
STATUTORY INSTRUMENTS

2012 No. 736 (C. 18)

**CHARITIES
INCOME TAX
CAPITAL GAINS TAX
CORPORATION TAX
INHERITANCE TAX
STAMP DUTY
STAMP DUTY LAND TAX
STAMP DUTY RESERVE TAX**

The Finance Act 2010, Schedule 6,
Part 2 (Commencement) Order 2012

Made - - - - *8th March 2012*

The Treasury make the following Order in exercise of the powers conferred by paragraph 34(1)(b), (2) and (3) of Schedule 6 to the Finance Act 2010⁽¹⁾:

Citation and interpretation

1.—(1) This Order may be cited as the Finance Act 2010, Schedule 6, Part 2 (Commencement) Order 2012.

(2) In this Order “Schedule 6” means Schedule 6 to the Finance Act 2010⁽²⁾.

Provisions coming into force

2. The repeals and other amendments made by Part 2 of Schedule 6 described in articles 3 to 22 of this Order come into force as follows.

⁽¹⁾ [2010 c. 13](#).

⁽²⁾ Schedule 6 has been amended by paragraph 1(2)(b) of Schedule 26 to the Finance Act [2011 \(c. 11\)](#) and paragraph 143 of Schedule 7 to the Charities Act [2011 \(c. 25\)](#).

Paragraph 8 of Schedule 6 (amendment of FA 1982)

3. The amendment of section 129(1) of FA 1982(3) (stamp duty: exemption from duty on grants, transfers to charities etc) made by paragraph 8 of Schedule 6 comes into force in relation to any conveyance, transfer or lease made or agreed to be made on or after 1st April 2012.

Paragraph 9 of Schedule 6 (amendment of FA 1983)

4. The amendment of section 46(3) of FA 1983(4) (Historic Buildings and Monuments Commission for England) made by paragraph 9 of Schedule 6 comes into force on 1st April 2012.

Paragraph 10 of Schedule 6 (amendment of IHTA 1984)

5.—(1) The repeal of the definitions of “charity” and “charitable” in section 272 of IHTA 1984(5) (general interpretation) made by paragraph 10 of Schedule 6 comes into force in relation to a transfer of value made on or after 1st April 2012.

(2) In this article “transfer of value” has the meaning given by section 3 of IHTA 1984(6).

Paragraph 11 of Schedule 6 (amendment of FA 1986)

6. The amendment of section 90(7) of FA 1986(7) (stamp duty reserve tax: exceptions from principal charge) made by paragraph 11 of Schedule 6 comes into force in relation to any agreement to transfer securities made on or after 1st April 2012.

Paragraph 12 of Schedule 6 (amendment of FA 1989)

7. The repeal of sub-paragraph (10) of paragraph 4 of Schedule 5 to FA 1989(8) (employee share ownership trusts) made by paragraph 12 of Schedule 6 comes into force in relation to trusts established on or after 6th April 2012.

Paragraph 13 of Schedule 6 (amendment of TCGA 1992)

8.—(1) The amendment of section 222(8B)(b)(iii) of TCGA 1992(9) (relief on disposal of private residence) made by paragraph 13(1) and (2) of Schedule 6 comes into force in relation to living accommodation provided for a director on or after 6th April 2012 if that accommodation was not already provided for the director immediately before that date.

(2) In this article “director” has the meaning given by section 222(8D) of TCGA 1992(10).

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- (3) 1982 c. 39; section 129(1) was amended by Part IX of Schedule 27 to the Finance Act 1985 (c. 54), section 24(4) of the National Lottery Act 1998 (c. 22), paragraph 7 of Schedule 14 to the Finance Act 1999 (c. 16) and paragraph 12 of Schedule 32 to the Finance Act 2008 (c. 9). Section 69(2) of the Finance Act 2010 (c. 13) provides that “FA”, followed by a year, means the Finance Act of that year.
 - (4) 1983 c. 28; section 46(3) was amended by paragraph 32 of Schedule 29 and by Schedule 31 to the Income and Corporation Taxes Act 1988 (c. 1) and Part IX(2) of Schedule 27 to the Finance Act 1985 (c. 54).
 - (5) 1984 c. 51; there are amendments to section 272 not relevant to this Order. Section 69(1) of the Finance Act 2010 provides that “IHTA 1984” means the Inheritance Tax Act 1984. By virtue of section 100(1) and (2) of the Finance Act 1986 (c. 41), on and after 25 July 1986 the Capital Transfer Tax Act 1984 may be cited as the Inheritance Tax Act 1984, and any reference in that Act to capital transfer tax is to have effect as a reference to inheritance tax, except where the reference relates to a liability to tax arising before 25 July 1986.
 - (6) Section 3 was amended by paragraph 8 of Schedule 20 to the Finance Act 2006 (c. 25).
 - (7) 1986 c. 41; subsection 7 was inserted into section 90 by paragraph 6 of Schedule 7 to the Finance Act 1987 (c. 16) and amended by section 24(5) of the National Lottery Act 1998 (c.22).
 - (8) 1989 c. 26.
 - (9) 1992 c. 12; subsection 8B was inserted into section 222 by paragraph 17 of Schedule 4 to the Finance Act 1999 (c. 16). Section 69(1) of the Finance Act 2010 (c. 13) provides that “TCGA 1992” means the Taxation of Chargeable Gains Act 1992.
 - (10) Subsection 8D was inserted into section 222 by paragraph 17 of Schedule 4 to the Finance Act 1999 (c.16) and amended by paragraphs 207 and 213 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c.1).

