

WHAT IS CHARITABLE STATUS?

It is a particular type of legal status that has a number of potential benefits, but also has some limitations on an organisation's activities. The Inland Revenue in Scotland grants charitable status. The pros and cons of charitable status should be considered carefully before applying.

The benefits of charitable status are:

The principal benefits of charitable status are tax related. Special tax relief and schemes concerning Income Tax, Corporation Tax, Council Tax/Rates and others available to recognised charities. Charities do pay VAT although there are exemptions available for some activities.

Charitable status is beneficial for fund raising. Many grant-giving trusts and foundations can only give funding to recognised charities. "Charity" is a very emotive word and can be very persuasive in encouraging the general public to donate.

The limitations of charitable status are:

By becoming a charity, an organisation places itself within a particular legal and institutional framework. In Scotland charities are principally governed by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990. By accepting the tax benefits and public trust that comes with charitable status, they must also accept that they are publicly accountable. Charities are required to make information about its activities and funding available to the public.

Charitable status can also restrict political campaigning activities.

CRITERIA FOR GAINING CHARITABLE STATUS

To be a charity an organisation must be properly constituted and have "charitable" aims. The objectives of the organisation must fall entirely within one or more of the following categories.

- * The relief of poverty
- * The advancement of education

- * The advancement of religion
- * Other purposes beneficial to the community

BECOMING A CHARITY

Any organisation seeking charitable status must submit a copy of its constitution (which may be a memorandum and articles of association, or trust deed) to the Financial Intermediaries and Claims Office (FICO) of the Inland Revenue. The approval of this office must be secured before the organisation can describe itself as a Scottish Charity. Submissions of a draft copy of the constitution to FICO means that, if there are any problems, they will come to light before the organisation constitutes itself formally.

Recognition of charitable status is given in a formal letter from the Inland Revenue. This letter will contain a number starting with the letters "SC", this is the organisation's Scottish Charity Number. The charity number should be used on stationary and in dealings with the public. It is this number that appears on the Inland Revenue Index of Scottish Charities.

WHAT THE LAW SAYS

Part One of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 is the **principal piece of legislation** concerning the regulation of charities in Scotland.

Its key provisions are:

- * Only organisations recognised by the IR and entitled to describe themselves as charities
- * The contact names and addresses of Scottish charities are made available on the public index at the IR
- * The Lord Advocate can investigate any Scottish charity if there is thought to be any mismanagement occurring
- * Anyone who has an unspent conviction for a crime of dishonesty or who is an uncharged bankrupt cannot take a positions of "management or control" of a charity

- * If the original purposes of the charity has become out-of-date its constitution/trust may be altered. Charities may also merge with another organisation or, if closing, its assets may be reallocated.
- * The 1990 Act outlines a process by which charitable funds lying in dormant bank accounts can be fully accessed.
- * The Secretary of State is also allowed to identify some religious charities as exempt from some of the provisions of the 1990 Act. This is stated in the Charities (Designated Religious Bodies) (Scotland) Order 1993.

CONSTITUTIONS

Not all groups require a constitution, although it is advisable to have one.

A constitution is a general statement which:

- * Gives the name of the group
- * Sets out the goals—basically, what you are there to do
- * Defines who can join the group, how much it costs and what rights its members have
- * Explains generally how it is supposed to run
- * States how office bearers are elected and how the group's committee should operate

Constitutions will vary in length depending upon the type of group. A large organisation employing workers and running a building will need a more complex constitution than a small group run by volunteers.

If you want to gain charitable status you must have a constitution. You may also have difficulty opening a bank account without a constitution.

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CONSTITUTIONS AND CHARITABLE STATUS

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