities Act 2011(a):

Citation and interpretation

1.—(1) This Order may be cited as the Charities Act 2011 (Commencement No. 2) Order 2013.

(2) In this Order—

“the Act” means the Charities Act 2011;

“specified exempt charity” means—

(a) the governing body of Saint David’s Catholic College (“the College”);

(b) any institution which is—

(i) administered by or on behalf of that governing body, and

(ii) established for the general purposes of, or any special purpose of or in connection with, the governing body or the College;

(c) an exempt charity which is—

(i) a further education corporation within the meaning of the Further and Higher Education Act 1992(b); or

(ii) an institution which is—

(aa) administered by or on behalf of a further education corporation, and

(bb) established for the general purposes of, or for any special purpose of or in connection with, that further education corporation.

Commencement

2. The day appointed as the relevant commencement date for the purposes of the provisions of Schedule 9 to the Act (transitory modifications) specified in Schedule 1 is 1st September 2013, except that each provision comes into force on that date in relation to specified exempt charities only.

Transitional provisions and savings

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

(a) 2011 c.25. For the definition of “the Minister” see section 353(1).

(b) 1992 c.13. For the definition of “further education corporation” see section 17.

15th July 2013

Nick Hurd
Parliamentary Secretary
Cabinet Office

SCHEDULE 1

Regulation 2

PROVISIONS COMING INTO FORCE ON 1st SEPTEMBER 2013

1. The following provisions of Schedule 9 to the Act are specified for the purposes of article 2—
- (a) paragraph 7 (exempt charities and the principal regulator);
 - (b) paragraph 10 (change of name and exempt charities);
 - (c) paragraph 11 (power to institute inquiries and exempt charities);
 - (d) paragraph 13 (power to call for documents etc. and exempt charities);
 - (e) paragraph 15 (exempt charities and disclosure to and by principal regulator);
 - (f) paragraph 16 (exempt charities and Commission's concurrent jurisdiction with High Court);
 - (g) paragraph 17 (exempt charities and restriction on expenditure on promoting Bills);
 - (h) paragraph 18 (exempt charities and power to act for protection of charities);
 - (i) paragraph 20 (exempt charities and power to give directions about dormant bank accounts);
 - (j) paragraph 21 (exempt charities and Commission's consent to proceedings etc.);
 - (k) paragraph 22 (exempt charities and duty of auditors etc. to report matters to Commission);
 - (l) paragraph 25 (exempt charities and power to order disqualified trustee to repay sums).

SCHEDULE 2

Regulation 3

TRANSITIONAL PROVISIONS AND SAVINGS

Inquiries under section 46 of the Act

1.—(1) Subject to sub-paragraph (2), the Commission must not institute any inquiry under section 46 on or after 1st September 2013—

- (a) in relation to a specified exempt 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 specified exempt charity.

(2) The Commission may, if—

- (a) a request is made by the principal regulator of a specified exempt charity; and
- (b) it considers it appropriate to do so,

institute an inquiry under section 46 of the Act on or after 1st September 2013 into that charity in respect of a relevant matter.

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

- (a) it initially arose before 1st September 2013 but during the current financial year of the charity; and
- (b) the Commission was not aware of it before that day.

(4) In this paragraph—

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

- (a) which began before 1st September 2013; but
- (b) ends on or after that day.

Costs in promoting a Bill before Parliament

2. Where immediately before 1st September 2013 a specified exempt charity was preparing or promoting a Bill in Parliament, section 74 of the 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. Any charity proceedings—

- (a) relating to a specified exempt charity; and
- (b) taken before 1st September 2013,

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

Persons acting as charity trustee or trustee while disqualified

4.—(1) The Commission may not make any order under section 184(3) of the Act which would require a person (“P”) to—

- (a) repay to a specified exempt 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 specified exempt charity at any time—
 - (i) before 1st September 2013; and
 - (ii) when P was disqualified by section 178 of the Act from 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 September 2013.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force certain provisions of the Charities Act 2011 for the purposes of specified exempt charities in the further education sector. These are Saint David’s Catholic College, further education corporations generally, and charities connected to them. The provisions correspond to provisions in the Charities Act 1993 and the Charities Act 2006 which were consolidated in the 2011 Act. All of the 2011 Act came into force on 14 March 2012. As the 1993 and 2006 Act provisions had not been brought into force before that date (except in relation to previously specified categories of exempt charity), the 2011 Act provisions were subject to transitory modifications until the “relevant commencement date”.

Commencing these provisions brings the Charity Commission’s powers to regulate the specified exempt charities into line with their powers in relation to other exempt charities for which a principal regulator has been appointed. In relation to exempt charities for which no principal regulator has been appointed, the Charity Commission’s regulatory powers are more restricted.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provision of the Charities Act 2011 has been brought into force by a commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
Paragraph 26(2) of Schedule 9 (partially)	02.01.2013	S.I. 2011/1728

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