

Gift aid made simple

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Introduction

Gift aid is a system of tax relief for donations to charities and Community Amateur Sports Clubs. For companies, the method of obtaining the tax relief is very simple – the company deducts the donation from its taxable profits before calculating its tax liability. The donation is thus made gross of tax and the charity does not claim back any tax from HMRC. There is no need for the company to provide the charity with a gift aid declaration, although other rules set out below, such as the donor benefit rules, do apply.

For donations from individuals, charities can reclaim the basic rate income tax that the individual has paid on the donation, providing the individual supplies the charity with a 'gift aid declaration'. This boosts the value of the donation to the charity considerably.

However, there are some rules to follow and the charities are subject to inspection visits by HM Revenue and Customs (HMRC) to ensure that they are being followed. This guide explains how you can minimise the risks of errors being found during inspection visits.

In addition, donations from partnerships, including limited liability partnerships (LLP's), can be paid under gift aid in the same way as donations from individuals.

Note that gift aid is only available for monetary donations. Donations of other assets and gifts in kind do not qualify for gift aid. Donations made in foreign currencies must be translated at the rate applicable on the date of the donation and there is no need to net off exchange costs.

There are also some special situations where gift aid can apply if you structure the arrangements correctly.

1 How it works

A gift aid donation is assumed to be paid net of basic rate income tax. The charity can reclaim this tax from HMRC provided the donor has paid an equivalent amount of UK income tax and/or capital gains tax.

Since 6 April 2008, the basic rate of income tax is 20%. A charity receiving a £100 donation under gift aid can gross up the donation, by dividing by 80 and multiplying by 100 (because the net amount is the equivalent of 80% of the gross amount.)

$$£100 \times \frac{100}{80} = £125$$

The tax to reclaim is the extra £25 which is the same as 20% of £125.

Before 6 April 2008 the basic rate of income tax was 22%.

Thus the calculation was

$$£100 \times \frac{110}{78} = £128.21$$

$$£128.21 \times 22\% = £28.21$$

The reduction in the income tax rate from 22% to 20% reduced gift aid income to charities. To mitigate this, the government announced a transitional measure to top up all gift aid claims on donations made between 6 April 2008 and 5 April 2011. This top up is called **gift aid transitional relief** and effectively means that charities can continue to claim at a basic rate of 22%. For a £100 donation the value of the transitional relief is the difference of £3.21 (£28.21 – £25). Charities do not need to make a separate claim and the relief will be automatically added to gift aid claims.

A higher or additional rate tax payer can claim higher or additional rate relief on their donation and, if desired, carry this relief back to the previous tax year. In effect, the grossed up value of the donation is removed from the donor's higher or additional rate income pot and placed in their basic rate income pot.

For example, if a higher rate taxpayer makes a £100 donation after 6 April 2008, the grossed up value of the donation is £100 x 100/80 = £125. The higher rate tax relief is the difference between tax at the higher rate (40%) and basic rate tax (20%) – so 20% of £125 = £25. A higher or additional rate donor must make a claim for relief through their tax return or by notifying their tax office. If the donor claims higher rate relief, the charity receives £125 in total for a net cost to the donor of £75.

In any income tax year (6 April to the following 5 April) the donor must have paid enough UK tax to cover all gift aid claimed on the donor's gifts in that tax year. If the donor makes gift aided donations to several

charities, their tax must cover the gift aid reclaimed by all the charities.

Charities cannot be expected to police this and it is for the donor to declare to each charity that they have paid sufficient tax. If it transpires that a donor has not actually paid enough tax, HMRC will normally pursue the donor.

2 Gift aid declarations

An individual donor must provide the charity with a declaration that their donation is made under gift aid. This declaration can be provided at the time of the donation, in advance of the donation, or, within certain time limits, after the donation was made. The precise time limits are explained in section 3 below. A donor can provide a declaration in writing (including by email, text message or by completing a web form) or orally (usually over the telephone).

Written declarations

A written declaration must contain the following:

- **The donor's name** HMRC state that as a minimum they will accept an initial and surname.
- **The donor's home address** HMRC state that as a minimum they will accept a house number and postcode. Addresses that are clearly business addresses will be rejected, though HMRC accept a declaration from a partnership can show the partnership address.
- **The identity of the beneficiary charity** The full name of the charity does not have to be provided but there should be enough to identify the intended beneficiary beyond doubt.
- **Identification of the gift(s) to which the declaration relates and confirmation that they are to be gift aided** For example, 'please gift aid all donations made within the last four years and all future donations'. A single declaration can cover future donations, current donations and past donations. If a declaration is to cover past or future periods it must be dated.

