

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Eighth Delegated Legislation Committee

DRAFT SMALL CHARITABLE DONATIONS ACT
(AMENDMENT) ORDER 2019

Tuesday 12 February 2019

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The Committee consisted of the following Members:

Chair: MRS MADELEINE MOON

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|---|---|
| † Allan, Lucy (<i>Telford</i>) (Con) | † Lewis, Clive (<i>Norwich South</i>) (Lab) |
| † Crabb, Stephen (<i>Preseli Pembrokeshire</i>) (Con) | † Mann, John (<i>Bassetlaw</i>) (Lab) |
| † Doughty, Stephen (<i>Cardiff South and Penarth</i>) (Lab/Co-op) | † Merriman, Huw (<i>Bexhill and Battle</i>) (Con) |
| † Elliott, Julie (<i>Sunderland Central</i>) (Lab) | † Ross, Douglas (<i>Moray</i>) (Con) |
| † Foster, Kevin (<i>Torbay</i>) (Con) | † Smith, Jeff (<i>Manchester, Withington</i>) (Lab) |
| † Grady, Patrick (<i>Glasgow North</i>) (SNP) | † Walker, Thelma (<i>Colne Valley</i>) (Lab) |
| † Jenrick, Robert (<i>Exchequer Secretary to the Treasury</i>) | † Whittaker, Craig (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| † Lefroy, Jeremy (<i>Stafford</i>) (Con) | Jack Dent, <i>Committee Clerk</i> |
| Leslie, Mr Chris (<i>Nottingham East</i>) (Lab/Co-op) | |
| † Letwin, Sir Oliver (<i>West Dorset</i>) (Con) | † attended the Committee |

Eighth Delegated Legislation Committee

Tuesday 12 February 2019

[MRS MADELEINE MOON *in the Chair*]

Draft Small Charitable Donations Act (Amendment) Order 2019

8.55 am

The Exchequer Secretary to the Treasury (Robert Jenrick): I beg to move,

That the Committee has considered the draft Small Charitable Donations Act (Amendment) Order 2019.

Good morning, Mrs Moon. The Government recognise the important role that charities play in our society and are committed to encouraging greater charitable giving. We therefore continue to provide support to charities and their donors through a broad and generous package of tax reliefs, which in 2017-18 was worth more than £5 billion. The draft order presents an opportunity to enhance the Government's support further by increasing the individual donation limit on the gift aid small donation scheme from £20 to £30 with effect from 6 April.

Gift aid was introduced by Sir John Major as Chancellor nearly 30 years ago. When eligible taxpayers give a sum of money to charity, it allows the charity to reclaim from Her Majesty's Revenue and Customs the basic rate of tax on the gift. For a charity to claim that tax relief, an eligible donor must sign a gift aid declaration form that confirms his or her consent to the charity's reclaiming the income tax paid on the donation. Gift aid is now a well established and significant revenue stream for charities: in the 2017-18 tax year, more than £1.26 billion in gift aid relief was paid to charities throughout the United Kingdom.

It is not always practical or feasible for a gift aid declaration to accompany charitable donations such as those received by small charities via collection tins on the high street or by churches via the collection plate. That is why, after listening to those groups, in 2013 the Government introduced the gift aid small donations scheme, which is designed to help charities to receive a gift aid-style top-up payment—a 25% top-up from the Government—on small cash and contactless card donations without a gift aid declaration being signed and submitted. The scheme is not a substitute for the original gift aid scheme; where a donor makes a larger donation or can reasonably be expected to complete a declaration form, gift aid should still be claimed in the usual way.

Take-up of the gift aid small donations scheme has increased year on year, although it would be helpful if more charities knew about it, understood it and used it. In 2017-18, 24,000 charities claimed a total of £34 million through the scheme. In our 2018 autumn Budget, the Government announced our intention to increase the individual donation limit on what a charity can claim through the small donations scheme from £20 to £30, extending support for charities. Some 80% of the organisations that currently participate in the scheme claim well below the £8,000 overall limit that we have set in the past, so we estimate that 20,000 organisations

will benefit from greater top-up donations as a result of the draft order. The draft order's change to the donation limit will benefit the good causes to which the donations have been pledged. I commend it to the Committee.

8.58 am

Clive Lewis (Norwich South) (Lab): Good morning, Mrs Moon. As the Minister outlined, the Small Charitable Donations Act 2012, which came into force on 6 April 2013, introduced a new scheme to enable charities and community amateur sports clubs to claim a gift aid-style top-up payment on small cash donations of up to £20 in circumstances in which it is not practical or feasible to obtain a gift aid declaration. The draft order will increase to £30 the maximum individual small charitable donation on which such payments can be claimed. My understanding is that eligible charities and CASCs can claim top-up payments up to £8,000 for small donations each year.

