

EXPLANATORY MEMORANDUM TO
THE COMMUNITY AMATEUR SPORTS CLUBS REGULATIONS 2015

2015 No. 725

1. This explanatory memorandum has been prepared by HM Revenue & Customs (HMRC) on behalf of the Treasury and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. **Purpose of the instrument**

- 2.1 These Regulations make changes to the Community Amateur Sports Clubs (CASCs) scheme. The CASCs scheme provides qualifying sports clubs with a restricted range of tax reliefs normally only available to charities, including on income and business rates.

3. **Matters of special interest to the Select Committee on Statutory Instruments**

- 3.1 These Regulations amend sections 658 and 660 of the Corporation Tax Act 2010 (CTA 2010) and insert a new section 661CA.

- 3.2 Regulations 2 to 5, 7 to 9, 11 to 13 and 15 to 19 will have effect from 1 April 2010.

- 3.3 This is the first time the provisions to make detailed rules in regulations given by the Finance Act 2013 have been used.

4. **Legislative Context**

- 4.1 Sections 658 to 671 of CTA 2010 contain the main provisions for registration of CASCs by HMRC, eligibility to tax reliefs and CASCs related HMRC decisions and appeals.

- 4.2 Section 658 of CTA 2010 sets out the meaning of `Community Amateur Sports Club` and `registered club` for tax purposes. A club will be a CASC if they meet conditions A and B. To meet condition A clubs must be `open to the whole community`, be `organised on an amateur basis`, and have as its `main purpose the provision of facilities for, and the promotion of participation in, one or more eligible sports`. To meet condition B clubs must meet "the location condition" and the "management condition".

4.3 These regulations introduce a new condition C - the income condition - which must be satisfied in order for a club to be a CASC. Under this condition, a club cannot be registered as a CASC if its trading income and property income exceed £100,000 ('the income limit') for a 12 month accounting period. The income limit is proportionately reduced for accounting periods of less than 12 months.

4.4 Section 659 of CTA 2010 sets out the meaning of 'open to the whole community'. Amongst other conditions, section 659 provides that a club will be open to the whole community if its membership costs (if any) do not represent a significant obstacle to membership, use of its facilities or full participation in its activities.

4.5 There are two limits for membership costs.

4.6 The first is an absolute upper limit on membership fees of £1612 in a 12 month accounting period. A club which charges membership costs greater than this will not be able to be registered as a CASC.

4.7 The second limit on membership fees and participation costs is £520, below this a club will be deemed to be open to the whole community for the purpose of membership costs.

4.8 Clubs charging over £520 must make arrangements to enable members and potential members who cannot afford to pay more than £520 to use the club's facilities and to fully participate in the sport at a cost of no more than £520 a year.

4.9 These regulations make further provision in relation to how membership fees and other costs associated with membership of the club are to be calculated. In particular they set out what counts as 'membership costs' and provide that the amounts £520 and £1612 may be reduced proportionately where a club elects to reduce the participation threshold (see further paragraph 4.22).

4.10 Section 660 CTA 2010 sets out the meaning of 'organised on an amateur basis' and for this purpose sets out the meaning of 'ordinary benefits of a CASC'. These regulations make minor amendments to the definition of organised on an amateur basis, make provision in relation to paid players and provision in relation to travel and subsistence.

4.11 Subject to certain conditions, players for a club may be paid collectively up to £10,000 (the limit) in the club's normal 12 month accounting period.

4.12 Payments exceeding the limit, or breaches of the other specific conditions for the limit, will mean that a club cannot be registered as a CASC.

4.13 The £10,000 limit is proportionately reduced for shorter accounting periods.

4.14 Payment means earnings and the provision of benefits-in-kind.

4.15 Some payments will not count towards the limit. For example, reasonable and necessary travel and subsistence expenses will not count.

4.16 Travel or subsistence expenses can be paid provided they are necessary, reasonable and paid in connection with away matches.

4.17 Subsistence expenses means the cost of food, drink and temporary living accommodation.

4.18 Section 660A CTA 2010 provides that a club will not be eligible to be a CASC if the percentage of its members who are social members exceed the percentage specified in regulations.

4.19 These regulations specify that percentage as 50%. Section 660A defines a social member as a member who does not participate or who participates only occasionally in the sporting activities of the club.

4.20 These regulations define what is meant by participating in the sporting activities of the club and makes further provision about participation.

