



Small Charitable Donations Bill : **Committee Stage Report**

Bill 28 of 2012-13

RESEARCH PAPER 12/70 20 November 2012

The *Small Charitable Donations Bill* introduces the Gift Aid Small Donations Scheme (GASDS). The purpose of the scheme is to enable charities and community amateur sports clubs (CASCs) to claim a Gift Aid-style payment on small cash donations of up to £20 in circumstances where it would be difficult to obtain a Gift Aid declaration. Eligible charities and CASCs will be able to claim top-up payments on small donations totalling up to £5,000 a year.

The Bill was given a Second Reading on 4 September 2012, and was considered in Public Bill Committee over ten sittings from 16 to 30 October. This paper provides a summary of these proceedings and details the amendments made to the Bill in Committee. An introduction to the Bill is provided in the Library Research paper prepared for its Second Reading debate (RP 12/45, 14 August 2012).

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Summary

The *Small Charitable Donations Bill 2012-13* was published on 21 June 2012.

The Bill provides for a new scheme to allow charities to claim top-up payments from HM Revenue & Customs (HMRC) on the income they receive from small cash donations.

Charities may claim tax relief on donations from individual taxpayers under Gift Aid – equivalent to the basic rate tax donors will have paid on this part of their income. Gift Aid requires a charity to collect information on each and every donation they receive, to ensure that the donor will have paid tax at the basic rate on their gift. This information gives HMRC an audit trail to prevent fraud. However, there will be circumstances when charities find it very difficult to get donors to provide this information: say, when these donations are being given in cash on the street to volunteers with a collecting tin. In the 2011 Budget the Government announced that it would set up a scheme to allow charities and community amateur sports clubs to claim top-up payments on donations made in these circumstances. The Gift Aid Small Donation Scheme (GASDS) would be introduced from April 2013.

At the time of the Budget of 2012 HMRC launched a consultation on the details of GASDS, though certain features of the scheme were not to be open for change: in particular, the maximum annual limit on donations eligible for a top-up payment would be set at £5,000. In addition, there would be a number of provisions to prevent fraud.

In HMRC's view, the absence of an audit trail for these cash donations made the potential abuse of GASDS a significant threat. As a consequence charities using the scheme would be subject to certain eligibility criteria:

- they would need to have been established for at least three years;
- they would need to show a good compliance record in making Gift Aid claims; and,
- they would need to raise a certain amount through Gift Aid over a year in relation to their annual claim for top-up payments.

The consultation closed on 25 May 2012.

Generally all provisions relating to national taxation are contained in the annual Finance Bill. However, unlike Gift Aid, GASDS is not tax relief, so separate legislation is necessary. Following the Queen's Speech, the Bill was published, and, as a pilot exercise for giving bills a 'Public Reading Stage', members of the public were invited to submit views to inform the House's scrutiny of the Bill. The main theme of the comments received was that the eligibility criteria would prevent smaller charities from using GASDS.

The Bill received its Second Reading on 4 September 2012. There was wide support for the Bill, although several Members raised concerns about the eligibility rules for GASDS, echoing those made during the public consultation exercise. This was also the tenor of the debate in Public Bill Committee – both in the two evidence sessions the Committee held, and in its clause-by-clause consideration of the Bill.

In Committee a number of Government amendments were agreed, without a vote, though the main parameters of the scheme are unchanged. These amendments relate to:

- The disqualification of a charity from being entitled to make a claim under GASDS if it has been charged a penalty by HMRC in relation to the scheme or Gift Aid: the wording of the Bill was revised to ensure that charities would not be disqualified if

they had been charged a penalty that was subsequently suspended or cancelled on appeal.

- The rules requiring the £5,000 limit to be pooled for ‘connected charities’: the Bill’s definition of ‘connected charities’ as it applies to those established as trusts was reworded, to take account of some concerns raised by respondents.
- The ‘community building’ rules, which seek to prevent GASDS penalising charities that have a centralised structure and operate through one or more local groups: local groups are to be able to claim an additional £5,000 on cash donations raised in meetings held in a ‘community building’ – such as a village hall. The definition of ‘community building’ was extended to cover certain commercial premises offered to charity groups for this purpose, though related tests to what constitutes eligible income were amended slightly, to mitigate the cost of this change.
- The rules allowing charities which have amended their legal form to employ their *predecessor’s* Gift Aid compliance record in meeting the criteria for eligibility: in particular, provision was made to allow a charity created from a merger to take on the compliance record of one of the old charities it had subsumed.

A series of amendments was tabled by the Opposition with the general purpose of making it easier for smaller charities to meet the eligibility criteria for GASDS, though none of these were adopted. Opposition Members did not put any of these amendments to a vote, with one exception: a new clause to require the Treasury to prepare a report on the operation of GASDS one year after it came into effect, and annually thereafter. The Government opposed the new clause on the grounds that a report after a single year would be premature, that much of the statistical detail anticipated in such a report would be published normally, and that Ministers had given strong assurances that the scheme would be reviewed formally after three years. The new clause was defeated by 10 votes to 5.

Following completion of the Committee Stage, the Bill was printed as amended as Bill 85 of 2012-13 on 31 October 2012.

The text of the Bill, explanatory notes and details of the Bill’s progress are collated on the Parliament Bill page at:

<http://services.parliament.uk/bills/2012-13/smallcharitablecontributions/documents.html>

1 Introduction

Charities are entitled to claim tax relief on the income they receive from individual donations under Gift Aid. If the donor is a basic rate taxpayer, the charity can claim from HM Revenue & Customs (HMRC) the tax the individual will have paid on this part of his or her income. If the donor pays tax at the higher or additional rate, the charity may claim the tax paid at the basic rate, while the donor claims the extra amount of tax paid on their donation. Community amateur sports clubs (CASCs) may also claim relief under Gift Aid. The scheme is one of the most important tax reliefs for charities and pays out around £1 billion each year.

To make a claim under Gift Aid charities must ensure that the donor is a taxpayer, so that the tax authorities can match the tax that has been paid on the donation with the payment claimed by the charity. Charities can find it difficult to collect this type of information when donors make small cash donations – such as those made into a collecting tin. Donors may feel that they do not have the time to fill out a Gift Aid declaration for a donation made on the spur of the moment, or may be reluctant to do so for a relatively small gift. As a result some smaller charities who rely on small cash donations can lose out from the extra income they could get under Gift Aid.