As hon. Members are probably aware, the gift aid small donations scheme was established in 2012 with cross-party support. The Small Charitable Donations and Childcare Payments Act 2017 then made several changes to gift aid small donations to simplify and increase access to the scheme, particularly for smaller and newer charities, including allowing small donations covered by the scheme to be made by contactless payment from April 2017. Although the Opposition welcomed that streamlining to create legislative clarity and coherence, we have continued to emphasise the need for robust Government monitoring of the gift aid small donations scheme, especially in relation to its use for fraud or tax evasion. Will the Government publish any information that they have on the matter?

Unfortunately, there have been cases of charities being used as vehicles for tax avoidance and fraud. It is incumbent on us to make it as hard as possible to abuse charitable status. During the passage of the 2017 Act, the Opposition tabled a new clause that would have required a review of the prevention of fraud and abuse in the small donations scheme. Such a review would need to address the number of penalties imposed under the 2012 Act and the circumstances giving rise to the imposition of such penalties. It should also include HMRC's assessment of the extent to which charities have been established or have operated for the primary purpose of securing benefits from the small donations scheme, and of the evidence available on the role of the gift aid matching rule in preventing fraud and abuse. Will the Minister update us on whether the Government will consider such a review?

Has there been any evidence of the gift aid small donations scheme being used for fraud or tax evasion? Will the Government publish any information that they have on it? Will the Minister also update us on the Treasury's monitoring of any potential loopholes? The explanatory memorandum to the draft order notes that "20 per cent of organisations currently participating in the GASDS are already claiming at, or close to, the overall limit of £8,000 per charity (or community building)."

I note that charities can claim up to £8,000 per building; do the Government have data on how many organisations are claiming for more than one building? How much of the gift aid small donations scheme benefit has accrued to large organisations claiming for more than one building? Are there any plans to increase or decrease the £8,000 limit after the donation size has been increased?

The Government's policy paper states:

"Following stakeholder feedback the government has decided to increase the individual donations limit for GASDS to £30. A consultation is not needed to make this small change."

However, an increase of 50% from £20 to £30 is very significant. What is the evidence base for that figure? What estimate have the Government made of the effect on how and by whom donations are made? The policy paper further states:

"This measure will be monitored through information provided in correspondence and regular feedback from the charity sector."

The draft order is exempt from the requirement to provide a review provision in accordance with section 28(3)(c) of the Small Business, Enterprise and Employment Act 2015, as it relates to

"the giving of grants...by...a public authority".

None the less, as the Opposition have noted a number of times, it would be advantageous to have a more comprehensive and transparent process in place.

9.3 am

Patrick Grady (Glasgow North) (SNP): The spokesperson for the official Opposition, the hon. Member for Norwich South, raised some interesting points, but I did not pick up whether he supports the draft order. It is important that his questions be answered and considered, but the draft order will make a relatively minor change that I think will broadly be welcomed by the charitable sector. In my experience in the sector before coming to Parliament, I have seen the difference that gift aid can make to the operation of charities, especially small and community-based organisations and churches, which the Minister mentioned. The opportunity to reclaim from the likes of street collections, where it is not physically possible to collect gift aid information, is valuable.

Clive Lewis: We will probably abstain, but may I pick up the point the hon. Gentleman is making? It is easy to assume that all charities are charitable in their nature and how they operate, but clearly there are some with the potential not to do what they say on the tin. According to the Lloyds Bank Foundation,

"the proliferation of larger public service contracts meant that new types of charity had emerged, which had little interest in meeting local community need, but were instead 'driven by market share' and 'prepared to slash costs to win contracts, with little regard to service quality.'"

We also know that there can be fraud and that charities can be used as a front for it. Our position is simply that there needs to be transparency.

Patrick Grady: That is very helpful. I do not necessarily disagree with any of it, but I would be concerned about standing in the way of a relatively minor uplift that would be beneficial, taking into account inflation and the increasing frequency and popularity of contactless donations. I totally agree with the points on transparency and on the need for that kind of scrutiny to continue. On that basis, I will not oppose this measure.

I want to respond to one other point that the Minister made. He said that not all small charities—legitimate local charities—necessarily take all this up. Perhaps there is a job for some of us as constituency Members to encourage smaller community organisations that do not realise that this opportunity is available to them.

