



Charities Act 2006

2006 CHAPTER 50

PART 2

REGULATION OF CHARITIES

CHAPTER 3

REGISTRATION OF CHARITIES

General

9 Registration of charities

For section 3 of the 1993 Act substitute—

“3 Register of charities

- (1) There shall continue to be a register of charities, which shall be kept by the Commission.
- (2) The register shall be kept by the Commission in such manner as it thinks fit.
- (3) The register shall contain—
 - (a) the name of every charity registered in accordance with section 3A below (registration), and
 - (b) such other particulars of, and such other information relating to, every such charity as the Commission thinks fit.
- (4) The Commission shall remove from the register—
 - (a) any institution which it no longer considers is a charity, and
 - (b) any charity which has ceased to exist or does not operate.

Status: This is the original version (as it was originally enacted).

- (5) If the removal of an institution under subsection (4)(a) above is due to any change in its trusts, the removal shall take effect from the date of that change.
- (6) A charity which is for the time being registered under section 3A(6) below (voluntary registration) shall be removed from the register if it so requests.
- (7) The register (including the entries cancelled when institutions are removed from the register) shall be open to public inspection at all reasonable times.
- (8) Where any information contained in the register is not in documentary form, subsection (7) above shall be construed as requiring the information to be available for public inspection in legible form at all reasonable times.
- (9) If the Commission so determines, subsection (7) shall not apply to any particular information contained in the register that is specified in the determination.
- (10) Copies (or particulars) of the trusts of any registered charity as supplied to the Commission under section 3B below (applications for registration etc.) shall, so long as the charity remains on the register—
 - (a) be kept by the Commission, and
 - (b) be open to public inspection at all reasonable times.

3A Registration of charities

- (1) Every charity must be registered in the register of charities unless subsection (2) below applies to it.
- (2) The following are not required to be registered—
 - (a) any exempt charity (see Schedule 2 to this Act);
 - (b) any charity which for the time being—
 - (i) is permanently or temporarily excepted by order of the Commission, and
 - (ii) complies with any conditions of the exception, and whose gross income does not exceed £100,000;
 - (c) any charity which for the time being—
 - (i) is, or is of a description, permanently or temporarily excepted by regulations made by the Secretary of State, and
 - (ii) complies with any conditions of the exception, and whose gross income does not exceed £100,000; and
 - (d) any charity whose gross income does not exceed £5,000.
- (3) For the purposes of subsection (2)(b) above—
 - (a) any order made or having effect as if made under section 3(5)(b) of this Act (as originally enacted) and in force immediately before the appointed day has effect as from that day as if made under subsection (2)(b) (and may be varied or revoked accordingly); and
 - (b) no order may be made under subsection (2)(b) so as to except on or after the appointed day any charity that was not excepted immediately before that day.
- (4) For the purposes of subsection (2)(c) above—

Status: This is the original version (as it was originally enacted).

- (a) any regulations made or having effect as if made under section 3(5)(b) of this Act (as originally enacted) and in force immediately before the appointed day have effect as from that day as if made under subsection (2)(c) (and may be varied or revoked accordingly);
 - (b) such regulations shall be made under subsection (2)(c) as are necessary to secure that all of the formerly specified institutions are excepted under that provision (subject to compliance with any conditions of the exception and the financial limit mentioned in that provision); but
 - (c) otherwise no regulations may be made under subsection (2)(c) so as to except on or after the appointed day any description of charities that was not excepted immediately before that day.
- (5) In subsection (4)(b) above “formerly specified institutions” means—
- (a) any institution falling within section 3(5B)(a) or (b) of this Act as in force immediately before the appointed day (certain educational institutions); or
 - (b) any institution ceasing to be an exempt charity by virtue of section 11 of the Charities Act 2006 or any order made under that section.
- (6) A charity within—
- (a) subsection (2)(b) or (c) above, or
 - (b) subsection (2)(d) above,
- must, if it so requests, be registered in the register of charities.
- (7) The Minister may by order amend—
- (a) subsection (2)(b) and (c) above, or
 - (b) subsection (2)(d) above,
- by substituting a different sum for the sum for the time being specified there.
- (8) The Minister may only make an order under subsection (7) above—
- (a) so far as it amends subsection (2)(b) and (c), if he considers it expedient to do so with a view to reducing the scope of the exception provided by those provisions;
 - (b) so far as it amends subsection (2)(d), if he considers it expedient to do so in consequence of changes in the value of money or with a view to extending the scope of the exception provided by that provision,
- and no order may be made by him under subsection (7)(a) unless a copy of a report under section 73 of the Charities Act 2006 (report on operation of that Act) has been laid before Parliament in accordance with that section.
- (9) In this section “the appointed day” means the day on which subsections (1) to (5) above come into force by virtue of an order under section 79 of the Charities Act 2006 relating to section 9 of that Act (registration of charities).
- (10) In this section any reference to a charity’s “gross income” shall be construed, in relation to a particular time—
- (a) as a reference to the charity’s gross income in its financial year immediately preceding that time, or
 - (b) if the Commission so determines, as a reference to the amount which the Commission estimates to be the likely amount of the charity’s gross income in such financial year of the charity as is specified in the determination.

