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

DRAFT STATUTORY INSTRUMENTS

# 2009 No. 0000

# CHARITIES, ENGLAND AND WALES

## The Charities Act 2006 (Changes in Exempt Charities) Order 2009

*Made - - - -*

*Coming into force in accordance with article 1*

This Order is made in exercise of the powers conferred by sections 11(11) and (13), 74(2) and (7) and 78(6) of the Charities Act 2006(**1**).

In so far as this Order makes provision to secure that, in so far as they are charities, institutions or institutions of a particular description become or cease to be exempt charities, the Minister for the Cabinet Office is satisfied, in accordance with section 11(12) of that Act, that this Order is desirable in the interests of ensuring appropriate or effective regulation of those charities in connection with compliance by their charity trustees with their legal obligations in exercising control and management of the administration of those institutions.

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

Accordingly, the Minister for the Cabinet Office makes the following Order:

### Citation and commencement

**1.** This Order may be cited as the Charities Act 2006 (Changes in Exempt Charities) Order 2009 and comes into force immediately after section 11(3) of the Charities Act 2006 comes into force.

### Changes in exempt charities

**2.**—(1) Schedule 2 to the 1993 Act (exempt charities)(**2**) is amended as follows.

(2) For paragraph (b) substitute—

(**1**) 2006 c.50. There are amendments to the 2006 Act not relevant to this Order.

(**2**) 1993 c.10. Schedule 2 was amended by the National Lottery Act 1993 (c.39), Schedule 5, paragraph 12, by the Education Act 1996 (c.56), Schedule 38, by the Education Act 1997 (c.44), Schedule 7, paragraph 7, by the School Standards and Framework Act 1998 (c.31), Schedule 31, by the Teaching and Higher Education Act 1998 (c.30), Schedule 4, by S.I. 2005/3239, Schedule 1, paragraph 4, by the National Lottery Act 2006 (c.23), Schedule 3, and by the Charities Act 2006, section 11 and Schedule 8, paragraph 177 (not all of the amendments made by section 11 of the 2006 Act are in force).

"(b) the universities of Oxford, Cambridge, London, Durham, Newcastle and Manchester, and King's College London and Queen Mary and Westfield College in the University of London;".

(3) For paragraph (c) substitute—

"(c) any of the following if Her Majesty declares it by Order in Council to be an exempt charity for the purposes of this Act—

(i) a university in England;

(ii) a university college in England; or

(iii) an institution which is connected with a university in England or a university college in England;

(*but see Note 1A*);".

(4) In paragraph (h) for "a higher" substitute "an English higher".

(5) For paragraph (i) substitute—

"(i) a successor company to a higher education corporation (within the meaning of subsection (5) of section 129 of the Education Reform Act 1988(**3**)) at a time when the institution conducted by the corporation is eligible, by virtue of an order made under that section, to receive support from funds administered by the Higher Education Funding Council for England;".

(6) Omit paragraph (z).

(7) In paragraph (za) after "Board" insert "and any institution which is administered by or on behalf of the Board and is established for the general purposes of, or for any special purpose of or in connection with, the Board".

(8) After Note 1 insert—

"**1A.** Paragraph (c) above does not include—

(a) any college in the university of Oxford;

(b) any college or hall in the university of Cambridge or Durham;

(c) any students' union.".

(9) For Note 2 substitute—

"**2.** Paragraph (w) above does not include—

(a) any college in the university of Oxford which is administered by or on behalf of that university;

(b) any college or hall in the university of Cambridge or Durham which is administered by or on behalf of that university;

(c) any students' union.".

(10) After Note 2 insert—

*"Interpretation*

For the purposes of this Schedule—

(a) a university or university college is in England if its activities are carried on, or principally carried on, in England;

(b) the Open University is to be treated as a university in England;

(**3**) 1988 c.40. Section 129 was amended by the Further and Higher Education Act 1992 (c.13), section 72 and Schedule 9. There are other amendments to the 1988 Act not relevant to article 2(5) of this Order.

(c) a higher education corporation is an English higher education corporation if the activities of the institution conducted by that corporation are carried on, or principally carried on, in England.".

