

2007 No. 309 (C. 13)

CHARITIES

The Charities Act 2006 (Commencement No 1, Transitional Provisions and Savings) Order 2007

Made - - - -

31 January 2007

The Minister for the Cabinet Office makes the following Order in exercise of the power conferred by section 79(2)(a) of the Charities Act 2006(b).

Citation and Interpretation

1.—(1) This Order may be cited as the Charities Act 2006 (Commencement No 1, Transitional Provisions and Savings) Order 2007.

(2) In this Order:

“the 1992 Act” means the Charities Act 1992(c);

“the 1993 Act” means the Charities Act 1993(d); and

“the 2006 Act” means the Charities Act 2006.

Commencement

2. Subject to Articles 4 to 13, the provisions of the 2006 Act which are specified in Column 1 of the Schedule to this Order shall come into force on 27th February 2007 except:

(a) where a particular purpose is specified in relation to any such provision in Column 3 of that Schedule, the provision concerned shall come into force on that date only for that purpose; or

(b) where any other limitation is specified in relation to any such provision in Column 3 of that Schedule, the provision concerned shall come into force on that date subject to that limitation.

3. Section 70 of the 2006 Act (power of relevant Minister to give financial assistance to charitable, benevolent or philanthropic institutions) shall come into force on 1st April 2007.

Transitional Provisions and Savings

4. The amendments made by paragraph 98(5) and (6) of Schedule 8 (amendment of section 2(7) and addition of section 2(8) and (9) to the 1993 Act) shall apply in relation to any financial year of a charity which begins on or after 27th February 2007.

(a) Section 79(2) is extended by section 79(3); section 78(6) defines the Minister for these purposes.

(b) 2006 c.50

(c) 1992 c.41

(d) 1993 c.10

5.—(1) The restriction on the Charity Commission’s power of disclosure under section 10A(2) of the 1993 Act, as inserted by paragraph 104 of Schedule 8 to the 2006 Act, shall apply whether the information was disclosed to the Charity Commission before, on or after 27th February 2007.

(2) In relation to information disclosed to the Charity Commission before 27th February 2007, the reference in section 10A(2) of the 1993 Act to section 10(1) is to be taken as a reference to section 10(1) as originally enacted.

6.—(1) The amendments made by paragraph 128(5) and (6) of Schedule 8 to the 2006 Act (amendment of section 36 of the 1993 Act) shall not apply in relation to any sale, lease or other disposition where before 27th February 2007 the charity trustees have entered into an agreement for the disposition.

(2) The amendments made by paragraph 178(2) and (4) of Schedule 8 to the 2006 Act (amendment of paragraph 1 of Schedule 5 to the 1993 Act, concerning the meaning of “connected person” for the purposes of section 36(2) of that Act), in so far as they insert new paragraphs (1)(b) and (2)(ea) in Schedule 5, shall not apply in relation to any disposition for which the contract was entered into before 27th February 2007.

7. The amendment made by paragraph 135(2) of Schedule 8 to the 2006 Act (amendment of section 43A(2) of the 1993 Act) shall apply in relation to any financial year of an English NHS charity which begins on or after 27th February 2007.

8. The amendment made by paragraph 136(2) of Schedule 8 to the 2006 Act (amendment of section 43B(2) of the 1993 Act) shall apply in relation to any financial year of a Welsh NHS charity which begins on or after 27th February 2007.

9. The amendments made by paragraph 138 of Schedule 8 to the 2006 Act (amendment of section 45 of the 1993 Act) shall, save in so far as they substitute “the Commission” for “the Commissioners”, apply in relation to any financial year of a charity which begins on or after 27th February 2007.

10. The amendment made by paragraph 141(3) of Schedule 8 to the 2006 Act (amendment of section 48 of the 1993 Act) shall apply in relation to any financial year of a charity which begins on or after 27th February 2007.

11.—(1) Section 49 of the 1993 Act, as substituted by paragraph 142 of Schedule 8 to the 2006 Act, shall apply to non-compliance with any requirement where the specified date for compliance is 1st April 2008 or later.