In his Budget speech on 23 March 2011 the Chancellor, George Osborne, announced a number of measures to encourage charitable giving. This included a new scheme to allow charities to obtain a top-up payment on small cash donations equivalent to the tax relief given under Gift Aid.¹ Under the Gift Aid Small Donation Scheme (GASDS), charities would be entitled to claim payments on up to £5,000 of income from small donations each year. The maximum top-up payment a charity could receive would be £1,250. The scheme would be launched from April 2013.² After informal discussions with the charitable sector, the Government confirmed its plans in the 2012 Budget and published a consultation document on the details of the scheme.³

As participants will not be required to obtain evidence of small cash donations in the same way as donations made under Gift Aid, GASDS will be more vulnerable to fraud. As a consequence charities and CASCs using the scheme are to be subject to certain eligibility conditions. Charities will have to prove that they have a good compliance record – by having made successful claims under Gift Aid in at least three of the previous seven years. Charities will also have had to have been established for at least three years.

In addition eligible charities will be required to raise a certain amount under Gift Aid in relation to income received under GASDS. Initially the Government proposed that these ‘matching’ rules would require charities to raise at least as much through Gift Aid as under GASDS : a ratio of 1:1. Following consultation the Government reduced this matching level to 2:1 (ie, charities would only be obliged to raise 50% through Gift Aid). Individual cash donations of up to £20 will qualify. Some charities are structured so that small local branches are simply part of a single organisation, while others are registered as separate charities. The scheme makes provision to mitigate the impact of this. Under certain conditions, a local group that is a part of a single charity may claim top-up payments on up to £5,000-worth of donation income, if it raises this money in a community building.

¹ HC Deb 23 March 2011 c962

² [Budget 2011](#) HC 836, March 2011 para 2.113

³ [Budget 2012](#) HC 1853, March 2012 para 2.88; HMRC, [The Gift Aid Small Donations Scheme](#), 27 March 2012

2 Second Reading : 4 September 2012

The then Economic Secretary to the Treasury, Miss Chloe Smith, introduced the Bill: the “crucial point”, the Minister argued, was that charities were “currently missing out on income” because some charities found it “difficult to claim Gift Aid on donations, such as those from street buckets and church plates – when donors might be reluctant to stop to fill in Gift Aid declarations.”⁴ She set out three principles behind the scheme: “fairness, protection against fraud, and providing a complementary scheme to Gift Aid”:

First, we want the scheme to complement gift aid rather than to replace it. I would urge all charities that receive donations to make full use of gift aid, where there is no limit on the amount of donations on which the charity can claim. However, there are some donations for which gift aid declarations are hard to come by, and that is what the scheme is designed to address ...

The second principle behind the proposal relates to protection against fraud. We have designed the scheme so that for a charity or CASC to be eligible to claim, it must have a minimum three-year track record of successfully claiming tax relief under gift aid. It will also have to continue making gift aid claims while it is claiming under the new scheme. I know that the three-year rule and the requirement to match claims with gift aid claims have raised some concerns among charities, but I must be frank and say that the generous nature of charitable tax reliefs means that they are vulnerable to exploitation, with a small minority looking to take advantage of the arrangements ...

[On fairness] When we were developing the detail of this part of the scheme, it became clear that unless special rules were introduced, some charities would be able to claim hundreds or even thousands of times less under the scheme than their counterparts doing very similar work, simply because of the way in which they were historically set up ... So I have introduced the community building rule to ensure that charities carrying out similar activities in local communities—either through independent charities under an umbrella organisation or as local groups of a larger charity—get allowances under the scheme that are not hundreds or thousands of times different.⁵

On take-up, Miss Smith stated that around 100,000 charities had claimed Gift Aid in the past four years, and it was anticipated that 80,000 would make annual claims under the scheme by 2016/17, at an Exchequer cost of about £100m.⁶

Cathy Jamieson said that the Opposition supported the Bill “in principle” but raised a number of concerns as to whether the Bill “delivers what it promises.” Several organisations “such as the National Council for Voluntary Organisations, the Charity Finance Group and the Charities Aid Foundation” had “described the legislation as highly complex and not accessible enough for smaller charities.”⁷ Ms Jamieson discussed some of the potential difficulties these organisations had identified, and argued the Bill would need to be amended in Committee “to reflect the views of those who have contributed so far and the needs of the charities and community amateur sports clubs that do so much good work in our local communities.”⁸

The other Members who spoke in the debate all welcomed the Bill without exception, although several echoed these concerns that the rules to prevent fraud could result in some

⁴ HC Deb 4 September 2012 c166

⁵ *op.cit.* c168, c169, c172

⁶ *op.cit.* c170; see also later comments by the Exchequer Secretary at c205.

⁷ *op.cit.* c175, c176

⁸ *op.cit.* c182

charities losing out.⁹ Further to these points Jeremy Lefroy noted that the scheme would address a problem affecting some *donors*, as well as charities, as those on the lowest incomes, who are not taxpayers, cannot make use of Gift Aid.¹⁰

Responding to the debate the Exchequer Secretary, David Gauke, argued that, contrary to some representations, the ‘basic scheme’ was “very simple ... charities will not be required to keep any additional records of the money received over and above best practice record keeping.” The Minister opposed any change to the eligibility rules requiring charities to have a three year record of claiming Gift Aid on donations, as “it is a straightforward way to protect the scheme from exploitation without reintroducing all the paperwork that it is designed to remove.” Mr Gauke also opposed changes to the rules on community buildings, to ensure charities could make full use of the extra £5,000 allowance:

The community building rule has been written into the Bill to ensure fairness of access and to avoid significantly unfair results. Most charities will not need to worry about the rule because they are independent and collect less than £5,000 in small donations, so they will get their £5,000 allowance regardless of their activities or where they collect the donations ...

The intention of the community building rule is not to allow all buildings where charitable activities take place to receive a separate allowance of up to £5,000 of small cash donations; it is to remove the worst inequalities that would otherwise exist, so that some charities would be able to claim hundreds, perhaps thousands, times more payments under the scheme than others undertaking similar activities. We believe that the rule as drafted achieves that objective.¹¹

The Minister flagged one area where the Government was minded to reconsider the Bill’s provisions. Charities that are ‘connected’ and each make claims under the GASDS are required to divide the £5,000 allowance for top-up claims between them. In this context, charities that share trustees will be classified as connected, if they have similar purposes. The Minister noted that there had been concerns that the drafting of this test would catch some charities unintentionally:

The Bill sets out that for trustees to be connected they would have to have purposes or undertake activities that were the same or substantially similar. If someone was a trustee of two charities that were completely unrelated and did very different sorts of charitable activities, those charities would not be connected under the scheme. We received some feedback on that rule during the consultation and adapted it to meet concerns that charities would unintentionally be caught by the rule as originally proposed. We are looking further into that, however, to see whether it would be possible to amend it further to ensure that no charities are caught unintentionally.¹²

The House approved the Bill for Second Reading without a vote.