Status: This is the original version (as it was originally enacted).

- (11) The following provisions of this section—
- (a) subsection (2)(b) and (c),
 - (b) subsections (3) to (5), and
 - (c) subsections (6)(a), (7)(a), (8)(a) and (9),
- shall cease to have effect on such day as the Minister may by order appoint for the purposes of this subsection.

3B Duties of trustees in connection with registration

- (1) Where a charity required to be registered by virtue of section 3A(1) above is not registered, it is the duty of the charity trustees—
- (a) to apply to the Commission for the charity to be registered, and
 - (b) to supply the Commission with the required documents and information.
- (2) The “required documents and information” are—
- (a) copies of the charity’s trusts or (if they are not set out in any extant document) particulars of them,
 - (b) such other documents or information as may be prescribed by regulations made by the Minister, and
 - (c) such other documents or information as the Commission may require for the purposes of the application.
- (3) Where an institution is for the time being registered, it is the duty of the charity trustees (or the last charity trustees)—
- (a) to notify the Commission if the institution ceases to exist, or if there is any change in its trusts or in the particulars of it entered in the register, and
 - (b) (so far as appropriate), to supply the Commission with particulars of any such change and copies of any new trusts or alterations of the trusts.
- (4) Nothing in subsection (3) above requires a person—
- (a) to supply the Commission with copies of schemes for the administration of a charity made otherwise than by the court,
 - (b) to notify the Commission of any change made with respect to a registered charity by such a scheme, or
 - (c) if he refers the Commission to a document or copy already in the possession of the Commission, to supply a further copy of the document.
- (5) Where a copy of a document relating to a registered charity—
- (a) is not required to be supplied to the Commission as the result of subsection (4) above, but
 - (b) is in the possession of the Commission,
- a copy of the document shall be open to inspection under section 3(10) above as if supplied to the Commission under this section.”

Status: This is the original version (as it was originally enacted).

10 Interim changes in threshold for registration of small charities

- (1) At any time before the appointed day, the Minister may by order amend section 3 of the 1993 Act (the register of charities) so as to—
 - (a) replace section 3(5)(c) (threshold for registration of small charities) with a provision referring to a charity whose gross income does not exceed such sum as is prescribed in the order, and
 - (b) define “gross income” for the purposes of that provision.
- (2) Subsection (1) does not affect the existing power under section 3(12) of that Act to increase the financial limit specified in section 3(5)(c).
- (3) This section ceases to have effect on the appointed day.
- (4) In this section “the appointed day” means the day on which section 3A(1) to (5) of the 1993 Act (as substituted by section 9 of this Act) come into force by virtue of an order under section 79 of this Act.