4.21 The following activities are counted as participating in the sporting activities of the club -

- a. participating in an eligible sport organised by the club;
- b. being a match official for an eligible sport for the club;
- c. coaching club members in an eligible sport;
- d. providing first aid to persons playing an eligible sport for the club;
- e. being an accompanying individual (within the meaning of section 660(4A)(b) of the CTA 2010) for the club;
- f. driving a club vehicle, or a vehicle hired by the club, to transport persons listed in sub-paragraphs (a) to (e) or equipment on behalf of the club for the purposes of the participation in activities referred to in those sub-paragraphs;
- g. preparing or maintaining club sporting facilities or equipment for use in an eligible sport;
- h. being an officer, or a committee member, of the club; or
- i. undertaking a relevant training course for the purposes of sub-paragraphs (a) to (d), (g) or (h).

4.22 To count as a participating member, a person must undertake an activity 12 times a year ('the participation threshold).

4.23 A club may elect to proportionately reduce the participation threshold if it has an accounting period of less than a year, is open for less than a year, or in respect of memberships of less than a year.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Exchequer Secretary to the Treasury has made the following statement regarding Human Rights:

In my view the provisions of the Community Amateur Sports Clubs Regulations 2015 are compatible with the Convention rights.

7. Policy background

7.1 The Government announced in April 2013 that it would introduce new rules to clarify the eligibility conditions for sports clubs to be registered as a CASC. A review by HMRC had found that the original legislation was unclear, causing confusion for clubs and making it hard for clubs and HMRC to operate correctly.

7.2 To ensure changes would be made as swiftly as possible, the Government introduced new eligibility conditions for CASCs in the Finance Act 2013 including provisions to make detailed rules in regulations.

7.3 HMRC launched a consultation on the detailed proposals for the regulations on 3 June 2013 and the consultation closed on 12 August 2013.

7.4 These proposals included suggestions –

- that registered clubs should have a non-member `income` limit to avoid unfair competition with businesses offering similar facilities;
- that the meaning of `sporting main purpose` should be more specifically defined to ensure their genuine sporting character by setting an upper limit for social members for clubs membership;
- that the meaning of `open to the whole community` should be more specifically defined to ensure their genuine community character by setting upper limits for participation costs; and
- that the scope of what is allowed under the `ordinary benefits of CASC membership` should be extended to allow clubs to make payments for playing and pay more generous travelling and subsistence expenses when participants attend away matches.

8. Consultation outcome

8.1 The Government's response was published in November 2013 and included detail on feedback from the public. This response can be found at the link

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260944/CASCs_Consultation_Response.pdf.

8.2 The response announced –

- a new income condition for CASCs, with a limit of £100,000 a year of trading income and property income;
- that registered clubs would be subject to an upper limit of 50% of social members;
- that registered clubs could charge membership and participation costs of up to £520 a year for members without having to make special arrangements to ensure that costs were not a significant obstacle to membership but membership costs could only be up to a maximum of £1612 per member;
- that registered clubs could make payments for playing totalling up to £10,000 a year and pay subsistence expenses when participants attend away matches.

8.3 HMRC established a new stakeholder group, the CASC Forum, in November 2013, with membership drawn from sports' representative bodies and several sports' national governing bodies.

8.4 The Forum was regularly updated with HMRC's progress on implementing the new policy, including the progress that was being made in drafting the new regulations. Particular issues of interest to members were aired at the forum.

8.5 HMRC have worked closely with officials from DCMS and their agency Sport England throughout this process.

8.6 HMRC held a number of more detailed working group meetings to help them understand the issues for different sports as they developed the detailed rules.

8.7 HMRC shared an early version of these regulations in draft with some members of the CASC Forum. Their comments were taken into account when the draft regulations published on 9 October were finalised for publication.

8.8 Publication was under HMRC's `What's new` webpages at <https://www.gov.uk/government/publications/draft-legislation-community-amateur-sports-clubs-technical-consultation>

8.9 The 4 week deadline for comment on the draft regulations published on 9 October is appropriate given the extent of consultation with the sector that preceded it and the fact that this particular consultation is a technical, rather than policy, part of the process.

9. Guidance

9.1 HMRC's guidance on CASCs will be amended by 1 April 2015 to reflect the changes made by this Statutory Instrument.

10. Impact

10.1 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The impacts of this measure will be kept under review by HMRC.

13. Contact

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