



# Small Charitable Donations and Childcare Payments Act 2017

## 2017 CHAPTER 1

An Act to make provision about the payment schemes established by the Small Charitable Donations Act 2012 and the Childcare Payments Act 2014.  
[16th January 2017]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Small charitable donations*

#### **1 Meaning of “eligible charity”**

- (1) The Small Charitable Donations Act 2012 is amended as set out in subsections (2) to (4).
- (2) In section 2 (meaning of eligible charity)—
  - (a) in subsection (1) for the words from “if—” to the end substitute “if it is not an excluded charity for that tax year (see subsection (3)).”;
  - (b) omit subsection (2);
  - (c) in subsection (3)—
    - (i) for “not an eligible charity” substitute “an excluded charity”;
    - (ii) for the “or” at the end of paragraph (a) substitute “and”;
  - (d) omit subsection (4)(a).
- (3) Omit sections 12 and 13 (application of eligible charity test following charity mergers).
- (4) Omit section 14(5) (restriction on power to amend meaning of eligible charity).

- (5) In the Small Charitable Donations Regulations 2013 (S.I. 2013/938) omit regulations 17 to 19 (charity mergers).

## 2 Meaning of “small donation”

- (1) The Schedule to the Small Charitable Donations Act 2012 (meaning of small donation: conditions) is amended as follows.

- (2) In paragraph 1—

- (a) in the heading after “cash” insert “or contactless”;
- (b) in sub-paragraph (1) omit the words “in cash”;
- (c) after that sub-paragraph insert—

“(1A) The gift must be made—

- (a) in cash, or
- (b) by a contactless payment.”;

- (d) in sub-paragraph (3) after the definition of “cash” insert—

““contactless payment” means a payment made at a contactless payment terminal using the contactless payment facility of a card, mobile telephone or other device.”.

- (3) For paragraph 2 and the heading before it substitute—

*“Made in the United Kingdom*

- 2 The gift must be made in the United Kingdom.”

- (4) In paragraph 3(1) at the beginning insert “Where the gift is made in cash.”.

## 3 Charities running charitable activities in community buildings

- (1) Section 6 of the Small Charitable Donations Act 2012 (charities running charitable activities in community buildings) is amended as set out in subsections (2) to (5).

- (2) In the heading, for “community buildings” substitute “more than one community building”.

- (3) In subsection (1) for “one or more community buildings” substitute “more than one community building”.

- (4) For subsections (2) and (3) substitute—

“(2) The specified amount for the charity for the tax year is—

- (a) £8,000, or
- (b) if more, an amount equal to the sum of the amounts which, for each community building in which the charitable activities are run, is the community building amount.

- (3) The “community building amount”, in relation to a community building, means—

- (a) the sum of the small donations made to the charity in the tax year that are made in person in the local authority area in which the community building is situated, or

(b) if less, £8,000.

This is subject to subsections (3A) and (3B).

(3A) A small donation may not be part of the community building amount for more than one of the community buildings in which the charity runs charitable activities in the tax year.

(3B) Where a small donation would (but for subsection (3A)) be part of the community building amount for more than one community building—

- (a) if the small donation is made in one of those buildings, it is part of the community building amount for that building;
- (b) in any other case, it is part of the community building amount for whichever one of those buildings the charity determines.

(3C) “Local authority area” means the area of—

- (a) in England, a district council, a county council for an area for which there is no district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
- (b) in Wales, a county council or a county borough council;
- (c) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;
- (d) in Northern Ireland, a district council constituted under section 1 of the Local Government Act (Northern Ireland) 1972.

(3D) For the purposes of the definition of “local authority area” in subsection (3C), the Inner Temple and the Middle Temple are to be taken as falling within the area of the Common Council of the City of London.”

(5) Omit subsections (4) to (6).

(6) In section 7(1) of that Act (meaning of “running charitable activities in a community building”) omit the words after paragraph (c).

(7) In section 8 of that Act (meaning of “community building”)—

- (a) in subsection (3) for the words from “except at any times” to the end substitute “but this is subject to subsection (3A).”;
- (b) after subsection (3) insert—

“(3A) The parts mentioned in subsection (3) are not excluded from being a community building in relation to a charity if—

- (a) the charity carries out a charitable activity in those parts, and
- (b) at all times while it does so, the parts are available for use exclusively by the charity in carrying out the activity.”

(8) In section 14(1)(c) of that Act (power to alter references to specified amount) for “6(3)(b) and (4)(b)” substitute “6(2)(a) and (3)(b)”.

#### **4 Connected charities running charitable activities in community buildings**

(1) The Small Charitable Donations Act 2012 is amended as set out in subsections (2) to (5).

