

SCHEDULES

SCHEDULE 6

Section 30

CHARITIES AND COMMUNITY AMATEUR SPORTS CLUBS: DEFINITIONS

PART 1

DEFINITION OF “CHARITY”, “CHARITABLE COMPANY” AND “CHARITABLE TRUST”

Definition of “charity” etc

- 1 (1) For the purposes of the enactments to which this Part applies “charity” means a body of persons or trust that—
- (a) is established for charitable purposes only,
 - (b) meets the jurisdiction condition (see paragraph 2),
 - (c) meets the registration condition (see paragraph 3), and
 - (d) meets the management condition (see paragraph 4).
- (2) For the purposes of the enactments to which this Part applies—
“charitable company” means a charity that is a body of persons;
“charitable trust” means a charity that is a trust.
- (3) Sub-paragraphs (1) and (2) are subject to any express provision to the contrary.
- (4) For the meaning of “charitable purpose”, see section 2 of the Charities Act 2006 (which—
- (a) applies regardless of where the body of persons or trust in question is established, and
 - (b) for this purpose forms part of the law of each part of the United Kingdom (see section 80(3) to (6) of that Act)).

Jurisdiction condition

- 2 (1) A body of persons or trust meets the jurisdiction condition if it falls to be subject to the control of—
- (a) a relevant UK court in the exercise of its jurisdiction with respect to charities, or
 - (b) any other court in the exercise of a corresponding jurisdiction under the law of a relevant territory.
- (2) In sub-paragraph (1)(a) “a relevant UK court” means—
- (a) the High Court,
 - (b) the Court of Session, or
 - (c) the High Court in Northern Ireland.

Status: This is the original version (as it was originally enacted).

- (3) In sub-paragraph (1)(b) “a relevant territory” means—
 - (a) a member State other than the United Kingdom, or
 - (b) a territory specified in regulations made by the Commissioners for Her Majesty's Revenue and Customs.
- (4) Regulations under this paragraph are to be made by statutory instrument.
- (5) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of the House of Commons.

Registration condition

- 3 (1) A body of persons or trust meets the registration condition if—
 - (a) in the case of a body of persons or trust that is a charity within the meaning of the Charities Act 1993, condition A is met, and
 - (b) in the case of any other body of persons or trust, condition B is met.
- (2) Condition A is that the body of persons or trust has complied with any requirement to be registered in the register of charities kept under section 3 of the Charities Act 1993.
- (3) Condition B is that the body of persons or trust has complied with any requirement under the law of a territory outside England and Wales to be registered in a register corresponding to that mentioned in sub-paragraph (2).

Management condition

- 4 (1) A body of persons or trust meets the management condition if its managers are fit and proper persons to be managers of the body or trust.
- (2) In this paragraph “managers”, in relation to a body of persons or trust, means the persons having the general control and management of the administration of the body or trust.

Periods over which management condition treated as met

- 5 (1) This paragraph applies in relation to any period throughout which the management condition is not met.
- (2) The management condition is treated as met throughout the period if the Commissioners for Her Majesty's Revenue and Customs consider that—
 - (a) the failure to meet the management condition has not prejudiced the charitable purposes of the body or trust, or
 - (b) it is just and reasonable in all the circumstances for the condition to be treated as met throughout the period.

Publication of names and addresses of bodies or trusts regarded by HMRC as charities

- 6 Her Majesty's Revenue and Customs may publish the name and address of any body of persons or trust that appears to them to meet, or at any time to have met, the definition of a charity in paragraph 1.

Enactments to which this Part applies

- 7 The enactments to which this Part applies are the enactments relating to—
- (a) income tax
 - (b) capital gains tax,
 - (c) corporation tax,
 - (d) value added tax,
 - (e) inheritance tax,
 - (f) stamp duty,
 - (g) stamp duty land tax, and
 - (h) stamp duty reserve tax.

