Draft Order laid before Parliament under section 74(4) and (5) of the Charities Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2011 No. XXXX

CHARITIES

The Charities (Pre-consolidation Amendments) Order 2011

Made - - - - ***

Coming into force in accordance with article 1

This Order is made in exercise of the powers conferred by sections 74(2) and (7), 76 and 78(6) of the Charities Act 2006(**1**).

The Minister for the Cabinet Office is satisfied that the amendments made by this Order will facilitate, or are otherwise desirable in connection with, the consolidation of enactments relating to charities(**2**).

A draft of this Order has been laid before Parliament in accordance with section 74(4) and (5) of that Act and approved by resolution of each House of Parliament.

Accordingly, the Minister makes the following Order:

Citation and commencement

1. This Order may be cited as the Charities (Pre-consolidation Amendments) Order 2011 and comes into force (in accordance with section 76(3) of the Charities Act 2006) immediately before the Charities Act 2011 comes into force.

Amendments of enactments relating to charities

2.—(1) The Schedule (which contains amendments of enactments relating to charities) has effect.

(2) Subject to paragraph (3), any amendment made by the Schedule has the same extent as the provision amended.

(3) The amendment of section 1 of the Recreational Charities Act 1958(**3**) made by paragraph 1 of the Schedule has the same effect in relation to the law of Scotland and Northern Ireland as the amendment of that section by section 5 of the Charities Act 2006(**4**).

(**1**) 2006 c.50.
(**2**) "Amendments" and "the enactments relating to charities" are defined in section 76(5) of the Charities Act 2006.
(**3**) 1958 c.17. Section 1 of the 1958 Act was amended by section 5(2) of the Charities Act 2006.
(**4**) As to the effect of the amendment of section 1 by section 5 of the Charities Act 2006 in relation to the law of Scotland or Northern Ireland see section 80(3) to (6) of the 2006 Act.

DRAFT
Parliamentary Secretary
Cabinet Office

SCHEDULE Article 2

AMENDMENTS OF ENACTMENTS RELATING TO CHARITIES

PART 1

AMENDMENTS OF RECREATIONAL CHARITIES ACT 1958 (c. 17)

1. In section 1(1) of the Recreational Charities Act 1958(**5**), for "the principle that a trust or institution to be charitable must be for the public benefit" substitute "the requirement in section 2(1)(b) of the Charities Act 2006 that a purpose falling within section 2(2) of that Act must be for the public benefit if it is to be a charitable purpose".

2. Omit section 3(1) of that Act(**6**).

3. Omit section 5 of that Act.

PART 2

AMENDMENTS OF CHARITIES ACT 1993 (c. 10)

4. In section 1A(4) of the Charities Act 1993(**7**), for "other" substitute "of another".

5. In section 2(1) of that Act(**8**) for "by that name a corporation sole having perpetual succession and using an official seal which" substitute "a corporation sole whose official seal".

6. In section 3A of that Act(**9**)—

(a) in subsection (4)(c) after "any" insert "charity or";

(b) for paragraph (c) of subsection (11) and the word "and" preceding that paragraph substitute —

"(c) subsections (6)(a) and (7)(a),

(d) in subsection (8), paragraph (a) and the words following paragraph (b),

(e) subsection (9), and

(f) this subsection,".

7.—(1) In the following provisions of that Act, for "furnish" substitute "provide"—

(a) section 8(3)(a) and (b)(**10**);

(b) section 9(1)(a) and (b)(i) and (4)(**11**);

(c) section 28(9)(**12**);

(d) section 84(**13**).

(2) In the following provisions of that Act, for "furnished" substitute "provided"—

(**5**) Section 1 was amended by the Charities Act 2006, section 5(2).
(**6**) Section 3 was amended by the Statute Law (Repeals) Act 2004 (c.14), Schedule 1.
(**7**) Section 1A was inserted by the Charities Act 2006, section 6(1).
(**8**) There are no amendments of section 2 relevant to this Order.
(**9**) Section 3A was inserted by the Charities Act 2006, section 9. There are no amendments of section 3A relevant to this Order.
(**10**) Section 8(3) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 102.
(**11**) Section 9(1) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 103. Section 9(4) was repealed, in relation to specified exempt charities, by the Charities Act 2006, Schedule 5, paragraph 3. The repeal is not yet fully in force.
(**12**) Section 28(9) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 121.
(**13**) Section 84 was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 163.

(a) section 9(3)(**14**);

(b) section 31A(2)(b) and (c)(**15**).

(3) In the following provisions of that Act, for "furnishing" substitute "provision"—

(a) section 85(1)(b)(**16**);

(b) section 97(2)(a) and (b).

(4) Any regulations made or having effect as if made under section 85 of that Act are to be read as if any reference in the regulations to the furnishing of a document were a reference to the provision of the document.

8.—(1) In section 14(5)(c) of that Act, for "such claim" substitute "claims made in accordance with paragraph (b)".

(2) In section 14(6)(a) of that Act(**17**), for "any such claims" substitute "claims made in accordance with subsection (5)(b)".

9. In section 14B of that Act(**18**), after subsection (6) insert—

"(7) In this section references to the original purposes of a gift are to be read, where the application of the property given has been altered or regulated by a scheme or otherwise, as referring to the purposes for which the property is for the time being applicable.".