⁹ For example, Susan Elan Jones (*op.cit.* cc 184-5), Chris White (c191) & Barry Gardiner (c196).

¹⁰ *op.cit.* c186

¹¹ *op.cit.* cc 203-4

¹² *op.cit.* c203. Ms Jamieson had raised this concern in her speech (cc 177-8).

3 Committee Stage : 16 – 30 October 2012

3.1 Introduction : two new procedures

Following the Queens Speech on 9 May 2012, the Government announced that two Bills would be selected for a pilot scheme for publishing explanatory statements to accompany amendments tabled to Bills.¹³ In March 2011 the Procedure Committee had argued that this practice would be of significant benefit for Members and those outside the House tracking the progress of legislation.¹⁴ The Leader of the House set out details of this pilot on 23 May, including the fact that the *Small Charitable Donations Bill* would be one of the two Bills chosen:

We plan to provide explanatory statements for all Government amendments for Bills in the pilot at both Committee and Report stage other than those amendments where the legal effect is clear on the face was also published of the amendment ...

The Government believe that there would have to be very significant and clearly definable benefits illustrated from this final pilot for any further progress to be made. Because there have already been several pilots for explanatory statements and only limited evidence available on the outcome of those pilots, I have proposed to the Procedure Committee, and that Committee has agreed, that there should be a formal evaluation of the pilot, with an initial evaluation conducted by the House service which the Procedure Committee will then use as the basis for a report on the outcome, together with evidence from elsewhere, including the Government's views.¹⁵

During the Committee stage of the Bill, amendments tabled both by the Government and the Opposition were printed with short explanations of their purpose. While these were reproduced in the report of the Committee's proceedings, the format of the Bill was unaffected. Of related interest, on completion of the Committee stage, a special version of the amended Bill – Bill 85 of 2012-13 – was published, illustrating the changes made in Committee.¹⁶

A second innovation has been the Bill's Public Reading Stage, after it was first published. In the agreement underpinning the Coalition Government, it was proposed that a 'public reading stage' for Bills would "to give the public an opportunity to comment on proposed legislation online", with "a dedicated 'public reading day' within a bill's Committee Stage where those comments will be debated by the committee scrutinising the bill."¹⁷ This procedure was first used for the *Protection of Freedoms Bill 2010-12*.¹⁸ Following this experiment, a new website for this stage was established,¹⁹ and the *Small Charitable Donations Bill* launched as the second pilot Bill. The website closed for comments on 23 August. Subsequently the Treasury and HMRC published a report on the comments received on the Bill, from which the following is taken:

21 organisations and individuals made a total of 85 comments on the Bill. A large number of the comments came from well-known charitable sector representatives, including the Institute of Fundraising, the National Council of Voluntary Organisations,

¹³ HC Deb 10 May 2012 cc13-14WS

¹⁴ House of Commons Procedure Committee, *Second report: Improving the effectiveness of parliamentary scrutiny: (a) Select committee amendments (b) Explanatory statements on amendments (c) Written parliamentary questions*, 9 March 2011, HC 800 2010–12 p14.

¹⁵ HC Deb 23 May 2012 c72WS

¹⁶ Available on the 'Bill documents' section of the online Bill pages for this legislation.

¹⁷ HM Government, *The Coalition: our programme for government*, May 2010 p27

¹⁸ For more detail see, *Public Reading Stage of Bills*, Library Standard Note SN6406, 22 August 2012.

¹⁹ <http://webarchive.nationalarchives.gov.uk/20121204113930/http://publicreadingstage.cabinetoffice.gov.uk/>

the Small Charities Coalition and the Charity Finance Group. However, a number of managers or trustees of individual charities also commented.

The comments were made across a range of clauses, but focussed on the key areas of the eligibility criteria for the scheme, the requirement to continue claiming Gift Aid in order to claim under the Small Donations Scheme and the rules around the additional allowances for charities that undertake charitable activities in community buildings.

There were a few comments on the nature of the scheme, rather than on specific clauses. A number of small charities commented generally on the benefit the scheme would bring to them. However a number of organisations, principally charity representative bodies, commented that while the original intention of the scheme was welcome, the Bill brought in too much complexity and so would not likely benefit small charities to the extent that had been originally envisioned.²⁰

During the Second Reading debate Cathy Jamieson had raised concerns that the details of the Public Reading Stage has been “tucked away on the Cabinet Office website” and it had been “quite difficult for members of the public” to take part in this exercise.²¹

The first two sittings of the Public Bill Committee were given over to examining a series of witnesses; first a number of charities and representative bodies, and second, the Economic Secretary, Sajid Javid, along with officials from HM Treasury & HMRC.²² The Committee then proceeded to a clause-by-clause consideration of the Bill.

3.2 Top-up payments (clauses 1-3, Schedule 1)

Clause 1 establishes what a top-up payment under GASDS is, how its size is determined, and the maximum annual claim that may be made to HMRC. **Clause 1(2)** sets out the formula by which the value of a payment is calculated, so that it is the same amount as would be claimed under Gift Aid. **Clause 1(4)** requires that donations under the scheme cannot exceed the donations claimed under Gift Aid by more than double: the ‘matching’ condition. **Clause 1(6)** sets the monetary annual limit for donations qualifying for top-up payments at £5,000.

Speaking for the Opposition, Gareth Thomas questioned why the scheme “should be run only by HMRC, and why it should be linked to Gift Aid,” as this would mean “many small charities will not be able to benefit.”²³ Mr Thomas had asked Andrew Edwards, Head of Charities at HMRC, about the administrative task facing HMRC, when he gave evidence to the Committee. In reply, Mr Edwards said:

The new scheme does not require many extra staff because it is being brought in at the same time as we are introducing a new IT system for gift aid, which we have designed with this scheme in mind. For example, charities will be able to claim online. At the moment, charities have to claim by filling in a paper form, which they send us, and then we have a number of people processing those forms. That function will go and it will all be done online.

²⁰ HMT/HMRC, *Small Charitable Donations Bill: Memorandum submitted by HM Treasury and HM Revenue and Customs (SCD 07)*, October 2012 p1

²¹ HC Deb 4 September 2012 c166, c182

²² Public Bill Committee (*Small Charitable Donations Bill*), 16 October 2012 cc54-72. Mr Javid succeeded Miss Smith as Economic Secretary to the Treasury on 4 September 2012.