PART 2

REPEALS OF SUPERSEDED DEFINITIONS AND OTHER CONSEQUENTIAL AMENDMENTS

FA 1982

- 8 In section 129(1) of FA 1982 (stamp duty: exemption from duty on grants, transfers to charities etc), for “a body of persons established for charitable purposes only or to the trustees of a trust so established” substitute “a charitable company or to the trustees of a charitable trust”.

FA 1983

- 9 In section 46(3) of FA 1983 (Historic Buildings and Monuments Commission for England) for “a body of persons established for charitable purposes only” substitute “a charitable company”.

IHTA 1984

- 10 In section 272 of IHTA 1984 (general interpretation), omit the definitions of “charity” and “charitable”.

FA 1986

- 11 In section 90(7) of FA 1986 (stamp duty reserve tax: exceptions from principal charge)—
- (a) in paragraph (a), for “a body of persons established for charitable purposes only” substitute “a charitable company”, and
 - (b) in paragraph (b), for “a trust so established” substitute “a charitable trust”.

FA 1989

- 12 In paragraph 4 of Schedule 5 to FA 1989 (employee share ownership trusts), omit sub-paragraph (10).

TCGA 1992

- 13 (1) TCGA 1992 is amended as follows.

Status: This is the original version (as it was originally enacted).

- (2) In section 222(8B)(b)(iii) (relief on disposal of private residence), for “established for charitable purposes only” substitute “a charitable company”.
- (3) In section 256 (charities), omit subsections (6) and (8).
- (4) In section 256C (attributing gains to the non-exempt amount: charitable companies), omit subsection (6).
- (5) In section 256D (how gains are attributed to the non-exempt amount: charitable companies), omit subsection (7).

F(No.2)A 1997

- 14 In section 35(3)(a) of F(No.2)A 1997 (transitional relief for charities) omit “(as defined in section 506(1) of the Taxes Act 1988)”.

FA 1999

- 15 (1) Schedule 19 to FA 1999 (stamp duty and stamp duty reserve tax: unit trusts) is amended as follows.
 - (2) In paragraph 6(3)—
 - (a) in paragraph (a), for “a body of persons established for charitable purposes only” substitute “a charitable company”, and
 - (b) in paragraph (b), for “a trust established for those purposes only” substitute “a charitable trust”.
 - (3) In paragraph 15(c), for “bodies of persons established for charitable purposes only or trustees of trusts so established” substitute “charitable companies or trustees of charitable trusts”.

CAA 2001

- 16 In section 63(2) of CAA 2001 (cases in which disposal value is nil)—
 - (a) in paragraph (a), omit “within the meaning of Part 10 of ITA 2007 (see section 519 of that Act)”, and
 - (b) in paragraph (aa), omit “within the meaning of Part 11 of CTA 2010 (see section 467 of that Act)”.

ITEPA 2003

- 17 (1) ITEPA 2003 is amended as follows.
 - (2) In section 99(3)(b)(ii) (accommodation provided for performance of duties), for “established for charitable purposes only” substitute “a charitable company”.
 - (3) In section 216(3)(b) (provisions not applicable to lower-paid employments) for “established for charitable purposes only” substitute “a charitable company”.
 - (4) In section 223(7)(b)(ii) (payments on account of director’s tax other than by the director), for “established for charitable purposes only” substitute “a charitable company”.

Status: This is the original version (as it was originally enacted).

- (5) In section 290(5) (accommodation benefits of ministers of religion), omit the definition of “charity”.
- (6) In section 351 (expenses of ministers of religion), omit subsection (5).
- (7) In section 714(2) (payroll giving: meaning of “donation”), in the definition of “charity”, omit “means any body of persons or trust established for charitable purposes only and”.

FA 2003

- 18 Schedule 8 to FA 2003 (SDLT: charities relief) is amended as follows.
- 19 In paragraph 1 (charities relief), omit sub-paragraph (4).
- 20 In paragraph 4 (charitable trusts), in sub-paragraph (2), omit “and “charity” has the same meaning as in paragraph 1”.

