



# Small Charitable Donations Act 2012

## 2012 CHAPTER 23

### *Connected charities and community buildings*

#### **5 Meaning of “connected”**

- (1) For the purposes of this Act a charity is connected with another charity in a tax year if it is connected with that other charity at any time in the tax year (as to which see subsections (3) to (7)).
- (2) If—
  - (a) a charity (“charity A”) is connected with another charity (“charity B”) (including by virtue of this subsection) in a tax year, and
  - (b) charity B is connected with a further charity (“charity C”) in the tax year, charity A and charity C are also connected with each other in the tax year for the purposes of this Act.
- (3) Section 993 of the Income Tax Act 2007 applies for determining whether a charity is connected with another charity at any time for the purposes of this section.
- (4) In the application of section 993 for the purposes of subsection (3)—
  - (a) a charity that is a trust is to be treated as if it were a company (and accordingly a person), including in this subsection;
  - (b) a charity that is a trust has “control” of another person if the trustees (in their capacity as trustees of the trust) have, or any of them has, control of the person;
  - (c) a person (other than a charity regulator) has “control” of a charity that is a trust if—
    - (i) the person is a trustee of the charity and some or all of the powers of the trustees of the charity could be exercised by the person acting alone or by the person acting together with any other persons who are trustees of the charity and who are connected with the person,
    - (ii) the person, alone or together with other persons, has power to appoint or remove a trustee of the charity, or

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*Changes to legislation: There are currently no known outstanding effects for the Small Charitable Donations Act 2012, Section 5. (See end of Document for details)*

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- (iii) the person, alone or together with other persons, has any power of approval or direction in relation to the carrying out by the trustees of any of their functions.
- (5) A charity that is a trust is also to be regarded as connected with another charity that is a trust at a time for the purposes of this section if, at that time, at least half of the trustees of one of the charities are—
- (a) trustees of the other charity,
  - (b) persons who are connected with persons who are trustees of the other charity, or
  - (c) a combination of both.
- (6) In determining whether a person is connected with another person for the purposes of subsection (4)(c)(i) or (5)(b), apply section 993 of the Income Tax Act 2007, with the omission of subsection (3) of that section (and without the modifications in subsection (4) above).
- (7) But a charity is not to be regarded as connected with another charity at a time for the purposes of subsection (1) unless, at that time, the purposes and activities of the charities are the same or substantially similar.
- (8) The Treasury may by order amend this Act so as to change the circumstances in which a charity is connected with another charity in a tax year for the purposes of the Act.

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**Commencement Information**

- II** S. 5 wholly in force at 6.4.2013; s. 5 in force for specified purposes at Royal Assent and otherwise in force at 6.4.2013, see s. 21(1)(2)

**Changes to legislation:**

There are currently no known outstanding effects for the Small Charitable Donations Act 2012, Section 5.