²³ PBC, 18 October 2012 c78, c81

We have separate auditors and compliance staff who already do all compliance work on gift aid. As part of that, they will do audit and compliance work on this small donation scheme. Because of the way the scheme has been designed to mesh with gift aid, it can be administered almost as a part of gift aid. Yes, there are pressures and there will be extra things that we need to do for which we do not have extra resources. We will have to absorb those and deal with them as part of our day-to-day work.²⁴

In his response to Mr Thomas' comments, the Economic Secretary, Mr Javid, argued that there were "good policy reasons why HMRC should administer the scheme":

It will be an add-on to gift aid, which means that the costs of administration will be low for both charities and HMRC. Charities throughout the UK are already familiar with the gift aid rules and working with HMRC ... [HMRC] has a special unit dedicated to working with charities on income tax issues, as well as gift aid, and on corporation tax and helping them with VAT issues. That unit could be described as a one-stop shop for charities on all issues related to tax matters.²⁵

Linking the scheme to Gift Aid was also a cost effective way of dealing with the threat of fraud:

The IT system that will be used for this scheme is the same IT system as will be used for the gift aid system. In fact, this point touches on complexity as well. What will be required from any charity that is making a claim under this small donations scheme are the answers to a simple couple of questions. It will have to identify the relevant tax year. This will be done within the gift aid declaration, so there will be a separate couple of additions to that. It will have to identify the tax year. It will also have to identify the amount of money on which it wishes to claim these top-up payments ... Any public body that is handing out public money must take steps to prevent fraud. Where the money available is unlimited—as it is in this scheme; there is no limit to the number of charities that can take part—the anti-fraud measures must be proportionate and robust.²⁶

Mr Thomas also raised concerns that the requirement for eligible charities to make Gift Aid claims would "inevitably penalise the smallest charities". He noted that in evidence to the Committee the chief executive of the Charities Aid Foundation, John Low, had questioned whether this requirement was in place because "HMRC and the Treasury do not trust the Charity Commission to regulate charities sufficiently strongly and feel they have a need to impose their own measures on something that is not tax relief, but is public spending."²⁷ Many small charities would be claiming only small amounts under Gift Aid, restricting the amount they could obtain from the GASDS:

The NCVO in its evidence pointed out that some 25,000 charities claimed gift aid of less than £1,000 a year. Of those it estimates that about half will be claiming less than £625 a year. So at the moment they have no chance of getting the full £1,250 under the scheme. At the moment only a third of charities would potentially qualify because they are registered for gift aid. Here is further evidence that an even smaller number of charities would benefit from the Bill because they do not currently claim gift aid of £625 or more, perhaps because of the way their income streams are currently organised ...

²⁴ PBC, 16 October 2012 cc61-2, Q100

²⁵ PBC, 18 October 2012 c118, c120

²⁶ *op.cit.* c125

²⁷ PBC, 23 October 2012 c134. Mr Low's comments are at: PBC, 16 October 2012 c48, Q78

[The Opposition] do not seek to increase the level of funding that the Government have set aside for the scheme, but when small charities can potentially access £1,250 under the scheme, we should surely make it a little easier for all charities to benefit from it.²⁸

In his response the Minister acknowledged that “the anti-fraud provisions are probably the greatest area of contention in the Bill [and] it is quite natural that charities should dislike the matching rule and question whether HMRC’s concerns are proportionate.” However, claims under the GASDS would not require a Gift Aid declaration from the donor:

Together with the fact that the scheme is cash based, it means that HMRC will have virtually no hard information on which to check whether a claim under the scheme is correct. HMRC will make payments under the scheme virtually on demand. If there were no links to gift aid, the scheme would be based on the pure trust that the charity and the people acting on its behalf are honest and capable of administering the system correctly.²⁹

While Mr Javid strongly opposed any break with the link to Gift Aid, or the removal of the matching condition, he went on to say that “the ratio itself is something that I am minded to look at again. If there were changes to the ratio, I would consider carefully whether the estimates would make much of a difference to the battle against fraud. I will look at that carefully.”³⁰

Clause 2 establishes the eligibility criteria for charities making a claim under GASDS: in particular, charities must have made a successful claim under Gift Aid “in at least three of the previous seven years” and the charity must have been established for at least three years. Gareth Thomas put down two amendments to probe the purpose of the test:

If it is unreasonable to require many small charities to jump through the hoop of registering for gift aid, it seems even more unreasonable and disproportionate to require three years’ worth of gift aid claims ... Another question ... is why one needs a three-year waiting period to claim what is a relatively small grant or top-up payment, as the Minister calls it, when no similar probation period is required to access ordinary gift aid.³¹

Supporting the amendments, Sheila Gilmore argued that these restrictions “seem out of proportion to what we are trying to achieve”:

To say that organisations have to be in existence for three years to prove their bona fides is one thing but, on top of that, there is the requirement to have had the three out of seven years making applications for gift aid. Why do we need all those requirements? Even if it were felt that we need to have some monitoring and control, and confidence that the organisation is bona fide, the Government have put in place something that is over-elaborate for the purpose that it will serve.³²

In response the Minister explained how the test would work, noting that it did not require eligible charities to make Gift Aid claims every year:

There are essentially two components to this test. If a charity or community amateur sports club is to be eligible to take part in this scheme, it must have been recognised as a charity or CASC for tax purposes for three consecutive tax years. Secondly, it

²⁸ *op.cit.* c146, c148

²⁹ *op.cit.* c153, c157

³⁰ *op.cit.* cc158-9. The clause was approved without a vote.

³¹ *op.cit.* cc162-3

³² PBC, 23 October 2012 cc171-2

must have made gift aid claims in at least three of the previous seven tax years without a gap of three tax years between claims ... As with the matching rule set out in clause 1, the three-year qualifying period is an essential part of the scheme to ensure that it is adequately protected against fraud ...

Charities do not need to claim for consecutive years; they need to claim for at least three years in the past seven, as long as the gap between claims is no longer than two years. Of the 100,000 or so charities that are registered with HMRC, 65,000 will claim in any particular year, but many will not claim every year. It is not the same 65,000 each year. Charities have an ongoing relationship with HMRC.

While the initial checks HMRC undertakes when a charity first registers for gift aid will enable some fraudulent charities or individuals to be caught ... HMRC needs to build knowledge of a charity and the people managing it to check that it is claiming gift aid correctly and to follow up on any causes for concern. There have been calls, as we have heard today, for a reduction in the three-year period, but reducing the lead-in time would increase the cost of the scheme and inevitably increase the amount of money that is paid in fraudulent claims.³³

Mr Javid also said that while some charities had argued for some type of tapered eligibility period, allowing younger charities to make a limited claim, "it would be counterproductive to add another level of complexity [to the scheme]."³⁴

Mr Thomas withdrew the amendments, but moved a supplementary one, to offer an alternative test for eligibility: that a charity should satisfy the 'fit and proper persons test' required for charitable registration as well as having submitted "at least one annual return" to the Charity Commission.³⁵ The Minister argued that this would be unworkable:

Not all charities are required to register with the Charity Commission or its devolved counterparts. I remind members of the Committee that the regulation of charities is a devolved matter and that the Charity Commission is responsible only for regulation in England and Wales. The devolution of responsibility means that there are different criteria throughout the United Kingdom for the regulation of charities. There are different definitions of "charity", different thresholds for registration and different requirements for the filling in of annual returns.