ITTOIA 2005

- 21 (1) ITTOIA 2005 is amended as follows.
 - (2) In section 410(3)(b) (when stock dividend income arises), for “trust established for charitable purposes only” substitute “charitable trust”.
 - (3) In section 545(1) (definitions for Chapter 9 of Part 4), omit the definition of “charitable trust”.
 - (4) In section 568(3) (special rule for certain income of trustees), for “trust established for charitable purposes” substitute “charitable trust”.
 - (5) In Part 2 of Schedule 4 (index of defined expressions)—
 - (a) in the entry for “charitable trust (in Chapter 9 of Part 4)”—
 - (i) omit “(in Chapter 9 of Part 4)”, and
 - (ii) for “section 545(1)” substitute “paragraph 1 of Schedule 6 to FA 2010”, and
 - (b) in the entry for “charity”, for “section 989 of ITA 2007” substitute “paragraph 1 of Schedule 6 to FA 2010”.

F(No.2)A 2005

- 22 In section 18(3)(b)(i) of F(No.2)A 2005 (authorised unit trusts and OEICS: specific powers) omit “(within the meaning of section 989 of ITA 2007)”.

ITA 2007

- 23 (1) ITA 2007 is amended as follows.
 - (2) In section 479(1)(b) (special rates for trustees’ income), for “trust established for charitable purposes only” substitute “charitable trust”.
 - (3) In section 481(1)(c) (other special rates for trustees), for “trust established for charitable purposes only” substitute “charitable trust”.
 - (4) Omit section 519 (meaning of “charitable trust”).

Status: This is the original version (as it was originally enacted).

- (5) In section 873(2) (discretionary or accumulation settlements), in paragraphs (a) and (b), for “trust established for charitable purposes only” substitute “charitable trust”.
- (6) In section 989 (definitions), omit the definition of “charity”.
- (7) In Schedule 4 (index of defined expressions)—
 - (a) in the entry for “charitable trust (in Part 10)”—
 - (i) omit “(in Part 10)”, and
 - (ii) for “section 519” substitute “paragraph 1 of Schedule 6 to FA 2010”, and
 - (b) in the entries for “charity”, “charity (in Chapter 2 of Part 8)” and “charity (in Chapter 3 of Part 8)”, for “section 989” substitute “paragraph 1 of Schedule 6 to FA 2010”.

FA 2008

- 24 In paragraph 60(2) of Schedule 36 to FA 2008 (references to carrying on a business), omit the definition of “charity”.

CTA 2009

- 25 (1) CTA 2009 is amended as follows.
 - (2) In section 1319 (other definitions), omit the definition of “charity”.
 - (3) In Schedule 4 (index of defined expressions), in the entry for “charity”, for “section 1319” substitute “paragraph 1 of Schedule 6 to FA 2010”.

FA 2009

- 26 In paragraph 8 of Schedule 49 to FA 2009 (general interpretation), omit the definition of “charity”.

CTA 2010

- 27 (1) CTA 2010 is amended as follows.
 - (2) In section 202 (meaning of “charity” in Chapter 2 of Part 6)—
 - (a) for “means” substitute “includes”, and
 - (b) omit paragraph (a).
 - (3) In section 217 (meaning of “charity” in Chapter 3 of Part 6)—
 - (a) for “means” substitute “includes”, and
 - (b) omit paragraph (a).
 - (4) Omit section 467 (meaning of “charitable company” in Part 11).
 - (5) In section 610(2)(a) (discretionary payments by trustees to companies), omit “as defined in section 467”.
 - (6) In section 1119 (definitions), omit the definition of “charity”.
 - (7) In Schedule 4 (index of defined expressions)—
 - (a) in the entry for “charitable company (in Part 11)”—

Status: This is the original version (as it was originally enacted).

