

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

DRAFT STATUTORY INSTRUMENTS

2011 No.

CHARITIES, ENGLAND AND WALES

**The Charities Act 2006 (Principal Regulators
of Exempt Charities) Regulations 2011**

Made - - - -

Coming into force in accordance with regulation 1

These Regulations are made in exercise of the powers conferred by sections 10B(4) and (5) of the Charities Act 1993(1) and sections 13(4)(b) and (5) and 74(2) of the Charities Act 2006(2).

A draft of these Regulations has been laid before Parliament in accordance with section 74(5) of the Charities Act 2006 and approved by resolution of each House of Parliament.

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

Citation and commencement

1.—(1) These Regulations may be cited as the Charities Act 2006 (Principal Regulators of Exempt Charities) Regulations 2011.

(2) These Regulations come into force on 1st August 2011.

Appointment of principal regulator of exempt charities: maintained schools etc. in England

2. The Secretary of State for Education is prescribed as the principal regulator of any exempt charity which is—

- (a) the governing body of a foundation, voluntary or foundation special school in England;
- (b) a foundation body for schools in England established under section 21 of the School Standards and Framework Act 1998(3);

(1) 1993 c.10. For the definition of “the Minister” see section 97(1). The definition was inserted by the Charities Act 2006 (c.50), Schedule 8, paragraphs 96 and 174. Sections 10, 10A, 10B and 10C of the 1993 Act were substituted for section 10 as originally enacted by the Charities Act 2006 (c.50), Schedule 8, paragraph 104. Section 10B is in force in so far as it confers power to make regulations (Charities Act 2006, section 79(1)(g)) and for other specific purposes (S.I. 2010/503) . Section 10B(5) was amended by S.I. 2006/2951.

(2) 2006 c.50. For the definition of “relevant Minister” see section 74(7) and for “the Minister” see section 78(6).

(3) 1998 c.31. Section 21 was amended by the Education and Inspections Act 2006 (c.40), Schedule 3, paragraph 14 and Schedule 18, Part 3.

- (c) an institution which—
 - (i) is administered by or on behalf of a body to which paragraph (a) or (b) applies; and
 - (ii) is established for the general purposes of, or for any special purpose of or in connection with that body or any foundation, voluntary or foundation special school or schools.

Appointment of principal regulator of exempt charities: maintained schools etc. in Wales

3. The Welsh Ministers are prescribed as the principal regulator of any exempt charity which is—
- (a) the governing body of a foundation, voluntary or foundation special school in Wales;
 - (b) a foundation body for schools in Wales established under section 21 of the School Standards and Framework Act 1998;
 - (c) an institution which—
 - (i) is administered by or on behalf of a body to which paragraph (a) or (b) applies; and
 - (ii) is established for the general purposes of, or for any special purpose of or in connection with that body or any foundation, voluntary or foundation special school or schools.

Appointment of principal regulator of exempt charities: sixth form college corporations

4. The Secretary of State for Education is prescribed as the principal regulator of any exempt charity which is a sixth form college corporation (within the meaning of the Further and Higher Education Act 1992(4)).

Appointment of principal regulator of exempt charities: academies

5. The Secretary of State for Education is prescribed as the principal regulator of any exempt charity which is a qualifying Academy proprietor (within the meaning of section 12 of the Academies Act 2010(5)).

Definition of “responsible person”

6.—(1) In its application to the Secretary of State for Education as principal regulator of an exempt charity by virtue of these Regulations, section 10A of the Charities Act 1993 has effect as if, for the definition of “responsible person” in subsection (7), there were substituted—

““responsible person” means a person who is or was—

- (a) the Secretary of State for Education;
- (b) acting on behalf of the Secretary of State for Education; or
- (c) a member of a committee established by the Secretary of State for Education.”.

(2) In its application to the Welsh Ministers as principal regulator of an exempt charity by virtue of these Regulations, section 10A of the Charities Act 1993 has effect as if, for the definition of “responsible person” in subsection (7), there were substituted—

““responsible person” means a person who is or was—

- (a) a Welsh Minister;
- (b) acting on behalf of the Welsh Ministers; or

(4) 1992 c.13. See the definition of “sixth form college corporation” in section 90(1). The definition was inserted by the Apprenticeships, Skills, Children and Learning Act 2009 (c.22), Schedule 8, paragraphs 1 and 12.

