

# **Chapter 13**

## **TRUSTEESHIP, PROPERTY AND EQUIPMENT**

*Certain Rules in this Chapter do not apply, without modification, in parts of the British Isles outside England and Wales.*

### **Chapter Contents**

- Rule 13.1 Persons not allowed to act as Trustees
- Rule 13.2 Property and Equipment
- Rule 13.3 The Charities Acts
- Rule 13.4 Land
- Rule 13.5 Property - Sponsored Groups
- Rule 13.6 Disposal of Property at Amalgamation
- Rule 13.7 Disposal of Property at Closure
- Rule 13.8 Joint Occupation of Premises by Scout and Guide Units
- Rule 13.9 Investments
- Rule 13.10 Motor Vehicles, Vessels and Aircraft
- Rule 13.11 Equipment
- Rule 13.12 Safe Custody of Documents

### **Rule 13.1 Persons not allowed to act as Trustees**

- a. Members of the Group, District and County Executive Committees are the 'charity trustees' of the Group, District or County.
- b. No person who is disqualified from being a charity trustee by virtue of the Charities Act may be a member of a Group, District or County Executive Committee.
- c. The appointment of any such person, whether as Ex officio, by nomination, by election or by co-option shall be void.
- d. It is the responsibility of each person to ensure that they are not disqualified before accepting an appointment as a trustee.
- e. The Charities Acts apply to England and Wales only. Similar legislation applies to Scotland. <sup>SV</sup>
- f. Some people are disqualified by law from acting as charity trustees. Subject to regulatory waiver provisions this includes anyone who: <sup>SV</sup>
  - has an unspent conviction for an offence involving dishonesty or deception; or
  - has unspent convictions for the offences of misconduct in a public office; or
  - has unspent convictions for bribery, or money laundering, or perjury or perverting the course of justice or terrorism; or
  - is found guilty of attempting, aiding or abetting the above offences; or
  - has been found in contempt of court; or
  - is designated under terrorist asset-freezing legislation; or
  - is on the sex offenders' register; or
  - is currently declared bankrupt (or is subject to bankruptcy restrictions or an interim order or sequestration in Scotland) or has an individual voluntary arrangement (IVA) with creditors; or

## **Chapter 13**

# **TRUSTEESHIP, PROPERTY AND EQUIPMENT**

*Certain Rules in this Chapter do not apply, without modification, in parts of the British Isles outside England and Wales.*

- is disqualified from being a company director; or
- has previously been removed as a trustee from any charity by any charity regulator in the UK (or a court) due to misconduct or mismanagement; or
- is disqualified from being a trustee by an order of the Charity Commission for England and Wales, the Office of the Scottish Charity Regulator or the Charity Commission for Northern Ireland.

### **Rule 13.2 Property and Equipment** <sup>SV</sup>

- a. Scout Groups must be properly accommodated and equipped in order to carry out their training programmes.
- b. The administrators of the Group must concern themselves with all legal requirements relevant to the ownership of all property and equipment or to the leasing or hiring of premises.
- c. All freehold, leasehold or licensed land, with or without buildings, must be held by at least two (and no more than four) Holding Trustees appointed as specified (unless title to the said land is held by a Custodian Trustee on behalf of the Scout Unit e.g. The Scout Association Trust Corporation (SATC) or the Official Custodian for Charities etc).
- d. Holding Trustees of land must be appointed under either a Declaration of Trust or named as the Trustees in the relevant Conveyance, Lease, Licence or such other Deed, Transfer or other formal agreement as may be necessary in the circumstances. The SATC will hold land upon standard trusts which have been approved by the SATC's legal advisers.
- e. Investments must also be held in the manner listed above under point c. with the exception being that the SATC is unable to hold such investments.
- f. The SATC can be appointed by Scout bodies to hold title to land as Custodian Trustee only and, as such, the SATC cannot have any responsibility for the decision-making or day-to-day management of the Scout body or its land. The SATC is also unable to negotiate land or property matters on behalf of Scout bodies.
- g. The SATC must be appointed through its proper procedure for which a standard fee is chargeable (please contact the SATC in writing at Gilwell Park, Chingford, London E4 7QW or at [trust.corporation@scout.org.uk](mailto:trust.corporation@scout.org.uk)).
- h. As Custodian Trustee the SATC must obtain instructions regarding the land or property from a member of the relevant Scout body's Executive Committee or a person or persons properly authorised by that Committee to instruct the SATC.
- i. A suggested template for a Declaration of Trust suitable for local Trustees to declare Trust when intending to hold title to land can be provided by the Association's Legal Services Department which should then be amended/checked by a local solicitor acting for the Group, District or County to reflect the particular local circumstances.

## **Chapter 13**

# **TRUSTEESHIP, PROPERTY AND EQUIPMENT**

*Certain Rules in this Chapter do not apply, without modification, in parts of the British Isles outside England and Wales.*

### **Rule 13.3 The Charities Acts**

This Rule applies in England and Wales only.

- a. All Scout Units are independent charities. However, those based in England and Wales may not be required to register with the Charity Commission as they have been 'excepted' by a ruling of the Charity Commission who, in their most recent guidance, have confirmed that Scout Units only have to register if:
  - their income is more than £100,000, or
  - they have permanent endowment (a rare interest in land/building or other assets which cannot be spent as 'income') and their income is £5,000 or over; or
  - they own land or buildings and their income is £5,000 or over

However, it is important to note that even excepted and unregistered charities still remain subject to general charity law and the rules of the Charity Commission which may investigate matters where there is proper cause for concern.