- (i) omit “(in Part 11)”, and
- (ii) for “section 467” substitute “paragraph 1 of Schedule 6 to FA 2010”,
- (b) in the entry for “charity (except in Chapters 2 and 3 of Part 6)” for “section 1119” substitute “paragraph 1 of Schedule 6 to FA 2010”,
- (c) in the entry for “charity (in Chapter 2 of Part 6)”, for “section 202” substitute “paragraph 1 of Schedule 6 to FA 2010 (and see section 202 of this Act)”, and
- (d) in the entry for “charity (in Chapter 3 of Part 6)”, for “section 217” substitute “paragraph 1 of Schedule 6 to FA 2010 (and see section 217 of this Act)”.

TIOPA 2010

- 28 In section 326(3) of TIOPA 2010 (charities), omit the definition of “charity” and the “and” immediately after it.

Power to make further consequential provision

- 29 (1) The Commissioners for Her Majesty’s Revenue and Customs may by order make such further consequential, incidental, supplemental, transitional or transitory provision or saving as appears appropriate in consequence of, or otherwise in connection with, Part 1.
- (2) An order under this paragraph may—
- (a) make different provision for different purposes, and
 - (b) make provision repealing, revoking or otherwise amending any enactment or instrument (whenever passed or made).
- (3) An order under this paragraph is to be made by statutory instrument.
- (4) A statutory instrument containing an order under this paragraph is subject to annulment in pursuance of an order of the House of Commons.

PART 3

MEANING OF “COMMUNITY AMATEUR SPORTS CLUB”

- 30 Chapter 9 of Part 13 of CTA 2010 (community amateur sports clubs) is amended as follows.
- 31 In section 658(1) (meaning) omit the “and” at the end of paragraph (b) and after paragraph (c) insert—
- “(d) meets the location condition (see section 661A), and
 - (e) meets the management condition (see section 661B).”
- 32 After section 661 insert—

“661A The location condition

- (1) A club meets the location condition for the purposes of section 658 if—
- (a) it is established in a member State or a relevant territory, and
 - (b) the facilities that it provides for eligible sports are all located in a single member State or relevant territory.

Status: This is the original version (as it was originally enacted).

- (2) In this section “relevant territory” means a territory specified in regulations under paragraph 2(3)(b) of Schedule 6 to FA 2010 (definition of “charity” etc).

661B The management condition

- (1) A club meets the management condition for the purposes of section 658 if its managers are fit and proper persons to be managers of the club.
- (2) In this paragraph “managers”, in relation to a club, means the persons having the general control and management of the administration of the club.

661C Periods over which management condition treated as met

- (1) This paragraph applies in relation to any period throughout which the management condition is not met.
- (2) The management condition is treated as met throughout the period if the Commissioners for Her Majesty’s Revenue and Customs consider that—
- (a) the failure to meet the management condition has not prejudiced the purposes of the club, or
 - (b) it is just and reasonable in all the circumstances for the condition to be treated as met throughout the period.”

PART 4

COMMENCEMENT

Commencement of Part 1

- 33 (1) Part 1 is treated as having come into force on 6 April 2010.
- (2) But the definitions of “charity”, “charitable company” and “charitable trust” in that Part do not apply for the purposes of an enactment in relation to which, on that date, another definition applies until such time as that other definition ceases to have effect on the coming into force of provision made by or under Part 2.
- (3) For provision about the coming into force of provision made by that Part, see paragraph 34.

Commencement of Part 2

- 34 (1) The repeal of the definition of “charity” in section 989 of ITA 2007 made by paragraph 23(6) above has effect—
- (a) so far as it applies for the purposes of Chapter 2 of Part 8 of that Act (gift aid), in relation to gifts made on or after 6 April 2010, and
 - (b) so far as it applies for other purposes, in accordance with such provision as the Treasury may make by order.
- (2) The other amendments made by Part 2 come into force in accordance with such provision as the Treasury may make by order.

- (3) An order under this paragraph may—
 - (a) make different provision for different purposes, and
 - (b) include transitional provision and savings.
- (4) An order under this paragraph is to be made by statutory instrument.

Commencement of Part 3

35 The amendments made by Part 3 are treated as having come into force on 6 April 2010.