

2011 No. 1727

CHARITIES, ENGLAND AND WALES

The Charities Act 2006 (Principal Regulators of Exempt Charities) (No. 2) Regulations 2011

<i>Made</i> - - - -	<i>14th July 2011</i>
<i>Laid before Parliament</i>	<i>19th July 2011</i>
<i>Coming into force</i> - -	<i>1st August 2011</i>

The Minister for the Cabinet Office makes the following Regulations in exercise of the powers conferred by section 10B(4) of the Charities Act 1993(a) and sections 13(4)(b) and 74(2) of the Charities Act 2006(b):

Citation and interpretation

1.—(1) These Regulations may be cited as the Charities Act 2006 (Principal Regulators of Exempt Charities) (No. 2) Regulations 2011.

(2) In these Regulations—

“specified institution” means a qualifying Academy proprietor (within the meaning of section 12(2) of the Academies Act 2010(c)) or a sixth form college corporation (within the meaning of section 90(1) of the Further and Higher Education Act 1992(d)).

Commencement

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

Appointment of principal regulator of exempt charities connected to sixth form colleges and academies

3. The Secretary of State for Education is prescribed as the principal regulator of any exempt charity which is administered by or on behalf of a specified institution and is established for the general purposes of, or for any special purpose of or in connection with, that institution.

(a) 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 Sections 10, 10A, 10B and 10C of the 1993 Act were substituted for section 10 as originally enacted by the Charities Act 2006, Schedule 8, paragraph 104.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).

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

(c) 2010 c.32.

(d) 1992 c.13. The definition was inserted by the Apprenticeships, Skills, Children and Learning Act 2009 (c.22), Schedule 8, paragraphs 1 and 12.

Definition of “responsible person”

4. 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 for State for Education, or
- (c) a member of a committee established by the Secretary of State for Education.”.

14th July 2011

Nick Hurd
Parliamentary Secretary
Cabinet Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the principal regulator of certain exempt charities. Exempt charities are those institutions listed in Schedule 2 to the Charities Act 1993. The principal regulator of an exempt charity must do all he reasonably can to meet the compliance objective specified in section 13 of the Charities Act 2006 in relation to that charity. 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.

With effect from 1st August 2011, academies and sixth form colleges are included in Schedule 2 (paragraph (ca) (academies) is inserted by the Academies Act 2010, section 12(4), and paragraph (cd) (sixth form colleges) is inserted by the Charities Act 2006 (Changes in Exempt Charities) Order 2011, S.I. 2011/1725). The Secretary of State for Education is prescribed as the principal regulator of academies and sixth form colleges (by the Charities Act 2006 (Principal Regulators of Exempt Charities) Regulations 2011, S.I. 2011/1726). By virtue of paragraph (w) of Schedule 2, charities that are connected to academies and sixth form colleges are also exempt. These Regulations prescribe the Secretary of State for Education as the principal regulator of such charities.

Sections 10 and 10A of the 1993 Act, as applied by section 10B, 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 to the principal regulator prescribed for charities connected to academies and sixth form colleges.

A full impact assessment of the effect that these regulations will have on the exempt charities that are affected is published with the Explanatory Memorandum alongside these regulations on www.legislation.gov.uk.

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