

1. Options for Charitable Status

Introduction

If you are setting up a new organisation then consideration needs to be given to the requirement or desirability of registering the organisation with the Charity Commission.

A new Charities Act, the Charities Act 2006, has recently been passed and will be introduced in stages during 2007 and 2008. In the meantime the provisions contained in the previous Act, the Charities Act 1993, will apply.

In simple terms charitable status is available to all organisations (regardless of whether they are a company, a trust, an unincorporated association or an Industrial and Provident Society) with **exclusively** charitable purposes. An organisation is not prevented from being a charity because it makes a surplus on its operations, although it is forbidden to distribute that surplus other than in pursuance of its charitable purposes. It is important to realise that not all “good causes” are charitable. There are currently four categories of charitable status, based on the objects of the organisation:

1. The relief of poverty
2. The advancement of education
3. The promotion of religion
4. Other purposes beneficial to the public

The 2006 Act defines a charity as a body or trust which is for a charitable purpose, and which is for the public benefit.

The Act includes descriptions of the main purposes that are charitable:

The prevention or relief of poverty

The advancement of education

The advancement of religion

The advancement of health or the saving of lives

The advancement of citizenship or community development

The advancement of the arts, culture, heritage or science

The advancement of amateur sport

The advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity.

The advancement of environmental protection or improvement

The relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage.

The advancement of animal welfare

The promotion of the efficiency of the armed forces of the Crown; or the efficiency of the police, fire and rescue or ambulance services

Any other purposes charitable in law

This list covers the majority of purposes that are already charitable. The last category means that anything that is currently charitable will be included under the terms of the new Act.

An organisation **must** register with the Charity Commission if:

- it is set up in England and or Wales for exclusively charitable purposes;
- the majority of charity trustees live in England and Wales; and/or
- the majority of the assets are in England and Wales; and/or
- if a company, it is incorporated in England and Wales;

AND, any one or more of the following apply:

- the organisation has permanent endowment (land, buildings, investments or cash which may not be spent);
- the organisation has, since 23 April 2007, a total income of more than £5,000 a year
- the organisation has a rateable occupation of any land, including buildings. This applies even where the local authority has agreed not to charge any rates, or has reduced the rates.

A small charitable organisation (unless it has permanent endowment or the use or occupation of any land) with an income which does not exceed £1,000 a year (£5,000 under the 2006 Act) is not required to be registered. It can operate as a charity and enjoy the benefits of charitable status without having to satisfy any of the compliance obligations which fall upon registered charities.

Advantages of Charitable Status

Respectability: If you depend on the public as a source of funding and on volunteers, then having charitable status will reassure people. Also grant-giving bodies may prefer to sponsor organisations that are registered charities.

Tax advantages: Charities can be exempt from a range of taxes including Corporation Tax, Capital Gains Tax, Inheritance Tax, Stamp Duty and VAT. They can also be eligible for 80% relief from Business Rates.

Administrative simplicity: Charitable trustees can make their decisions by a majority vote - whereas trustees of private trusts may be forced to act by unanimous decision. If a charity becomes defunct, funds given to it can be usually be reallocated to another similar charity.

Disadvantages of Charitable Status

Restrictions: There are limits set by the Charity Commission on the activities of charities, notably campaigning with a political dimension, and trading activities.

Paperwork: An Annual Return to the Charity Commission has to be submitted and all charities, apart from those with an annual income or expenditure of less than £10,000, have to submit an annual report and statement of accounts to the Charity Commission. These are open to public inspection.

Trustees are personally liable: Charity trustees assume a serious responsibility, and may become personally liable for wrongful behaviour by their organisation.

Not for profit: A charity's profits cannot be distributed to members, and trustees are not allowed to receive a salary from the charity.

Further information:

Charity Commission Publications

CC5a Application for Registration

CC5b Application for Registration – Guidance Notes

CC21 Registering as a Charity

GD2 Model Trust Deed

Community Matters Information Sheets (available from Community Matters and Community Matters Bucks)

23. Charities Acts 1992, 1993, 2006

82. Charitable Status and Registration

Village Hall Information Sheets (available from ACRE and Bucks Community Action)

11. The Charities Act 1992 and 1993

There may be a charge for information sheets, which are available to members and non-members of the above organisations