

## Sport & Charitable Status

### Common Law to Charities Act, 2009 - Briefing Note – February 2013

#### 1. Background

The primary purpose of the Charities Act, 2009 (the “2009 Act”) is to reform the law relating to charities in order to ensure greater accountability and to protect against the abuse of charitable status. The Act is also designed to enhance public trust and confidence in charities as well as enhance the transparency of the charitable sector.

The Act also for the first time defined “charitable purpose” in legislation. Traditionally the definition of charity was found only in Common Law and included organisations established for the following purpose:

- For the relief of poverty
- For the advancement of education
- For the advancement of religion; and
- For a purpose that is of benefit to the community

#### 2. Sport & Charity

It was a 19<sup>th</sup> century court decision that set the precedent that sport could not be a charitable purpose in of itself. This has long been considered by many to be an anomaly in the definition of charity.

A 1995 case in the UK saw the Charities Commission acknowledge that they felt that “the position at common law.....would benefit from reconsideration from the court in light of the role of sport in modern social conditions”.

In Ireland the Report of the Commission on Taxation found that the tax relief scheme that applies to charities and other approved bodies should also apply in respect of relief on donations made to sporting bodies.

#### 3. Sport in Ireland

Sport plays a significant role in Irish Society with over 2.1 million people participating in over 70 different sports in an estimated 12,000 clubs right around the country. In addition sport is the biggest single driver of volunteerism in Ireland with over 500,000 Irish adults volunteering each year a contribution which in economic terms is worth between €350 – 500 million annually. Sport has a key role to play in the:

- Economy – sport contributes between €1.4 and €2.4 billion to GDP and supports in excess of 40,000 jobs.<sup>1</sup>
- Public health – the WHO estimates that physical inactivity is responsible for 6% of deaths globally each year whilst, UK research indicates that up to 11%

<sup>1</sup> Study on the Contribution of Sport to Economic Growth and Employment in the EU, 2012

of their health spend each year is attributable to physical inactivity. In Ireland overweight and obesity costs the state €1.13bn annually<sup>2</sup>.

- Better Communities - sport has a key role to play in tackling some of the social challenges facing Irish society for example, garda call out rates dropped by 48% during the periods in which the FAI midnight soccer leagues ran in communities such as Finglas and Ballymun
- Ireland's international Reputation- 89 per cent of Irish people believe that sport has a positive effect on the country's reputation<sup>3</sup>

#### 4. Charities Act, 2009 (the "2009 Act")

Sport is excluded from the remit of the 2009 Act, by the cross reference in the definition of "excluded body" at section 2 of the 2009 Act to s.235 of the Taxes Consolidation Act, 1997 which defines an approved body for the purposes of that legislation as "any body of persons established for the sole purpose of promoting athletic or amateur games or sports."

The 2009 Act sets out at Section 3(11) a number of specific purposes included in the definition of "purpose of the benefit to the community". These include a number of purposes in which, sport has a significant role to play:

- The advancement of community welfare
- The promotion of civic responsibility or voluntary work
- The promotion of health, including the prevention or relief of sickness, disease or human suffering
- The promotion of religious or racial harmony and harmonious community relations
- The advancement of the arts, culture, heritage or sciences; and
- The integration of those who are disadvantaged, and the promotion of their full participation, in society

#### 5. Other Countries

There are a number of countries that share Ireland's Common Law background. Most of these countries have in recent years passed legislation regarding Charities with all introducing charitable status for sport in some shape or form. These include:

- England & Wales – "advancement of amateur sport" – sport meaning sports or games which promote health by physical or mental skill or exertion - Charities Act (England & Wales), 2006
- Northern Ireland – "advancement of amateur sport" – sport meaning sports or games which promote health by physical or mental skill or exertion – Charities Act (Northern Ireland), 2008

<sup>2</sup> The cost of overweight and obesity on the island of Ireland, UCC & Safefood, 2012

<sup>3</sup> Ignite Research, 2012

- Scotland – “the advancement of public participation in sport” – sport meaning sport which involves physical skill and exertion – Charities & Trustee Investment, (Scotland) Act, 2005
- New Zealand – “the promotion of athletic sports” – Charities Act, 2005
- Singapore – “the advancement of sport, where sport promotes health through physical skill and exertion”
- USA – “fostering national or international amateur sports competition” – s501 Internal Revenue Code

## 6. Other

In Canada sport does not have charitable status but there is a scheme facilitating tax relief on donations to what are known as “Registered Canadian Amateur Athletic Associations” (“RCAAA”). In order to qualify as a RCAAA an organization must have as its exclusive objective the “promotion of amateur athletics in Canada nationwide.”

In the UK a sport club can register as a “Community & Amateur Sports Club” (“CASC”) which allows them to qualify for tax relief on all donations in excess of £10. In order to qualify as a CASC a club must:

- Be open to the whole community
- Be organized on an amateur basis
- Have as its main purpose providing facilities for, and promoting one of the eligible sports
- Be established within one of the Member States of the European Union; and
- Have fit and proper persons in charge of the administration of the club

## 7. Vision for Irish Sport 2020

The issue of sport and charitable status is at the heart of the Federation’s Vision for Sport in Ireland in 2020 for a number of reasons:

1. Such a designation would finally serve as an acknowledgement of the real role sport plays in Irish Society particularly, in terms of public health, community welfare and civic responsibility – all of which are granted charitable status by the 2009 Act.
2. There are already a number of criteria that designated charities have to fulfill before being eligible for the tax relief scheme on donations to charitable organisations. Eligibility for relief on donations made is not therefore automatic on the designation being acquired. The Federation feels that as in other countries where charitable status is available to sport or similar tax relief schemes are available, criteria for such relief schemes can be matched to government policy objectives. The government can therefore be certain that the private sector monies being so incentivized are facilitating progress against such objectives such as, programmes designed to meet public health objectives.