In England and Wales, for example, the smallest charities are not required to register with their regulator. All charities with income below £5,000 are exempt from registering. ... For many charities, the process of registering with the Charity Commission and completing an annual return would be more time-consuming than registering with HMRC for gift aid. That option also brings with it the benefit of gift aid income for that charity.

[In addition the amendment fails] to take account of the devolved nature of charity regulation. As drafted, it would only allow charities that are required to register with the Charity Commission of England and Wales to claim under the small donations scheme ... If we were to expand the provision to tie the eligibility to the other devolved regulators as well, the differences in regulation would mean that there would be different treatment for charities operating in different areas of the UK. That is an

³³ PBC, 23 October 2012 c176, c177

³⁴ *op.cit.* c178

³⁵ *op.cit.* c180

impractical suggestion that would only increase complexity and the administrative burden for charities, HMRC and the charity regulators.³⁶

Under **clause 2(3)** charities are not be eligible to make a claim if they have been charged a penalty by the revenue authorities in relation to a claim for either Gift Aid relief or a top-up payment. This applies both in the year the penalty was charged, and in the following two years. The Minister discussed the Government's rationale for this rule, and its likely impact:

If a charity does not comply with the gift aid rules, it is reasonable to assume that it may not be complying with the rules of the gift aid small donations scheme. HMRC does not hand out penalties lightly; only where a charity has not taken reasonable care, or where there is deliberate error in claiming, will a penalty be issued. Our experience of the gift aid scheme is that many penalties are suspended, because we take into account the fact that a charity's breach of the rules may have been completely unintentional. HMRC's intention in imposing penalties is to encourage good compliance, and a suspended penalty may be enough to achieve that ... Over £1 billion is claimed in gift aid each year but only a handful of penalties are handed out. Many of those are suspended penalties. That is probably a good guide to the number of penalties that may result from this new scheme.³⁷

Mr Javid went on to move an amendment to ensure that a charity would not be ineligible if a penalty was suspended, or was cancelled on appeal:

[The amendment] puts beyond doubt the fact that the charity's eligibility will be affected by a penalty only if the penalty finally becomes payable. Proposed new subsection (4)(c) [of clause 2] sets out that a penalty suspended or cancelled on appeal, unless it later becomes payable, will not affect eligibility.³⁸

The amendment was agreed to without a vote.

Clause 3 and **Schedule 1** determine what is to be a 'small donation' for the purposes of the scheme.

Under **clause 3(2)** any donation must be used for "charitable purposes". In answer to question from Mr Thomas, the Minister gave an example of how this test would work: "a charity may make a loan to a trustee, which is a non-charitable purpose. If funds were raised but used for a non-charitable purpose, that portion would be excluded from eligibility under the terms of the scheme ... For clarification, administrative costs are not caught by subsection (2), because they are a legitimate use of charitable donations."³⁹

Clause 3(3) excludes four organisations from this test: the Trustees of the National Heritage Memorial Fund; the Historic Buildings and Monuments Commission for England; the Trustees of the British Museum; and, the Trustees of the Natural History Museum. Mr Javid explained the reason for this apparent anomaly:

These organisations are listed to provide absolute clarity in the Bill. They are all state-created organisations and as such, and in accordance with the regulations under which they were created, they are not permitted to use money for unauthorised purposes ... The reason for this is simply to maintain consistency with the gift aid rules.⁴⁰

³⁶ *op.cit.* c181. Mr Thomas withdrew the amendment without a vote.

³⁷ PBC, 23 October 2012 c185, c186

³⁸ *op.cit.* c189

³⁹ *op.cit.* c192

⁴⁰ *op.cit.* c193

Schedule 1 sets out a series of conditions for small donations: principally that they must be £20 or less in cash (**para 1**), collected in the UK (**para 2**), held in a UK bank account (**para 3**), not covered by an existing relief for charitable giving - that is, Gift Aid or Payroll Giving (**paras 4 & 5**), and cannot be given in receipt of any gift (**para 9**). Gifts of negligible value such as lapel stickers are excluded from this last condition.

Para 1(3) to **Schedule 3** defines ‘cash’ as “coins and notes in any currency.” Mr Thomas moved an amendment to extend this to donations by cheque, text or internet. Cathy Jamieson and Jeremy Lefroy raised related concerns of donations collected at funerals: as Mr Lefroy observed,

Often large amounts of cash are raised, which are then split between two or three different charities. It is then the responsibility of the church, or wherever the funeral is held, to divide up the money that is received in cash between those particular charities. Clearly, it is physically pretty impossible for the church to split the cash into two or three. What they will normally do is bank the entire amount and then give a cheque to each of those charities.⁴¹

In response the Minister resisted making an immediate change, arguing that Gift Aid was the preferable route for other types of donation, but noted that this might have to be reconsidered:

Giving by cheque or through using digital technology means that the donor is already giving their details to the charity, and the extra amount of information needed to make a gift aid declaration is relatively small. Where a charity has an ongoing relationship with a donor, they should use gift aid if at all possible. Compared with a bucket collection on a busy street, it is considerably less burdensome to ask someone to provide their details if they are prepared to sign a cheque or go to a website to make a donation ...

[In evidence to this Committee] John Low, from the Charities Aid Foundation ... said that “cash is important for many charities. We are addicted to giving by cash in this country. It still remains a very significant proportion of the giving.” ... while many small charities rely on cash donations currently, things may change in the future. I point [my hon.Friend] to the commitment that the Government have made to review the measure in three years to ensure that it is working as intended and helping the charities that it is intended to help.⁴²

Mr Javid also addressed the practical question of donations collected at funerals:

The charity in question would need to certify to HMRC and be comfortable that those receipts were cash donations made to that charity. Clearly, in some cases the community buildings rule is relied on, and there are other restrictions concerning the charitable activity taking place when the donations were accepted. Again, the key requirement is that the donations were in cash, and the charity must be able to verify that to HMRC to ensure that it satisfies the terms of the Bill ... it is important to emphasise that the requirement is that small donations need to be banked by the charity concerned in order to be valid under the scheme. That is important in respect of protecting against fraud, and best practice for charity cash handling.⁴³

⁴¹ PBC, 23 October 2012 c197

⁴² *op.cit.* c198, cc199-200. Mr Low’s comments on the role of cash for small charities was at: PBC, 16 October 2012, c54, Q84

⁴³ *op.cit.* c200-201. In the event the Opposition’s amendments were withdrawn, and **Schedule 1** was agreed to without a vote.