- 9.—(1) The repeals mentioned in paragraph (2) come into force—
- (a) for corporation tax purposes, for accounting periods(11) beginning on or after 1st April 2012, and
 - (b) for capital gains tax purposes, for the tax year 2012-13(12) and subsequent tax years.
- (2) The repeals referred to in paragraph (1) are—
- (a) the repeal of section 256(6) and (8) of TCGA 1992(13) (charities) made by paragraph 13(1) and (3) of Schedule 6,
 - (b) the repeal of section 256C(6) of TCGA 1992(14) (attributing gains to the non-exempt amount: charitable companies) made by paragraph 13(1) and (4) of Schedule 6, and
 - (c) the repeal of section 256D(7) of TCGA 1992(15) (how gains are attributed to the non-exempt amount: charitable companies) made by paragraph 13(1) and (5) of Schedule 6.

Paragraph 15 of Schedule 6 (amendment of FA 1999)

10. The amendments of paragraph 6(3) of Schedule 19 to FA 1999(16) (exclusion of charge to stamp duty reserve tax in certain cases of change of ownership) made by paragraph 15(1) and (2) of Schedule 6 come into force in relation to surrenders (within the meaning given by paragraph 2(1) of Schedule 19 to FA 1999) occurring on or after 1st April 2012.

11. The amendment of paragraph 15(c) of Schedule 19 to FA 1999 made by paragraph 15(1) and (3) of Schedule 6 comes into force on 1st April 2012.

Paragraph 16 of Schedule 6 (amendment of CAA 2001)

12. The amendments of section 63(2)(a) and (aa) of CAA 2001(17) (cases in which disposal value is nil) made by paragraph 16 of Schedule 6 come into force—

- (a) for corporation tax purposes, for accounting periods beginning on or after 1st April 2012, and
- (b) for income tax purposes, for the tax year 2012-13(18) and subsequent tax years.

Paragraph 17 of Schedule 6 (amendment of ITEPA 2003)

13. The amendments of ITEPA 2003(19) made by paragraph 17 of Schedule 6 come into force for the tax year 2012-13 and subsequent tax years.

(11) See section 1119 of the Corporation Tax Act 2010 (c. 4) for the meaning of “accounting period” for the purposes of the Corporation Tax Acts. Schedule 1 to the Interpretation Act 1978 (c. 30) defines “the Corporation Tax Acts”.

(12) See section 288(1ZA) of the Taxation of Chargeable Gains Act 1992 (c. 12) for the meaning of the expressions “tax year” and “the tax year 2012-13” for the purposes of enactments relating to capital gains tax. Section 288(1ZA) was inserted by paragraph 101(3) of Schedule 2 to the Finance Act 2008 (c. 9).

(13) Subsection (6) was inserted by article 3 of S.I. 2009/23; subsection (8) was inserted by paragraph 254(5) of Schedule 1 to the Corporation Tax Act 2010 (c. 4).

(14) Section 256C was inserted by paragraph 257 of Schedule 1 to the Corporation Tax Act 2010 (c. 4).

(15) Section 256D was inserted by paragraph 257 of Schedule 1 to the Corporation Tax Act 2010 (c. 4).

(16) 1999 c. 16. Section 69(2) of the Finance Act 2010 (c. 13) provides that “FA”, followed by a year, means the Finance Act of that year.

(17) 2001 c. 2; paragraph (a) was amended and paragraph (aa) was inserted by paragraph 328 of Schedule 1 to the Corporation Tax Act 2010 (c. 4). Section 69(1) of the Finance Act 2010 provides that “CAA 2001” means the Capital Allowances Act 2001.