(2) Section 49 of the 1993 Act, as originally enacted, shall continue to apply to non-compliance with any requirement where the specified date for compliance is before 1st April 2008.

12. The amendments made by paragraph 192(4) of Schedule 8 to the 2006 Act (amendment to Schedule 1, paragraph 18(4) of the Housing Act 1996(a)) shall apply in relation to any financial year of a charity which begins on or after 27th February 2007.

13. During the period prior to the coming into force in Schedule 9 to the 2006 Act of the entry relating to section 16(11) to (14) of the 1993 Act (repeal of those provisions), section 16(12) shall have effect as if the reference to a period of three months beginning with the day following that on which the order is published were a reference to a period of three months beginning with the day following that on which the order is made.

31 January 2007

Ed Miliband
Parliamentary Secretary
Cabinet Office

(a) 1996 c.52

SCHEDULE

<i>Provision of the Act</i>	<i>Subject Matter of Provisions</i>	<i>Particular purpose or other limitation</i>
Section 2(1)(b)	Meaning of “charitable purpose”	For the purpose of the definition of the Charity Commission’s public benefit objective (as defined in section 1B(3) paragraph 2 and section 1B(4) of the 1993 Act, as inserted by section 7 of the 2006 Act) and for the purpose of enabling the Charity Commission to issue guidance in pursuance of that objective.
Section 3(1)	The “public benefit” test	For the purpose of enabling the Charity Commission to issue guidance under section 4 in pursuance of its public benefit objective.
Section 4	Guidance as to operation of public benefit requirement	Save for section 4(6).
Section 6	The Charity Commission	
Section 7	The Commission’s objectives, general functions and duties	Save in so far as it inserts new sections 1C(2) paragraph 4, 1C(5) and 1E(3) into the 1993 Act.
Section 8(1)	The Charity Tribunal	In so far as it inserts new sections 2B(1) to (4), (8), (9) and 2C(5)(b) into the 1993 Act for the purposes of enabling the Lord Chancellor to exercise the power to make subordinate legislation.
Section 8(3)	The Charity Tribunal	In so far as it relates to those entries in Schedule 4 being brought into force by this Order.
Section 9	Registration of charities	In so far as it inserts new sections 3A(2)(c), (4)(b), (5) and 3B(2)(b) into the 1993 Act for the purposes of enabling the Minister to exercise the power to make subordinate legislation.
Section 10	Interim changes in threshold for registration of small charities	
Section 11(11) to (14)	Changes in exempt charities	
Section 17	Application cy-pres of gifts made in response to certain solicitations	In so far as it inserts a new section 14A(9) into the 1993 Act enabling the Charity Commission to make regulations.
Section 22	Relaxation of publicity requirements relating to schemes etc.	
Section 23	Participation of Scottish and Northern Irish charities in common investment schemes etc.	
Section 24	Power to give advice and guidance	
Section 25	Power to determine membership of charity	
Section 26	Power to enter premises and	

	seize documents etc.	
Section 27	Restrictions on mortgaging	
Section 28	Annual audit or examination of accounts of charities which are not companies	
Section 30(2)	Group Accounts	In so far as it relates to those entries in Schedule 6 being brought into force by this Order.
Section 32	Annual audit or examination of accounts of charitable companies	
Section 34	Charitable incorporated organisations	In so far as it relates to those entries in Schedule 7 being brought into force by this Order.
Section 35	Waiver of trustee's disqualification	
Section 38	Power of Commission to relieve trustees, auditors etc. from liability for breach of trust or duty	Save in so far as it inserts a new section 73E(2)(b) into the 1993 Act and refers to group accounts as required to be prepared under new Schedule 5A to the 1993 Act.
Section 39	Trustees' indemnity insurance	
Section 42	Power to modify powers or procedures	
Section 68	Statements indicating benefits for charitable institutions and collectors	In so far as it inserts new section 60B(6) into the 1992 Act for the purposes of enabling the Minister to exercise the power to make subordinate legislation.
Section 69	Reserve power to control fund-raising by charitable institutions	
Section 71	Power of National Assembly for Wales to give financial assistance to charitable, benevolent or philanthropic institutions	
Section 72	Disclosure of information to and by Northern Ireland regulator	
Section 75 (1) to (3)	Amendments, repeals, revocations and transitional provisions	In so far as they relate respectively to the entries in Schedules 8, 9 and 10 being brought into force by this Order.
Section 75(6)	Amendments, repeals, revocations and transitional provisions	
Section 76	Pre-consolidation amendments	
Schedule 1	The Charity Commission	
Schedule 2	Establishment of the Charity Commission: Supplementary	
Schedule 4	Appeals and Applications to Charity Tribunal	In so far as it inserts paragraph 6 of new Schedule 1C to the 1993 Act for the purposes of enabling the Minister to exercise the power to make subordinate legislation.
Schedule 6	Group Accounts	In so far as it inserts paragraphs 3(3)(b),