- b. The Group, District or County Secretary must ensure that all statutory duties and obligations imposed by the Charities Acts are fulfilled.

### **Rule 13.4 Land**

- a. The Group, District or County Executive Committee should obtain at least a formal written licence and preferably a lease of any land, with or without buildings, which they do not own and which is to be occupied for a substantial period.
- b. In any event no large amount of capital should be expended on buildings or other improvements unless the Group, District or County has at least seven years uninterrupted interest remaining in the said land.
- c. The Group, District or County Treasurer must ensure that all possible relief from rates is obtained.

### **Rule 13.5 Property - Sponsored Groups**

- a. Agreements with Sponsoring Authorities identify property belonging to the Sponsoring Organisation and that belonging to the Group.
- b. Property owned by the Group as recorded in such agreements must be administered as required by these Rules.

### **Rule 13.6 Disposal of Property at Amalgamation**

- a. The Model 'Declarations of Trust' referred to, contain certain provisions for the amalgamation of Groups, Districts and Counties.
- b. The retiring Secretaries of the Group, District or County which are amalgamating must hand to the Secretary of the new Group, District or County all documents of title and the keys to any buildings which the former had.

## **Chapter 13**

# **TRUSTEESHIP, PROPERTY AND EQUIPMENT**

*Certain Rules in this Chapter do not apply, without modification, in parts of the British Isles outside England and Wales.*

- c. For further information on amalgamation see:
- Group - Rule 3.51
  - District – Rule 4.62
  - County – Rule 5.50.

### **Rule 13.7 Disposal of Property at Closure**

- a. The property of a Group, District or County which ceases to exist will automatically pass to the District Scout Council, County Scout Council or Headquarters as appropriate unless there is some pre-existing arrangement by which the property passes to another beneficiary.
- b. Any liabilities of a Group, District or County, e.g. an outstanding loan to Headquarters, utility bills etc. will also become the responsibility of the District Scout Council, County Scout Council or Headquarters as appropriate.
- c. Such property must be treated in the same way as other assets.
- d. For further information on closure see
- Group - Rule 3.50
  - District – Rule 4.59
  - County – Rule 5.52.

### **Rule 13.8 Joint Occupation of Premises by Scout and Guide Units**

- a. A special Declaration of Trust, which must provide for the formation of a joint management committee, must be drawn up if the premises are to be owned and occupied jointly by Scout and Guide units.
- b. This does not apply if the premises are used jointly under licence or if the premises are occupied by other similar arrangements.
- c. A copy of an appropriate model Declaration of Trust can be provided by the Association's Legal services department and which should be amended/checked by a local solicitor acting for the relevant Scout Unit to ensure it reflects local circumstances and/or any agreement with the said Guide Unit..

### **Rule 13.9 Investments**

- a. Unless the powers of investment are specified in the formal Trust Instrument creating or governing any given Group, District or County, such powers of investment are governed by the Trustee Act 2000. Accordingly, The Scout Association's own particular powers of investment are specified by its Royal Charter. These particular powers of investment apply to The Scout Association itself and not to its entire member Groups, Districts or Counties. <sup>SV</sup>
- b. Group, District and County Treasurers must reclaim from H.M. Revenue and Customs any tax deducted at source from investment income.
- c. They are advised to make full use of those special Funds, established for investment by charities, which pay dividends gross.
- d. Investments held on behalf of Groups, Districts or Counties must be registered in such a way as to show that they are held on trust for that body and that they are not the private property of the individuals (if any) appointed as trustees.

## **Chapter 13**

# **TRUSTEESHIP, PROPERTY AND EQUIPMENT**

*Certain Rules in this Chapter do not apply, without modification, in parts of the British Isles outside England and Wales.*

### **Rule 13.10 Motor Vehicles, Vessels and Aircraft**

- a. The Group, District or County Treasurer must ensure that motor vehicles, vessels and aircraft owned by the Group, District or County are properly registered, licensed and insured as necessary and that all requirements as to their condition, testing or any other matters are fulfilled.
- b. Motor vehicles must be registered either in the name of the Group, District or County or in the name of a nominee, in which case the registration must show that the person is a nominee of the Group, District or County.

### **Rule 13.11 Equipment**

- a. The Group, District or County Treasurer must maintain proper inventories of all equipment owned, including furniture, training equipment, musical instruments or equivalent of any other kind.

### **Rule 13.12 Safe Custody of Documents <sup>SV</sup>**

- a. The Group, District or County Secretary must ensure that documents relating to the ownership of property and equipment and all other legal and official documents, together with any documents of historical importance or interest are kept in a safe place.
- b. Specific documents that must be safeguarded are:
  - declarations of trust;
  - title deeds to land or buildings;
  - stock and share certificates;
  - registration documents issued by the Association;
  - documents relating to motor vehicles, vessels and aircraft;
  - insurance policies;
- c. The first three types of documents listed may be safeguarded by using the Headquarters Deeds Custody Service.
- d. The Group, District or County Secretary must keep a register of such documents with details of their location.