(5) 2010 c.32.

(c) a member of a committee established by the Welsh Ministers.”.

Amendment to the Apprenticeships, Skills, Children and Learning Act 2009

7. After section 71 of the Apprenticeships, Skills, Children and Learning Act 2009(6) insert—

“Assistance etc. in relation to functions of the principal regulator

71A.—(1) The YPLA(7) may provide assistance, information or advice to the Secretary of State in connection with the performance of the Secretary of State’s functions as principal regulator of an exempt charity (within the meaning of section 13 of the Charities Act 2006) which is—

- (a) a sixth form college corporation (within the meaning of the Further and Higher Education Act 1992); or
- (b) a qualifying Academy proprietor (within the meaning of section 12 of the Academies Act 2010).

(2) The Secretary of State may provide information to the YPLA for the purpose of enabling or assisting the YPLA to discharge its functions under subsection (1).”.

Amendment to the Education Act 1996

8. For section 537C of the Education Act 1996(8) substitute—

“537C Disclosure of information by or to principal regulators of exempt charities

(1) Nothing in any provision made by or under section 537, 537A or 537B requires or authorises the provision of information—

- (a) by the principal regulator of an exempt charity (within the meaning of section 13 of the Charities Act 2006), if the information was received by that principal regulator in its capacity as such; or
- (b) to the principal regulator of an exempt charity in its capacity as such.

(2) Nothing in subsection (1) prevents the disclosure of information under section 10A of the Charities Act 1993.”.

Date

Name
Parliamentary Secretary
Cabinet Office

(6) 2009 c.22.

(7) The Young People’s Learning Agency for England was established by the Apprenticeships, Skills, Children and Learning Act 2009, section 60, and is referred to in that Act as “the YPLA”.

(8) 1996 c.56. Section 537 was amended by the Education Act 1997 (c.44), Schedule 7, paragraph 37; by the School Standards and Framework Act 1998 (c.31), Schedule 30, paragraph 152, and Schedule 31; by the Learning and Skills Act 2000 (c.21), Schedule 9, paragraph 60 and by the Education Act 2002 (c.32), Schedule 7, paragraph 6, and Schedule 22. Section 537A was inserted by the Education Act 1997 (c.44), section 20, and substituted by the School Standards and Framework Act 1998 (c.31), Schedule 30, paragraph 153. Section 537B was inserted by the Education and Inspections Act 2006 (c.40), section 164. Section 537C was inserted by S.I. 2010/501, paragraph 2 of the Schedule.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe, in relation to certain exempt charities, the body or Minister of the Crown which is to act as the principal regulator of those charities (regulations 2 to 5). Exempt charities are those charities comprised in Schedule 2 to the Charities Act 1993 (“the 1993 Act”). The principal regulator of an exempt charity must do all it or he reasonably can to meet the compliance objective specified in section 13 of the Charities Act 2006 in relation to that charity. The Secretary of State for Education is prescribed as the principal regulator of foundation, voluntary and foundation special schools in England, sixth form colleges and academies, and the Welsh Ministers are prescribed as the principal regulator of foundation, voluntary and foundation special schools in Wales.

Sections 10 and 10A of the 1993 Act, as applied by section 10B of that Act, regulate the disclosure of information by and to principal regulators. Specific rules apply under these provisions to the disclosure of Revenue and Customs information. A “responsible person” who discloses information contrary to those rules may be found guilty of an offence. These Regulations specify the definition of “responsible person” that applies in relation to each of the principal regulators prescribed by regulations 2 to 5 (regulation 6).

Regulation 7 makes amendments to enable the Young People’s Learning Agency for England to assist the Secretary of State for Education as principal regulator of sixth form colleges and academies, and regulation 8 makes amendments to disclosure provisions (within the meaning of section 10B of the 1993 Act).

A full impact assessment of the effect that these regulations will have on each group of exempt charities that is affected is available at [xxxxx] and is published with the Explanatory Memorandum alongside these regulations on www.legislation.gov.uk.