10.—(1) In section 17(2) of that Act(**19**), omit "and a draft of the order shall be laid before Parliament".

(2) After section 17(2) of that Act insert—

"(2A) Subject to subsections (3) and (5), an order under subsection (2) is subject to annulment in pursuance of a resolution of either House of Parliament.".

(3) In section 17(3) of that Act—

(a) omit "Without prejudice to the operation of section 6 of the Statutory Instruments Act 1946 in other cases,", and

(b) for "the order shall not be made unless the draft has been approved by" substitute "no order may be made unless a draft of the order has been laid before and approved by a".

11.—(1) In section 18(12) of that Act(**20**), for "under this section otherwise than by virtue of subsection (1)" substitute "by virtue of subsection (2), (4) or (5)".

(2) In section 22(3) of that Act(**21**), for "section 18" substitute "section 18(1)(iii)".

12.—(1) In section 20(2)(b) of that Act(**22**), for "to the parish or community council (or, where a parish has no council, to the chairman of the parish meeting)" substitute "to—

(i) the parish council or, if the parish has no council, the chairman of the parish meeting, or

(ii) the community council or, if the community has no council, the council of the county or the county borough.".

(**14**) Section 9(3) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 103.
(**15**) Section 31A was inserted by the Charities Act 2006, section 26.
(**16**) Section 85(1) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 164.
(**17**) Section 14(6) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 107. There are other amendments of section 14 not relevant to this Order.
(**18**) Section 14B was inserted by the Charities Act 2006, section 18.
(**19**) Section 17(2) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 110, and by S.I. 2006/2951, Schedule, paragraph 4(j).
(**20**) Section 18(12) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 111.
(**21**) Section 22(3) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 114.
(**22**) Section 20 was substituted for that section as originally enacted by the Charities Act 2006, section 22.

(2) In section 79(7) of that Act(**23**), in paragraph (a) for "for references in subsections (1) and (2)" substitute "for references in subsection (1)" and after paragraph (a) insert—

"(aa) for references in subsection (2)(**24**) to a parish, a parish council or a parish meeting there shall be substituted respectively references to a community, a community council or the council of the county or (as the case may be) county borough;".

13. In section 22(1) of that Act, after "orders of the court" insert "in the same way".

14. In section 26(3) of that Act—

(a) for "thereby authorised" substitute "authorised by the order", and

(b) for "therewith" substitute "with that authority".

15. In section 36(4)(a) of that Act(**25**), omit "or of the Incorporated Society of Valuers and Auctioneers".

16. In section 39(1) of that Act(**26**), for "registered disposition" substitute "registrable disposition".

17.—(1) In section 43(1) of that Act(**27**), for "£100,000 or such other sum as is" substitute "the sum".

(2) In section 43(9) of that Act(**28**), for ", of a charity for a financial year" substitute "for a financial year of a charity which is a company".

18. In section 43A(5) of that Act(**29**), for "Commission" substitute "Charity Commission".

19.—(1) In section 57(1) of that Act(**30**), for "and shall preserve all documents sent to it under this Part of this Act" substitute "and documents sent to the Commission under this Part shall be kept by the Commission for such period as it thinks fit".

(2) For section 57(2) of that Act substitute—

"(2) Documents kept under this section are to be open to public inspection at all reasonable times; and any person who is provided with a copy or extract of any document kept under this section may require it to be certified by a certificate signed by a member of the staff of the Commission.".

20. In section 69I(3)(b) of that Act(**31**), for "register of friendly societies" substitute "mutual societies register".

21. In section 69M(5) of that Act(**32**), after "The resolution" insert "of the transferor CIO".

22.—(1) In section 73D of that Act(**33**)—

(a) in subsection (1)(c) omit ", reporting accountant";

(b) in subsection (5)—

(**23**) Section 79(7) was amended by the Local Government (Wales) Act 1994 (c. 19), Schedule 16, paragraph 101(4).
(**24**) Section 79(2) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 161.
(**25**) Section 36(4)(a) was amended by S.I. 2006/2951, Schedule, paragraph 4(o).
(**26**) Section 39(1) was amended by the Land Registration Act 2002 (c.9), Schedule 11, paragraph 29(1) and (5).
(**27**) Section 43(1) was substituted by the Charities Act 2006, section 28(1) and (2). Section 43(1), as substituted, was amended by S.I. 2009/508, article 10.
(**28**) Section 43(9) was substituted by S.I. 2008/527, article 2. Section 43(9), as substituted, was amended by S.I. 2008/948, Schedule 1, paragraph 192.
(**29**) Section 43A was inserted by S.I. 2005/1074, article 3. Section 43A(5) was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 135.
(**30**) Section 57 was amended by the Charities Act 2006, Schedule 8, paragraphs 96 and 147.
(**31**) Section 69I was inserted by the Charities Act 2006, Schedule 7. Schedule 7 is not yet fully in force.
(**32**) Section 69M was inserted by the Charities Act 2006, Schedule 7. Schedule 7 is not yet fully in force.
(**33**) Section 73D was inserted by the Charities Act 2006, section 38. It was amended by S.I. 2008/948, Schedule 3, paragraph 11.