3.3 Connected charities and community buildings (clauses 4-9)

Clauses 4 & 5 make provision for the maximum £5,000 claim by a charity or CASC to be altered if the organisation is connected with one or more others. **Clause 4** specifies that where two or more charities are connected *and* make a claim, then the £5,000 limit is divided equally between them. Each charity will still have to meet the 2:1 matching rule regarding Gift Aid donations that they have received. **Clause 5** defines the meaning of ‘connected’ in this context; this test excludes charities from qualifying as ‘connected’ if they have different purposes and activities.

The Economic Secretary, Sajid Javid, tabled two amendments to **clause 5**, in response to concerns about the way charities that are charitable trusts would be affected by this provision. As an introduction the Minister explained how the test for charities being ‘connected’ drew on the way in which tax law determines whether two persons are connected:

Most charities and all CASCs are subject to corporation tax. The Taxes Acts already provide a definition of when a company is connected with another person, whether that person is another company, a living individual or a trustee. The Taxes Acts also include well-trodden rules that determine when an individual is connected with another individual, for example a spouse, a civil partner or their children. Clause 5 keys into those provisions.⁴⁴

Although **clause 5(4)** made provision for those charities set up as trusts, the Minister acknowledged that it was flawed:

There is no appropriate concept of a connected trust as such in the Taxes Acts. However, rules to connect charitable trusts with other charitable trusts and with other persons are needed for the purposes of the scheme, and clause 5(4) provides special rules for doing so.

Respondents at the public reading stage pointed out that the effect of subsection (4) would be to connect two charitable trusts doing similar things even if they shared one trustee, which would be a problem in cases where it is difficult to find anyone willing to stand as a trustee; one person may end up as a trustee of several charities. We agree that that was not the intention of the provision, and on Second Reading the Exchequer Secretary said that the Government would be willing to reconsider the rules.⁴⁵

He went on to explain how the new test would work:

The amendments to clause 5 substitute a new subsection (4) and insert new subsections (4A) and (4B) and a new subsection. The effect of the amendments is as follows. First, the rules that apply in the Taxes Acts to connect charitable companies will also apply to charitable trusts. However, the connected company rules cannot be applied to trusts in their entirety, because companies usually have share capital, members’ voting rights and so on, and the connected company rules use those concepts in certain places. By contrast, a trust deed sets out how the property in trust and income arising from the property are to be managed and who should benefit from the property and income. The trustees are required to act in accordance with the trust deeds.

Proposed new subsection (4) sets out in more detail than the original subsection (4) when a person may control a trust by reference to exercising the powers of the

⁴⁴ PBC, 23 October 2012 c204

⁴⁵ *op.cit.* c205

trustees or to direct trustees to act in accordance with their wishes. Importantly, it removes the original provision that connected two charities simply because they share a single trustee.

However, proposed new subsection (4) would have made it too easy for trustees of charitable trusts to set up new trusts to benefit from the scheme, encouraging fragmentation, so new subsection (4A) introduces a further test to connect two charitable trusts. It will apply where at least 50% of the trustees of one trust are also trustees of the second charitable trust.⁴⁶

In addition, a supplementary amendment would allow the new rules to be amended by Order:

Charity representatives have been supportive of the amendments, but we recognise that the provisions are complicated. Until the rules start being used in practice, we cannot be certain that they will work as intended, so amendment 3 gives the Treasury the power to amend by order the connected charity rules. Any order would be subject to the affirmative procedure in the House.⁴⁷

Speaking for the Opposition, Ms Jamieson was generally positive about the amendments, but asked if there was a case to insert a requirement in the Bill for formal review of these changes. The Minister acknowledged that the application of the rules could be a complex issue, but demurred on the need for a review clause: "I do not think there is a need for a formal review clause. As the hon. Lady knows, that is not the case with much legislation, and I do not think it necessary in this case. However, we will look at it again because we want to ensure, as she does, that the scheme works in the way intended and that it helps charities, particularly small community-focused charities."⁴⁸

Clauses 6-9 make provision for the £5,000 limit to be altered for charities who deliver their charitable activities through community groups. To prevent charities who operate through a series of local groups being disadvantaged, the Bill introduces the concept of 'community buildings'. A separate £5,000 limit will apply to donations collected in this type of building, in the course of that charity's charitable activities.

Clause 6 allows for a charity which has activities in one or more community buildings to make an additional claim in relation to donations received in that building(s). The same £5,000 annual limit applies to donation income from a community building, though a charity can make a claim in relation to every building in which it makes collections. It may also make a claim, capped at £5,000, in relation to donations collected elsewhere – for example, in street collections.

The Bill also sets out the conditions for this type of claim: what constitutes a community building (**clause 8**) and minimum tests for the frequency and attendance at meetings in that building (**clause 7**). Under **clause 7(1)(2)** the charity must hold at least six meetings during the year at which at least ten people attend, not including staff; **clause 7(4)** allows for HMRC to amend these numbers by Order.

When **clause 6** was debated in Committee, Ms Jamieson put down a series of amendments to modify these tests, as the Opposition were concerned that some donations raised by charities outside the defined premises would not be covered by the GASDS: "we want to ensure that all the donations given for the benefit of the charity or its charitable purposes

⁴⁶ PBC, 23 October 2012 c205. The Government's amendments were agreed without a vote.

⁴⁷ *op.cit.* c206

⁴⁸ *op.cit.* c222

qualify in that way.”⁴⁹ In response the Minister underlined the purpose of these rules, and their limited scope:

The community buildings rules aim to reduce the worst unfairness that would have resulted from the limit of £5,000 per charity, while restricting the overall cost of the scheme to an amount that the public purse can afford ... All independent charities will be able to claim payments on up to £5,000 of donations collected anywhere in the UK. Many charities have income below £5,000 so they will not need to bother with the community buildings rules at all, because the £5,000 headline limit is enough for them.