(18) See section 4(2) and (4) of the Income Tax Act 2007 (c. 3) for the meaning of the expressions “tax year” and “the tax year 2012-13” for the purposes of the Income Tax Acts. Schedule 1 to the Interpretation Act 1978 (c. 30) defines “the Income Tax Acts”.

(19) 2003 c. 1. Section 69(1) of the Finance Act 2010 (c. 13) provides that “ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003. The amendments of ITEPA made by paragraph 17 of Schedule 6 concern sections 99(3)(b)(ii), 216(3)(b), 223(7)(b)(ii), 290(5), 351 and 714(2) of that Act. A relevant amendment to section 714(2) (payroll giving: meaning of “donations”) was made by paragraph 394 of Schedule 1 to the Corporation Tax Act 2010 (c. 4).

Paragraphs 18, 19 and 20 of Schedule 6 (amendment of FA 2003)

14.—(1) The—

- (a) repeal of sub-paragraph (4) of paragraph 1 of Schedule 8 to FA 2003⁽²⁰⁾ (SDLT: charities relief), and
- (b) amendment of sub-paragraph (2) of paragraph 4 of Schedule 8 to FA 2003⁽²¹⁾ (SDLT: charitable trusts)

made by paragraphs 18, 19 and 20 of Schedule 6 come into force in relation to a land transaction of which the effective date is on or after 1st April 2012.

(2) In this article “land transaction” has the meaning given by section 43 of FA 2003⁽²²⁾ and “effective date” has the meaning given by section 119 of that Act⁽²³⁾.

Paragraph 21 of Schedule 6 (amendment of ITTOIA 2005)

15.—(1) Subject to the following provisions of this article, the amendments of ITTOIA 2005⁽²⁴⁾ made by paragraph 21 of Schedule 6 come into force for the tax year 2012-13 and subsequent tax years.

(2) The amendments mentioned in paragraph (3) come into force in relation to insurances and contracts made on or after 6th April 2012.

(3) The amendments referred to in paragraph (2) are—

- (a) the amendment of section 545(1) of ITTOIA 2005 (definitions for Chapter 9 of Part 4) made by paragraph 21(1) and (3) of Schedule 6, and
- (b) the amendment of Part 2 of Schedule 4 to ITTOIA 2005 (index of defined expressions) made by paragraph 21(1) and (5)(a) of Schedule 6, so far as the amendment applies in relation to Chapter 9 of Part 4 of ITTOIA 2005.

Paragraph 22 of Schedule 6 (amendment of F (No.2)A 2005)

16. The amendment of section 18(3)(b)(i) of F(No.2)A 2005⁽²⁵⁾ (authorised investment funds: specific powers) made by paragraph 22 of Schedule 6 comes into force on 1st April 2012.

Paragraph 23 of Schedule 6 (amendment of ITA 2007)

17. The amendments of ITA 2007⁽²⁶⁾ made by paragraph 23(1) to (5) and (7) of Schedule 6 come into force for the tax year 2012-13 and subsequent tax years.

(20) 2003 c. 14. Section 69(2) of the Finance Act 2010 (c. 13) provides that “FA”, followed by a year, means the Finance Act of that year.

(21) Paragraph 4 was inserted by section 302(2) of the Finance Act 2004 (c. 12).

(22) Section 43 was amended by section 297(2) of, paragraph 2 of Schedule 39 to and Part 4(2) of Schedule 42 to the Finance Act 2004 (c. 12).

(23) Section 119 was amended by section 47(3) of the Finance (No.2) Act 2005 (c. 22), and paragraph 8 of Schedule 39 and Part 4(2) of Schedule 42 to the Finance Act 2004 (c. 12).

(24) 2005 c. 5. Section 69(1) of the Finance Act 2010 (c. 13) provides that “ITTOIA 2005” means the Income Tax (Trading and Other Income) Act 2005. The amendments of ITTOIA made by paragraph 21 of Schedule 6 concern sections 410(3)(b), 545(1) and 568(3) of, and Part 2 of Schedule 4 to, that Act. Section 410(3)(b) was amended by paragraph 519 of Schedule 1 to the Income Tax Act 2007 (c. 3). An amendment to the entry for “charity” in Part 2 of Schedule 4 was made by paragraph 592(9) of Schedule 1 to the Income Tax Act 2007 (c. 3).

(25) 2005 c. 22; section 18(3)(b)(i) was amended by paragraph 605 of Schedule 1 to the Income Tax Act 2007 (c. 3). Section 69(2) of the Finance Act 2010 (c. 13) provides that “F(No.2)A”, followed by a year, means the Finance (No.2) Act of that year.