Exempt charities: registration and regulation

11 Changes in exempt charities

- (1) Schedule 2 to the 1993 Act (exempt charities) is amended as follows.
- (2) In paragraph (a) (general exemption by reference to law existing prior to Charities Act 1960 (c. 58)) after “1855” insert “(but see Note 1)”.
- (3) In paragraph (b) (certain specified universities, colleges and schools)—
 - (a) before “Queen Mary and Westfield College” insert “and”; and
 - (b) omit “and the colleges of Winchester and Eton”.
- (4) Before paragraph (i) insert—

“(h) a higher education corporation;”.
- (5) After paragraph (i) insert—

“(j) a further education corporation;”.
- (6) In paragraph (w) (exemption for institutions administered by or on behalf of institutions exempted under preceding provisions) after “last-mentioned institution” insert “(but see Note 2)”.
- (7) Omit paragraph (x) (Church Commissioners and institutions administered by them).
- (8) In paragraph (y) (industrial and provident societies etc.) for the words from “and any” onwards substitute “and which is also registered in the register of social landlords under Part 1 of the Housing Act 1996;”.
- (9) At the end insert—

Notes

- 1 Paragraph (a) above does not include—
 - (a) any Investment Fund or Deposit Fund within the meaning of the Church Funds Investment Measure 1958,
 - (b) any investment fund or deposit fund within the meaning of the Methodist Church Funds Act 1960, or

Status: This is the original version (as it was originally enacted).

- (c) the representative body of the Welsh Church or property administered by it.

2 Paragraph (w) above does not include any students' union.”

- (10) In section 24 of the 1993 Act (schemes to establish common investment funds), in subsection (8) (fund is to be a charity and, if the scheme admits only exempt charities, an exempt charity) omit the words from “; and if the scheme” onwards.
- (11) The Minister may by order make such further amendments of Schedule 2 to the 1993 Act as he considers appropriate for securing—
- (a) that (so far as they are charities) institutions of a particular description become or (as the case may be) cease to be exempt charities, or
 - (b) that (so far as it is a charity) a particular institution becomes or (as the case may be) ceases to be an exempt charity,
- or for removing from that Schedule an institution that has ceased to exist.
- (12) An order under subsection (11) may only be made for the purpose mentioned in paragraph (a) or (b) of that subsection if the Minister is satisfied that the order is desirable in the interests of ensuring appropriate or effective regulation of the charities or charity concerned in connection with compliance by the charity trustees of the charities or charity with their legal obligations in exercising control and management of the administration of the charities or charity.
- (13) The Minister may by order make such amendments or other modifications of any enactment as he considers appropriate in connection with—
- (a) charities of a particular description becoming, or ceasing to be, exempt charities, or
 - (b) a particular charity becoming, or ceasing to be, an exempt charity,
- by virtue of any provision made by or under this section.
- (14) In this section “exempt charity” has the same meaning as in the 1993 Act.

12 Increased regulation of exempt charities under 1993 Act

The 1993 Act is amended in accordance with Schedule 5 (which has effect for increasing the extent to which exempt charities are subject to regulation under that Act).

13 General duty of principal regulator in relation to exempt charity

- (1) This section applies to any body or Minister of the Crown who is the principal regulator in relation to an exempt charity.
- (2) The body or Minister must do all that it or he reasonably can to meet the compliance objective in relation to the charity.
- (3) The compliance objective is to promote compliance by the charity trustees with their legal obligations in exercising control and management of the administration of the charity.
- (4) In this section—
 - (a) “exempt charity” has the same meaning as in the 1993 Act; and

Status: This is the original version (as it was originally enacted).

- (b) “principal regulator”, in relation to an exempt charity, means such body or Minister of the Crown as is prescribed as its principal regulator by regulations made by the Minister.
- (5) Regulations under subsection (4)(b) may make such amendments or other modifications of any enactment as the Minister considers appropriate for the purpose of facilitating, or otherwise in connection with, the discharge by a principal regulator of the duty under subsection (2).

14 Commission to consult principal regulator before exercising powers in relation to exempt charity

After section 86 of the 1993 Act insert—

“86A Consultation by Commission before exercising powers in relation to exempt charity

Before exercising in relation to an exempt charity any specific power exercisable by it in relation to the charity, the Commission must consult the charity’s principal regulator.”