Schedule 7, paragraph 1	Charitable Incorporated Organisations	3(4), 3(5), 4(2) and (3), 6(2), 8, 10(2) and (3) and 15 of new Schedule 5A to the 1993 Act for the purposes of enabling the Minister to exercise the power to make subordinate legislation. In so far as it inserts new sections 69B(3) and (5), 69E(2)(b), 69G(5)(d), 69H(4), 69J, 69N and 69Q into new Part 8A of the 1993 Act for the purposes of enabling the Minister (and the Charity Commission in relation to section 69B(5)) to exercise the power to make subordinate legislation.
Schedule 7, paragraph 2		In so far as it inserts paragraphs 10(2), (3) and 13 of new Schedule 5B to the 1993 Act for the purposes of enabling the Minister to exercise the power to make subordinate legislation.
Schedule 7, paragraph 6	Minor and Consequential Amendments	
Schedule 8, Paragraphs 1, 2(b), 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51 (save for sub- paragraph (5)), 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 67, 68, 69, 70, 71, 72, 74, 76, 77(1) and (2), 78, 79, 80 (save for sub-paragraphs (6)(a) and (e) and (8)), 81, 82(1), (2) and (4) to (7), 83(1) and (2), 84, 86, 89, 91, 92, 93, 96, 97, 98, 99(1), (2), (4)(b) and (c) and (5)(b), 100(1) and (2), 101, 102, 103, 104 (save in so far as it inserts a new section 10B into the 1993 Act or refers to section 10B), 105, 106, 107, 108, 109 (save for sub- paragraph (12)), 110, 111(1) to (6) and (8) to (10), 112, 113 (save in so far as it refers to sections		

18A, 19A and 19B of the 1993 Act), 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 134, 135, 136, 137, 138, 139(1), (2) and (5), 140, 141, 142, 143 (save for sub-paragraph (3)(c)), 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162 (save in so far as sub-paragraph (2) inserts a new section 80(1)(c)), 163(1) to (3) and (5), 164, 165(1), (2)(a), (3) and (4), 166, 167(1) and (3) to (5), 168, 169, 170, 172, 173(1) and (4), 174(b) and (c), 175 (save in so far as it refers to Part 8A), 176 (save in so far as it refers to section 10B of the 1993 Act), 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 192, 196, 197, 198, 200, 201, 202, 203, 204, 205, 206, 207, 209, 210(a), 211 and 212(1) and (2).

Schedule 9

Repeals and Revocations

Only those entries relating to Part 3, sections 76(1)(c) and 77(4) and Schedule 6, paragraph 9 of the 1992 Act; sections 1, 2(7), 23(2), 44(3), 61(7) and Schedule 1 of the 1993 Act; and Schedule 16, paragraph 99 of the Local Government (Wales) Act 1994.

Schedule 10, paragraphs 1, 6, 7, 9, 11, 13, 16, 19 and 20.

Transitional Provisions and Savings

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force provisions of the Charities Act 2006. The provisions listed in the Schedule to this Order are brought into force on 27th February 2007, subject to transitional and saving provisions. The provision specified in Article 3 is brought into force on 1st April 2007.

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The Charities Act 2006 (Commencement No 1, Transitional
Provisions and Savings) Order 2007

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