

Did Christian charities really need twenty five years to complete a form?

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A little known piece of legislation allows Christian charities to avoid complying with charity law. Who benefits, asks Ed Moore.

Becoming an official charity provides a non-profit organisation with substantial benefits, especially freedom from many forms of taxation. In return all that's needed is to meet the requirements of the Charities Act 2011.

Who regulates a charity is straightforward; if '[Exempt](#)' you have an industry-specific regulator, if tiny (earning under £5,000 a year) you regulate yourself. Everyone else should register with the Charity Commission, unless you're an '[Excepted](#)' charity.

Excepted?

It's a strange concept, created by a piece of legislation called the [Charities \(Exception from Registration\) Regulations 1996](#) which allows certain types of religious charities to not comply with the requirements of the Charities Act. A law allowing privileged groups to ignore a law.

The regulations allow charities looking after graves to be permanently excepted but also allowed named religious charities to be *temporarily* excepted, until 1st March 2001. The religious bodies in question were:

The reason given for this law was to allow time for the charitable bodies involved to get ready for registration. Quite why only religious charities were expected to struggle to understand the process remains a mystery.

Time moved on and the 1st March 2001 approached. Are the religious charities now ready? Apparently not. A new regulation was passed, the [Charities \(Exception from Registration\) \(Amendment\) Regulations 2001](#). The explanatory note on the regulation stated:

"These Regulations extend the temporary exception presently granted to certain religious charities from the requirement to be registered under the Charities Act 1993. The temporary exception, which would have expired on 1st March 2001, is extended until 1st October 2002."

No explanation as to who suggested the extension or who agreed to it. No justification or discussion on the pros and cons, just a new date.

So eighteen more months to get ready. Time rolls by, are the charities ready? Apparently not as a new regulation is quietly passed, the [Charities \(Exception from Registration\) \(Amendment\) Regulations 2002](#) extending the exception until 1st October 2007.

Five more years to get ready. This filling in of a charity registration form must be very difficult for these Christian groups.

What happened when the new date rolled around? You guessed it, the [Charities \(Exception from Registration\) \(Amendment\) Regulations 2007](#) extended the exception for five more years, to 1st October 2012. The form must be really, really complicated!

Then in 2012 (here we go again) we see the [Charities \(Exception from Registration\) \(Amendment\) Regulations 2012](#) which extended the exception to the 31st March 2014. Only two years more this time so that must be it, surely?

No of course not, for now here is the [Charities \(Exception from Registration\) \(Amendment\) Regulations 2014](#) which extends the exception once again, only this time for SEVEN years, until 31st March 2021.

A temporary exception law made in 1996 to excuse religious bodies from obeying the law has now been extended **five times** for a total of **twenty five years**.

A more detailed [Explanatory Memorandum](#) was produced this time to explain the decision but the conclusions are not wholly convincing. From the note:

"The review report, 'Trusted and Independent: Giving charity back to charities', included a recommendation (chapter 5, recommendation 9) that the exception should end in stages over a period of three years".

Yet the author explains Cabinet Office thinking to support extending again:

"The main concern is that to do so will impose an unnecessary regulatory burden on up to 26,000 small religious charities at a time when many of them may be under pressure."

So a Charity Act passed by parliament, reviewed and updated regularly is too large a burden for a religious charity, as decided not by the Charity Commission but by the Cabinet Office? What proof was gathered that this is the case? Who lobbied for the extension? Apparently the 'representative bodies' of the affected churches were consulted; they being given a choice of scrapping the regulation, extending for five years or extending for seven. No points for guessing the outcome:

The representative bodies unanimously preferred the seven year extension.

Worryingly the memorandum's conclusion on Impact is dismissive:

"10.1 There is expected to be no impact on business, charities or voluntary bodies.

"10.2 There is expected to be no impact on the public sector.

"10.3 An Impact Assessment has not been prepared for this instrument because no impact on the private or voluntary sector is foreseen."

So excusing charities of your choice from registration has no downside. Strange that other government bodies disagree. In July 2012 the Trusted and Independent report on the Charities Act 2006 concluded:

"5.53 The position of excepted charities arguably creates an imbalance. The regulatory requirements they are subject to have not kept pace with those applied by the Charity Commission as its role has developed from registrar to regulator".

Even prior to this the report Private Action, Public Benefit - A Review of Charities and the Wider Not-For-Profit Sector from 2002 came to the same conclusion:

"Exempt and excepted charities

"7.89 In order to promote trust and confidence in the regulatory system as a whole it is important that all organisations with charitable status should be subject to the same accountability requirements."

It went even further, raising a concern the whole nature of Excepted charities may be illegal.

*"7.91 Exceptions are also regarded as offering privileged treatment to some charities and are open to the challenge of unfairness. **In particular, the religious denominations with "excepted" status are all Christian. This is unlikely to be compatible with the Human Rights Act 1998.**"*

The regulation undermines the whole ethos of regulation for the charity sector. It is set in law without any public discussion or parliamentary oversight and only asks the affected bodies themselves whether they would like it to continue.

Let's hope there isn't a Charities (Exception from Registration) (Amendment) Regulations 2021 being prepared.

Ed Moore

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