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

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- (2) In section 4(4) (connected charities) for the words from “any of” to the end substitute “section 9 (connected charities running charitable activities in community buildings) applies.”
- (3) In section 9 (connected charities and community buildings)—
- (a) in subsection (1) after paragraph (b) insert—
    - “but see subsection (2).”;
  - (b) for subsections (2) to (8) substitute—
    - “(2) This section does not apply if the condition in section 9A is met.
    - (3) Where this section applies, the specified amount for the purposes of section 1(4) for a connected eligible charity for the tax year is determined as follows.
    - (4) If the charity runs charitable activities in a community building in the tax year, the specified amount is an amount equal to the sum of the amounts which, for each community building in which the charitable activities are run, is the community building amount.
    - (5) The “community building amount”, in relation to a community building, is to be calculated in accordance with section 6(3) to (3B).
    - (6) If the charity does not run charitable activities in a community building in the tax year, the specified amount is nil.”
- (4) After section 9 insert—

**“9A Election for section 9 not to apply**

- (1) The condition mentioned in section 9(2) is that HMRC have notice from each connected eligible charity that the charity does not want section 9 to apply to the connected eligible charities for the tax year.
- (2) “Connected eligible charity” has the same meaning as in section 9.
- (3) A notice under subsection (1) may be withdrawn before the condition in that subsection is met, but may not be withdrawn after the condition in that subsection has been met.
- (4) Regulations under section 11 may in particular make provision—
  - (a) imposing a time limit for giving a notice under subsection (1);
  - (b) about the form and contents of the notice (including provision for them to be determined by HMRC);
  - (c) requiring the notice to be accompanied by information specified in the regulations or determined by HMRC.”
- (5) In section 14(1) (power to alter references to specified amount) omit—
  - (a) the “and” at the end of paragraph (c), and
  - (b) paragraph (d).
- (6) In the Small Charitable Donations Regulations 2013 (S.I. 2013/938), after regulation 3 insert—

### **“3A Notices under section 9A(1) of the 2012 Act**

- (1) A notice under section 9A(1) of the 2012 Act is to be in such form, contain such particulars, and be accompanied by such information as HMRC may determine.
- (2) HMRC may in particular—
  - (a) require or permit a notice to be given by each connected eligible charity separately, or by all of the connected eligible charities jointly;
  - (b) permit a notice to be given by two or more of the connected eligible charities jointly.
- (3) A notice in relation to a tax year may not be given—
  - (a) more than 2 years after the end of that tax year;
  - (b) after the end of the period of 12 months beginning with the day on which a top-up claim in respect of small donations made in that tax year is first made by any of the connected eligible charities.”
- (7) The provision inserted by subsection (6) may be amended or revoked as if it had been inserted by regulations under section 11 of the Small Charitable Donations Act 2012.

### *Childcare payments*

## **5 Childcare payments**

- (1) The Childcare Payments Act 2014 is amended as follows.
- (2) In section 5(4) (power to vary entitlement periods) for “a month” substitute “2 months”.
- (3) In section 57 (review of decisions)—
  - (a) after subsection (3) insert—

“(3A) Regulations may make provision specifying, or enabling HMRC to specify, the form and manner in which the application may be made (subject to subsection (3)(a)).”;
  - (b) in subsection (4) after “this section” insert “(and any provision made under subsection (3A))”.
- (4) In section 58 after subsection (2) insert—

“(2A) Regulations may make provision specifying, or enabling HMRC to specify, the form and manner in which an application under this section may be made.”

### *Final provisions*

## **6 Extent**

This Act extends to England and Wales, Scotland and Northern Ireland.

## **7 Commencement**

- (1) The amendments made by sections 1 to 4 have effect for the tax year 2017-18 and subsequent tax years (but see section 8).
- (2) “Tax year” means a year beginning on 6 April and ending on the following 5 April.
- (3) Section 5 comes into force at the end of the period of two months beginning with the day on which this Act is passed.
- (4) Sections 6 to 9 come into force on the day on which this Act is passed.

## **8 Saving and transitional provision**

- (1) The provisions omitted by section 1(3) and (5) (application of eligible charity test following merger) continue to have effect for the tax year 2017-18 and subsequent tax years in relation to cases where the time of the merger is before the tax year 2017-18.
- (2) Section 13(4) of the Small Charitable Donations Act 2012, as it has effect because of subsection (1), has effect as if the amendments made by section 1(2) (meaning of “eligible charity”) had not been made.
- (3) In subsection (1)—
  - “tax year” means a year beginning on 6 April and ending on the following 5 April;
  - “time of the merger” has the same meaning as in section 12 or 13 (as the case may be) of the Small Charitable Donations Act 2012.

## **9 Short title**

This Act may be cited as the Small Charitable Donations and Childcare Payments Act 2017.