The only charities that might be concerned with the community buildings rules are charities that are connected with others, which will have access to only a portion of the main £5,000 allowance. Charities that collect more than £5,000 in small donations each year may also want to access the community buildings element of the scheme ... The rules therefore target charities where groups of people from the community come together to carry out charitable activities and where small donations may be collected at the same time. The rule is not designed to give an extra £5,000 allowance to every charity that operates out of a building or has a local branch for each of those buildings or branches

Any number of charities can operate out of a single building. For example, in a local village hall a local women’s institute might meet one day, followed the next day by a community amateur dramatics group and the next by a medical support group. Each of those groups could potentially claim as long as they met the other eligible criteria under the community buildings allowance.⁵⁰

Mr Javid acknowledged concerns expressed by some charities who raised funds by being lent a room in a hotel or office, rather than a village hall or church building. However, to loosen the test for ‘community building’ set out in **clause 8**, the Government would have to apply a more restrictive test to eligible income than initially provided by **clause 6**. Consequently he moved three amendments to **clause 6** to “ensure that only those donations collected from group members during the charitable activities qualify as small donations under the community building rules.”⁵¹

The Minister went on to move a series of amendments to the minimum tests for the frequency and attendance at meetings, set by **clause 7**. First, for a meeting to qualify, attendance would have to be free of charge. Second, as some charities were structured so that its officers were also its beneficiaries, the rule on the minimum number of attendees would be tweaked: in effect, “trustees, employees and other officers attending charitable activities in their private capacity as beneficiaries of the charity [will] count towards the group quorum of 10.”⁵²

Finally, the Minister moved two amendments to **clause 8**, to allow meetings to be held in parts of a commercial building – such as a room offered by a hotel; premises used “wholly or mainly for the sale or supply of goods” would be excluded. In addition, residential premises would remain excluded from this definition:

There will always be “me too” calls, wherever we draw the line between those inside and those outside the provisions. It is safe to draw the line in a way that includes most commercial buildings but leaves residential buildings outside. Moving the line to bring in residential buildings would greatly increase cost and the risk of fraud. It would leave

⁴⁹ PBC, 25 October 2012 c238

⁵⁰ *op.cit.* c242-3. Ms Jamieson withdrew the amendments without a vote.

⁵¹ *op.cit.* c250. These amendments were agreed without a vote.

⁵² *op.cit.* c259. These amendments were agreed without a vote.

us with no choice but to look again at whether the £5,000 limit on donations is sustainable, in terms of the cost to the public purse.⁵³

Clearly there will be circumstances where a charity connected with other charities or CASCs runs charitable activities in one or more community buildings. **Clause 9** sets out how the provisions for pooling donations for connected organisations interlock with those allowing charities with local branches to make additional claims. Ms Jamieson argued that the clause should contain a requirement on the Treasury to review the community buildings rules, within two years of the Act coming into force. The Minister opposed this, noting “in practice [the Treasury would] ... have to start preparing the report when the scheme has been operating for a year or a little more. After that time there is not much useful information that the Treasury can give.”⁵⁴ Ms Jamieson withdrew the amendment, and the clause was agreed to without further debate.

3.4 Overpayments and administration (clauses 10-11)

Clause 10 allows for any overpayments of top-up payments to be repaid to HMRC. **Clause 11** provides for HMRC to manage the scheme and to make regulations for its administration. Neither clause proved controversial in Committee and were both agreed without a vote. In the debate on **clause 10**, the Exchequer Secretary gave some details of how the repayment of these funds might work in practice:

Overpayments will be reclaimed by HMRC in the same way that it currently claims back overpayments for gift aid. A claim form for gift aid and the scheme will have boxes for charities to show whether they have already received an overpayment. In answer to the question from the hon. Member for Kilmarnock and Loudoun, overpayments can then be set against gift aid payments or other liabilities that the charity might have to HMRC, such as PAYE. As we expect, HMRC will exercise its collection and management powers in cases of genuine difficulties. Where the overpayment was clearly unintentional or a mistake, particularly in the case of a small charity that does not have enough resources, HMRC will have sensible discretion to negotiate with the charity.⁵⁵

In the debate on **clause 11** the Minister explained why the Bill would give HMRC these wide powers to administer the scheme:

In a sense, clause 11 is the engine room of the whole scheme. All the day-to-day rights and responsibilities of charities and HMRC will be delivered through regulations made under its provisions. HMRC has already published draft regulations for consultation, and we will return to the House to debate them in more detail following Royal Assent ... The provisions in the Bill specify the unique features of the scheme ... However, the general administrative framework for making claims under the scheme will be introduced through regulations, and that approach is intended to ensure flexibility in future. If the main tax administration framework changes, we will want the same rules to apply to the scheme, and we will not want to rely on the introduction of new primary legislation to ensure that the scheme follows the gift aid rules set out in taxes Acts. The effect of such regulations will be that amendments to relevant tax provisions will automatically apply to the scheme.⁵⁶

⁵³ PBC, 25 October 2012 c266. These amendments were agreed without a vote.

⁵⁴ *op.cit.* c275

⁵⁵ PBC, 30 October 2012 c282

⁵⁶ *op.cit.* c288-9

3.5 Miscellaneous & General (clauses 12-21); New Clauses

Under **clause 12** charities or CASCs who change their legal form may make an application to HMRC to consider their *predecessor's* compliance history in assessing their eligibility to join the scheme. This would cover the situation where a charity changed from being a charitable trust to a charitable company. During the Public Reading Stage of the Bill one respondent argued that this should be amended to allow a charity created from a merger to retain the Gift Aid record of the charities it had incorporated.⁵⁷ In Committee the Exchequer Secretary announced that this would be done by removing **clause 12**, and replacing it with two new clauses:

New clause 4 ... differs from clause 12 in that it no longer requires the original charity to dissolve before the new charity can become eligible. We have been told by stakeholders that it can take some time to dissolve an old charity, even when the new charity is essentially the only one that is operating. We did not want to prevent new charities from claiming under the scheme while the legal details of the changes were being finalised, as that would unfairly disadvantage the new charities. Therefore, the new version of clause 12 sets out that, once the new charity has taken on the old charity's activities, it can benefit from the old charity's compliance history. To prevent abuse of that rule, we will require the new charity to have substantially the same purposes as the old charity. We will also require more than half of the charity's managers to remain in place after the change of form ...

New clause 5 ... will allow a new charity formed out of the merger of two or more separate charities to take on the compliance record of one of the old charities under the scheme ...

There are special rules to determine which pre-merger charity's gift aid history is adopted by the new charity. If any of the pre-merger charities is not already eligible to claim under the scheme, the new charity will take on the compliance history of that pre-merger charity. That pre-merger charity is the one that would have been the last to become eligible under the scheme if the merger had not gone ahead.

