Draft Order laid before Parliament under section 74(5) of the Charities Act 2006 and section 349(3) of the Charities Act 2011, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No.

CHARITIES, ENGLAND AND WALES

The Charitable Incorporated Organisations (Consequential Amendments) Order 2012

Made - - - - ***

Coming into force in accordance with article 1

The Minister for the Cabinet Office makes the following Order in exercise of the powers conferred by sections 74(2) and 75(4) and (5) of the Charities Act 2006(**1**) and sections 324 and 347(3) of, and paragraph 3(3)(a) of Schedule 8 to, the Charities Act 2011(**2**).

A draft of this Order has been approved by a resolution of each House of Parliament pursuant to section 74(5) of the Charities Act 2006 and section 349(3) of the Charities Act 2011.

Citation and commencement

1. This Order may be cited as the Charitable Incorporated Organisations (Consequential Amendments) Order 2012 and comes into force on the twenty eighth day after the day on which it is made.

Amendment of the Company Directors Disqualification Act 1986

2. Before section 23 of the Company Directors Disqualification Act 1986(**3**) insert—

"**Application of Act to charitable incorporated organisations**

22F.—(1) This Act applies to charitable incorporated organisations ("CIOs") as it applies to companies.

(2) Accordingly, in this Act—

(a) references to a company are to be read as including references to a CIO;

(**1**) 2006 c.50. For the definition of "relevant Minister" see section 75(6). Section 74 was amended by the Charities Act 2011, Schedule 7, paragraph 121, and Schedule 10.
(**2**) 2011 c.25. For the definition of "the Minister" see section 353.
(**3**) 1986 c.46.

(b) references to a director or an officer of a company are to be read as including references to a charity trustee of a CIO; and

(c) any reference to the Insolvency Act 1986 is to be read as including a reference to that Act as it applies to CIOs(**4**).

(3) As they apply in relation to CIOs, the provisions of this Act have effect with the following modifications—

(a) in section 2(1)(**5**), the reference to striking off is to be read as including a reference to dissolution;

(b) in section 4(1)(a)(**6**), the reference to an offence under section 993 of the Companies Act 2006 is to be read as including a reference to an offence under regulation 60 of the Charitable Incorporated Organisations (General) Regulations 2012(**7**)(fraudulent trading);

(c) sections 9A to 9E(**8**) are to be disregarded;

(d) references to any of sections 9A to 9E are to be disregarded;

(e) references to a shadow director are to be disregarded.

(4) In the application of Schedule 1 to the charity trustees of a CIO, references to the provisions of the Companies Act 2006 are to be read as including references to the corresponding provisions (if any) of the Charities Act 2011 and regulations made under that Act.

(5) In this section "charity trustees" has the meaning given by section 177 of the Charities Act 2011.".

Amendments of the Employment Rights Act 1996

3. At the end of section 166 of the Employment Rights Act 1996 (unpaid redundancy payments: applications to the Secretary of State)(**9**) insert—

"(9) In this section—

(a) references to a company are to be read as including references to a charitable incorporated organisation, and

(b) any reference to the Insolvency Act 1986 in relation to a company is to be read as including a reference to that Act as it applies to charitable incorporated organisations.".

4. At the end of section 183 of that Act (insolvency of employer)(**10**) insert—

"(5) In this section—

(a) references to a company are to be read as including references to a charitable incorporated organisation, and

(**4**) The Insolvency Act 1986 (c.45) applies to CIOs by virtue of the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012 (S.I. 2012/XXX), regulation 3.
(**5**) Section 2 was amended by the Deregulation and Contracting Out Act 1994 (c.40), Schedule 11, paragraph 6 and by the Insolvency Act 2000 (c.39), Schedule 4, Part 1, paragraph 3. There are other amendments to section 2 not relevant to this Order.
(**6**) Section 4 was amended by S.I. 2007/2194, Schedule 4, Part 3, paragraph 46. There are other amendments to section 4 not relevant to this Order.
(**7**) S.I. 2012/XXX.
(**8**) Sections 9A to 9E were inserted by the Enterprise Act 2002 (c.40), section 204. There are amendments to the sections not relevant to this Order.
(**9**) 1996 c.18. Section 166 was amended by the Employment Rights (Dispute Resolution) Act 1998 (c.8), sections 1(2) and 11(2) and Schedule 2, and by the Enterprise Act 2002, Schedule 17, paragraph 49 and Schedule 26. There are other amendments to section 166 not relevant to this Order.
(**10**) Section 183 was amended by the Enterprise Act 2002, Schedule 17, paragraph 49 and Schedule 26. There are other amendments to section 183 not relevant to this Order.

(b) any reference to the Insolvency Act 1986 in relation to a company is to be read as including a reference to that Act as it applies to charitable incorporated organisations.".

Amendments of the Charities Act 2011

5. In section 180 of the Charities Act 2011 (disqualification: exceptions in relation to charitable companies)—

(a) in subsection (1)—

(i) after "charitable company" insert "or a CIO"; and

(ii) after "director of the company" insert "or charity trustee of the CIO (as the case may be)";

(b) in subsection (2)—

(i) after "charitable company" insert "or a CIO"; and

(ii) after "director of the company" insert "or charity trustee of the CIO (as the case may be)".

6. In section 181 of that Act (power to waive disqualification), in subsection (5)—

(a) after "charitable company" insert "or CIO";

(b) in paragraph (a), after "director of the company" insert "or charity trustee of the CIO (as the case may be)"; and

(c) in paragraph (b), for "director of any other company" substitute "director of any company or charity trustee of any CIO".

7. In section 183 of that Act (criminal consequences of acting while disqualified), in subsection (2)(a) after "company" insert "or a CIO".

8. In the Table in Schedule 6 to that Act (appeals and applications to Tribunal), after the entry relating to a decision of the Commission under section 242 of the Act to refuse to confirm a resolution passed by a CIO insert—

"Decision of the Commission under regulations made by virtue of section 245 to grant an application for the dissolution of a CIO.	The persons are— (a) the CIO, (b) the charity trustees of the CIO, or the persons who were or claim to have been the charity trustees of the CIO immediately before it was dissolved, (c) any creditor of the CIO, and (d) any other person who is or may be affected by the decision.	Power to quash the decision and (if appropriate) remit the matter to the Commission.