(26) 2007 c. 3. Section 69(1) of the Finance Act 2010 (c. 13) provides that “ITA 2007” means the Income Tax Act 2007. The amendments of ITA 2007 made by paragraph 23(1) to (5) and (7) of Schedule 6 concern sections 479(1)(b), 481(1)(c), 519, and 873(2) of, and Schedule 4 to, that Act.

18. The repeal of the definition of “charity” in section 989 of ITA 2007⁽²⁷⁾ made by paragraph 23(1) and (6) of Schedule 6, so far as it applies for purposes other than those of Chapter 2 of Part 8 of that Act, comes into force for the tax year 2012-13 and subsequent tax years.

Paragraph 24 of Schedule 6 (amendment of FA 2008)

19. The repeal of the definition of “charity” in paragraph 60(2) of Schedule 36 to FA 2008⁽²⁸⁾ (references to carrying on a business) made by paragraph 24 of Schedule 6 comes into force on 1st April 2012.

Paragraph 26 of Schedule 6 (amendment of FA 2009)

20. The repeal of the definition of “charity” in paragraph 8 of Schedule 49 to FA 2009⁽²⁹⁾ (general interpretation) made by paragraph 26 of Schedule 6 comes into force on 1st April 2012.

Paragraph 27 of Schedule 6 (amendment of CTA 2010)

- 21.** The amendments of CTA 2010⁽³⁰⁾ made by paragraph 27 of Schedule 6 come into force—
- (a) for corporation tax purposes, for accounting periods beginning on or after 1st April 2012, and
 - (b) for income tax purposes, for the tax year 2012-13 and subsequent tax years.

Paragraph 28 of Schedule 6 (amendment of TIOPA 2010)

22. The amendment of section 326(3) of TIOPA 2010⁽³¹⁾ (charities) made by paragraph 28 of Schedule 6 comes into force for accounting periods beginning on or after 1st April 2012.

8th March 2012

Michael Fabricant
James Duddridge
Two of the Lords Commissioners of Her
Majesty’s Treasury

⁽²⁷⁾ There are amendments to section 989 not relevant to this Order.

⁽²⁸⁾ 2008 c. 9. Section 69(2) of the Finance Act 2010 (c. 13) provides that “FA”, followed by a year, means the Finance Act of that year.

⁽²⁹⁾ 2009 c. 10.

⁽³⁰⁾ 2010 c. 4. Section 69(1) of the Finance Act 2010 (c. 13) provides that “CTA 2010” means the Corporation Tax Act 2010. The amendments of CTA 2010 made by paragraph 27 of Schedule 6 concern sections 202, 217, 467, 610(2)(a) and 1119 of, and Schedule 4 to, that Act.

⁽³¹⁾ 2010 c. 8. Section 69(1) of the Finance Act 2010 (c. 13) provides that “TIOPA 2010” means the Taxation (International and Other Provisions) Act 2010.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies the new definitions of “charity”, “charitable company” and “charitable trust” set out in Part 1 of Schedule 6 to the Finance Act 2010 (c.13) for the purposes of certain tax enactments⁽³²⁾. It does this by bringing into force amendments in Part 2 of Schedule 6 which remove existing definitions applying for the purposes of those enactments (see articles 3 to 22). On the coming into force of these amendments, the effect of paragraph 33(2) of Schedule 6 is that the new definitions will apply.

The new definition of charity has already been applied for the purposes of Chapter 2 of Part 8 of the Income Tax Act 2007(c. 3) (gift aid) (see paragraph 34 of Schedule 6 to the Finance Act 2010). See also the Finance Act 2010, Schedule 6, Part 1 (Further Consequential and Incidental Provision etc) Order 2012 No. 735 which applies the new definition of “charity” for the purposes of enactments relating to value added tax and of the Taxation of Chargeable Gains Act 1992 (c. 12).

A Tax Information and Impact Note has not been prepared for this instrument as it gives effect to previously announced policy and it is a commencement order. A full Impact Assessment of the effect a new definition of charity will have on the costs of business and the voluntary sector was published by HMRC on 24th March 2010 and is available on the HMRC website at <http://www.hmrc.gov.uk/budget2010/march/ext-char-tax-rel-ia-3755.pdf>. It remains an accurate summary of the impacts that apply to this instrument.

⁽³²⁾ The enactments are those relating to income tax, capital gains tax, corporation tax, inheritance tax, stamp duty, stamp duty land tax and stamp duty reserve tax.