There is an extra rule if two or more charities that are not eligible on merger become eligible at the same time later. In that case, the new charity can choose which pre-merger charity's history it wants to adopt. That rule avoids creating an incentive for charities with a poor compliance history choosing to merge as a way of gaining early access to the scheme.⁵⁸

The changes were generally welcomed, and the Committee agreed to remove **clause 12** without a vote.⁵⁹

Clause 13 allows for the Treasury to amend the monetary amounts specified in the Bill – the £5,000 limit for claims, and £20 limit on individual donations – by Order. Gareth Thomas asked if the Government were considering to uprate the £5,000 limit in line with inflation, and “the context in which the figure of £20 might change.”⁶⁰ In response the Minister said that there were “no current plans to use the power [nor] ... to link the figures to inflation.” He went on to add, “we will monitor the scheme over time, and if the limits need to be change,

⁵⁷ *Small Charitable Donations Bill: Memorandum submitted by HMT & HMRC*, October 2012 p17

⁵⁸ PBC, 30 October 2012 c293-4

⁵⁹ **New clauses 4 and 5** were moved formally at a later stage of the Committee debate, and agreed without further debate (PBC, 30 October cc 327-9). They now form **clauses 12 & 13** to Bill 85 of 2012-13. The inclusion of one extra clause has altered the numbering of the remaining clauses in the Bill.

⁶⁰ PBC, 30 October 2012 c308

they can be.”⁶¹ **Clause 14** specifies that top-up payments are not taxable income in the hands of charities or CASCs. When asked about the purpose of the clause, the Minister explained, “grants are often taxable ... the top-up payments ... are technically grants and not tax relief ... [so] the clause clarifies that they are to be treated in the same way as gift aid payments.”⁶²

Clauses 15-21 deal with the territorial extent of the Bill, provision for making secondary legislation, matters relating to general interpretation, commencement, financial provision, and the legislation’s short title. These provisions were debated briefly in Committee, and proved uncontroversial. During debate the Minister underlined that secondary legislation made under the Bill would be subject to the affirmative procedure, with the exception of “transitional provisions made in connection with the coming into force of any of the Bill’s provisions.”⁶³ Mr Javid also explained the purpose of **clause 18**, which specifies that the top-up payments are to be paid out of money provided by Parliament:

Clause 18 is a technical provision known as a “sink clause” ... The scheme is a public spending measure and clause 18 makes that plain, but the scheme would still be a spending measure even without clause 18. There is a specific purpose for including clause 18. By convention, any provision in a Bill that involves public spending must be printed in italics, but nearly all of the Bill’s provisions involve public spending—directly or indirectly—so without clause 18, most of the Bill would need to be printed in italics, and many people would find that hard to read.⁶⁴

At the close of the Committee’s proceedings the Opposition put down two new clauses: to require the Treasury to prepare an annual report on the operation of the scheme; and, to require the Government to undertake a post-legislative review of the Act two years after it had come into force. Moving both clauses, Gareth Thomas argued that, “the purpose of an annual report or a review is to provide a trigger point for the House and the Treasury to recognise the difficulties inherent in the Bill, to begin further conversations about how to address concerns and to take appropriate action.” He went on to note that “given that so much funding has been cut from the charity sector, it is particularly important that we are confident that this scheme will work in the interests of all charities.”⁶⁵

In turn the Economic Secretary opposed both clauses on the grounds that HMRC would normally publish much of this material. In addition, the time frame set by the Opposition would be “premature”:

HMRC publishes national statistics on the cost of the various charitable tax reliefs three times a year. When the scheme is up and running, HMRC will include the cost of the gift aid small donations scheme in those regular publications, following the practice established for transitional relief ... That would be tantamount to advertising them to fraudsters, so I cannot give a commitment to publish such information. It is not necessary to provide an annual report to Parliament. All the information that the hon. Member for Harrow West [Mr Thomas] has asked for and that HMRC can reasonably publish will be published ...

I have said a number of times during our debates on the Bill that we are committed to undertaking a review of the scheme three years after it has started ... Any less time than that would mean that we would be undertaking a review that would not be representative of the scheme, as the scheme would just be starting up ...

⁶¹ PBC, 30 October 2012 c309, c311

⁶² *op.cit.* c315

⁶³ *op.cit.* c317

⁶⁴ *op.cit.* c325

⁶⁵ *op.cit.* c334, c340

However, I do not want hon. Members to think that the scheme is going to start on 6 April next year and that no one will look at it for three years until the review happens. HMRC continually engages with charities; staff on the helpline will be speaking to charities probably every day about their experience of the scheme; and outreach and audit teams will be visiting charities, and hearing what they are saying about the scheme. In addition, HMRC has a charity tax forum that brings together a wide range of charity representatives every quarter to discuss all matters relating to HMRC's interaction with charities ... The forum will share experiences of the scheme as it beds down and it will identify areas for improvement.⁶⁶

Mr Thomas pushed the amendment to a division, but it was defeated by 10 votes to 5.

Finally, Mark Durkan moved a new clause to “offer a complementary Gift Aid scheme that could be available to small charities that do not meet the eligibility criteria for the Government’s supplementary Gift Aid scheme.” Mr Durkan acknowledged that it would “take time for such a scheme to be worked up”, but that it was important to do this, in part to “help some newer charities, not least charities that are formed in response to particular events, such as natural disasters, tragedies or the impact of serious crime on a community.” As an alternative to the criteria established for GASDS, charities would be endorsed by certain relevant authorities or designated persons:

Often, when charities are set up in response to particular dramatic events in a community, local authority figures, whether the mayor or the chief executive, are used as trustees so that people are more widely reassured. Those are the sort of people who could be used as validators or verifiers for HMRC. Under the new clause, HMRC would also have the power to indicate that certain professional classes, for example, accountants, might be able to verify.⁶⁷

Opposing the clause the Minister argued that it would be infeasible to monitor charities in this way, and, more generally, it was better simply to encourage charities to use Gift Aid:

The new clause suggests that for small or new charities, HMRC could gather information from other agencies to check that they are honest. That suggests a significant administrative burden on HMRC to verify each and every charity that applied through this route. Without strict eligibility criteria, HMRC would be required to make very subjective judgments about whether a charity is in or out of the scheme. It would mean that the Department would be constantly at the risk of legal challenge to the decisions it made ...

I appreciate that the new clause is well intentioned and encourages us to have a useful debate However, it is in charities’ interests to start using gift aid where they can, and we should be trying our best to encourage them to do so. It is not capped for each charity in the same way as this scheme, so charities can claim tax relief on all donations they get from gift aid declaration. For straightforward donations of money with no benefits attached, gift aid is a simple scheme to operate, and with the new IT system coming in next year it will be even easier for charities to claim.⁶⁸

Mr Durkan withdrew the new clause, and the Committee concluded its proceedings.

⁶⁶ PBC, 30 October 2012 c343

⁶⁷ *op.cit.* c348

⁶⁸ *op.cit.* cc 351-2