**Consequential amendments, repeals, revocations and transitional provisions**

**3.**—(1) Schedule 1 (which contains consequential amendments, repeals and revocations) has effect.

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

*Name*
Parliamentary Secretary
Cabinet Office

SCHEDULE 1 Article 3(1)

CONSEQUENTIAL AMENDMENTS

# PART 1

## PRIMARY LEGISLATION

### Welsh Church (Temporalities) Act 1919

**1.** Section 7(1) of the Welsh Church (Temporalities) Act 1919 (provisions as to charities)(**4**) is repealed.

### King's College London Act 1978

**2.** Section 18 of the King's College London Act 1978 (King's College to be an exempt charity)(**5**) is repealed.

### Education Reform Act 1988

**3.** In section 125A of the Education Reform Act 1988 (charitable status of a higher education corporation)(**6**) for the words from "(and in accordance" to the end of the section substitute—

"and—

(a) an English higher education corporation is, in accordance with Schedule 2 to that Act, an exempt charity for the purpose of that Act; and

(b) a Welsh higher education corporation is, in accordance with regulations made under section 3A(4)(b) of that Act(**7**), excepted from registration under that Act.".

### Charities Act 1993

**4.**—(1) The 1993 Act(**8**) is amended as follows.

(2) After section 36(9)(a) (dispositions to which section 36 does not apply) insert—

"(aa) to any disposition for which the authorisation or consent of the Secretary of State is required under the Universities and College Estates Act 1925(**9**); or".

(3) In section 37(1)(ii) (supplementary provisions relating to dispositions) after "paragraph (a)," insert "(aa),".

(4) In section 38(5) (mortgages to which section 38 does not apply) after "above" insert "or for which the authorisation or consent of the Secretary of State is required as mentioned in section 36(9)(aa) above".

(**4**) 1919 c.65
(**5**) 1978 c.xii
(**6**) 1988 (c.40). Section 125A was inserted by the Teaching and Higher Education Act 1998 (c.30), section 41. It was substituted by the Charities Act 2006, Schedule 8, paragraph 85.
(**7**) Section 3A of the Charities Act 1993 was inserted by the Charities Act 2006, section 9. Section 3A was amended by S.I. 2006/2951, Schedule, paragraph 4(d).
(**8**) There are amendments to sections 36 to 38 of the 1993 Act which are not relevant to this Order.
(**9**) 1925 c. 24. There are amendments to the 1925 Act which are not relevant to this Order.

**University of Manchester Act 2004**

**5.** Section 11 of the University of Manchester Act 2004 (University to be an exempt charity)(**10**) is repealed.

# PART 2

## OTHER ENACTMENTS

**Exempt Charities Order 1962**

**6.** In the Schedule to the Exempt Charities Order 1962(**11**), omit—

(a) "University of Wales";

(b) "University College of Wales, Aberystwyth";

(c) "University College of North Wales";

(d) "University College of South Wales and Monmouthshire";

(e) "University College of Swansea";

(f) the heading "Institutions connected with the University of Wales";

(g) "Welsh National School of Medicine".

**Exempt Charities Order 1965**

**7.** In the Schedule to the Exempt Charities Order 1965(**12**) omit "St David's College, Lampeter".

**Exempt Charities Order 1984**

**8.** The Exempt Charities Order 1984(**13**) is revoked.

**Land Registration Rules 2003**

**9.**—(1) Rule 180 of the Land Registration Rules 2003 (statements to be contained in dispositions by a charity)(**14**) is amended as follows.

(2) In paragraph (1)(b) and (c) for "paragraph (a), (b) or (c)" substitute "paragraph (a), (aa), (b) or (c)".

**Charities (Accounts and Reports) Regulations 2008**

**10.**—(1) Regulation 2 of the Charities (Accounts and Reports) Regulations 2008(**15**) is amended as follows.

(2) In paragraph (1) in the definition of "special case charity"—

(a) omit "and" at the end of sub-paragraph (b)(iii); and

(b) after sub-paragraph (b) insert—

"(c) a charity which is a college or hall in the University of Cambridge;

(**10**) 2004 c.iv
(**11**) S.I. 1962/1343.
(**12**) S.I. 1965/1715.
(**13**) 1984 (S.I.1984/1976)
(**14**) S.I. 2003/1417. There are amendments to the Rules which are not relevant to this Order.
(**15**) S.I. 2008/629.