On at least one note of consensus, I notice that paragraph 8.1 of the explanatory memorandum states:

"This instrument does not relate to withdrawal from the European Union."

I am sure that we all look forward to the day when we see that more frequently in explanatory notes.

9.6 am

John Mann (Bassetlaw) (Lab): I will not be abstaining on the instrument; I will be supporting it on behalf of the charities in my constituency, where there are a lot of small charities. This is a minor but eminently sensible proposal by the Government, which will be welcomed by the many small charities in my constituency.

Former coalfield communities do not have large charities and large organisations; they have small charities and small organisations. It might interest the Minister to know that the one large charity supported in my constituency is Help for Heroes. Bassetlaw is not the wealthiest part of the country, but it is the highest per capita contributor to that charity in the entire country. That also goes for small charities—for example, the local mosque, which is the first in Bassetlaw. It was formed by a charity and I supported its establishment. There were some difficulties with extreme elements in the local community. Raising the £200,000 needed to establish the mosque requires a lot of small charitable donations.

The extra 25% that can be gleaned—I appreciate that it is only up to £8,000 annually for small charities—can make a significant difference to churches and to those who have set up small charities, which is particularly common in my area. An example is when a child has died in tragic circumstances and the family has set up a charity. That is a common tradition in mining communities, and it is a fine one. These charities are tiny and make a small but important impact. The fact that they can go that bit further—not least through the use of contactless donations, which has spread rapidly to areas such as mine—is to be welcomed. I fully endorse the Government bringing this measure forward. This is common sense, and I hope that Labour Members will support it rather than abstain.

9.8 am

Robert Jenrick: I thank those colleagues who have spoken. I am grateful to the Scottish National party spokesman, the hon. Member for Glasgow North, and to my constituency neighbour, the hon. Member for Bassetlaw, for indicating either their support or their intention not to oppose this measure. Gift aid has enjoyed cross-party support ever since it was created 30 years ago. I hope that will continue, not only because it is an important measure in its own right, but because it is important to give certainty to charities that enjoy it across the length and breadth of the country.

As the hon. Member for Bassetlaw set out, a multitude of smaller charities have already welcomed the measure. In fact, we were responding to the voices of charities, many of which wrote to me. I attended the excitingly named charity tax conference a year ago, and this was one of their No. 1 asks to the Government. We have been pleased to oblige by laying the instrument. It will make a small difference to those charities and to all those individuals who put money on a collection plate

[Robert Jenrick]

in their local church or give to a small charity on the high street. I cannot see any reason why one would not wholeheartedly support that.

We take fraud seriously, as the Committee would expect. There has not been any material evidence of fraud, although there have been a small number of cases. In May 2016, three individuals were jailed for a total of 22 years for defrauding HMRC of £5 million in fictitious gift aid claims. That built upon a previous case from the month before, in which three other individuals were jailed for a total of 11 years for submitting fraudulent gift aid claims totalling £340,000. Thankfully, the unscrupulous individuals who seek to exploit charitable status for criminal purposes are rare, and there is no evidence of systematic abuse.

We designed the scheme in quite a complex manner—too complex, according to some charities—to make it difficult to conduct fraudulent activity. HMRC works closely with the charity regulator, the Charity Commission, with which I have been in regular contact over the last year on a number of matters, to ensure that charities are properly regulated and that any abuse of charities is dealt with robustly. When a charity is suspected of fraud, HMRC will share the information as soon as possible with the Charity Commission, which will consider further action, including removal from the charities register. Although we take that situation seriously, I do

not want to overemphasise it because abuse of the scheme is not widespread. It is an important scheme that we should take forward into the years ahead.

The hon. Member for Norwich South asked about increasing the £8,000 limit. We increased the limit substantially, from £5,000 to £8,000, as recently as 2016, so we think it logical to keep it at that level for the foreseeable future. The hon. Member for Glasgow North raised a legitimate concern about public awareness of the scheme. That is something that all right hon. and hon. Members could take away from the Committee and encourage smaller charities, local parish churches and other good causes that they visit and encounter to take advantage of the scheme.

We did some research with the Charity Commission at the beginning of last year. As a result of that research, we wrote to all the charities in the country that take advantage of gift aid but have not yet, the best of our knowledge, used the gift aid small donations scheme—around 47,000 charities—to publicise the scheme and explain its relative simplicity, and to encourage them to take part in it. I hope that the Committee will wholeheartedly support this good news for our charitable sector.

Question put and agreed to.

9.13 am

Committee rose.