The donor must also have been made aware that they need to have paid sufficient income tax and/or capital gains tax to cover the gift aid. It is common for written declarations to include wording to this effect so it is clear this requirement has been satisfied. HMRC provide a model gift aid declaration on their website (see section 5 below) and this can be adapted to suit your particular charity. There is no need to obtain prior approval of declarations, although HMRC are happy to review and comment on them.

Oral declarations

For oral declarations, the charity should obtain the same details as those required for a written declaration and explain to the donor that they must have paid sufficient tax. The charity must either keep a recording of the conversation or send the donor written confirmation (by post, email etc) of the details together with a statement that they have 30 days in which to cancel the declaration. The charity must keep

a record or copy of this written confirmation. The charity may not reclaim the gift aid until the statement is sent. If the donor cancels their declaration within 30 days, it is treated as if it was never made and the charity must repay to HMRC any gift aid claimed under the declaration.

Deeds of covenant

Before April 2000 charities could reclaim basic rate tax on regular donations made under a deed of covenant. Though the scheme was similar to gift aid, this was a separate relief. In April 2000 the separate relief for deeds of covenant was abolished and all claims under deeds of covenant are now made under the gift aid scheme.

For donations made under deeds of covenant in place at 6 April 2000 HMRC will not require the charity to obtain a separate gift aid declaration. However, for deeds executed after 6 April 2000 the charity must obtain a separate declaration or ensure the deed contains all the information required of a gift aid declaration. If a donor with a deed in place at 6 April 2000 makes a donation outside the terms of the deed, this must be covered by a separate gift aid declaration.

3 Claiming gift aid

A charity must normally make a gift aid claim on form R68 available for download from the HMRC website. The R68 form must be accompanied by schedules listing each donor's name together with the date and amount of their gift aided donation. From 12 March 2008 charities can aggregate donations of less than £10 into a single line on the R68 schedule up to a maximum of £500 per line. However, the charity must still maintain a full audit trail linking each donation to a declaration and evidence of receipt.

HMRC require a separate schedule for each accounting period to which donations in the claim relate. For charitable companies the accounting period is the period for which the statutory accounts are prepared (eg year to 31 March). For charitable trusts the accounting period is the year 6 April to 5 April next. In addition schedules must be split between donations made before 6 April 2008 (when the basic rate of income tax changed) and donations made after.

Charities that make their first claim for gift aid after 6 April 2010 must submit an application form to HMRC. See section 9 below for more information.

Time limits for claiming gift aid

The time limits for claiming gift aid are complicated. They depend on

- Whether the charity is a company or trust
- Whether it is a claim for gift aid or gift aid transitional relief.

The time limits also changed with effect from 1 April 2010.

	<i>Charitable company</i>	<i>Charitable trust</i>
Gift aid – claim made on or after 1 April 2010	Four years after the end of the accounting period to which the claim relates.	Four years after the end of the tax year (5 April) to which the claim relates.
Transitional relief	Two years after the end of the accounting period to which the claim relates.	Two years after the end of the tax year to which the claim relates.

The different time limits for transitional relief mean that charities will have to be careful to submit backdated claims for donations made between 6 April 2008 and 5 April 2011 within the two year limits if they are to avoid losing the transitional relief.

4 Model gift aid declaration

HMRC update their model gift aid declaration from time to time.
The current (May 2011) version is reproduced below.

Name of charity

Please treat

- The enclosed gift of £ _____ as a Gift Aid donation; **or**
- All gifts of money that I make today and in the future as Gift Aid donations; **or**
- All gifts of money that I have made in the past 4 years and all future gifts of money that I make from the date of this declaration as Gift Aid donations.

Please tick the appropriate box

You must pay an amount of Income Tax and/or Capital Gains Tax for each tax year (6 April one year to 5 April the next) that is at least equal to the amount of tax that the charity will reclaim on your gifts for that tax year.

Donor's details

Title _____ Initial(s) _____ Surname _____

Home address _____

_____ Postcode _____

Date _____ Signature _____

Please notify the charity if you:

- 1 Want to cancel this declaration.
- 2 Change your name or home address.
- 3 No longer pay sufficient tax on your income and/or capital gains.

Tax claimed by the charity

- The charity will reclaim 28p of tax on every £1 you gave up to 5 April 2008.
- The charity will reclaim 25p of tax on every £1 you give on or after 6 April 2008.
- The Government will pay to the charity an additional 3p on every £1 you give between 6 April 2008 and 5 April 2011. This transitional relief for the charity does not affect your personal tax position.

If you pay income tax at the higher rate, you must include all your Gift Aid donations on your Self Assessment tax return if you want to receive the additional tax relief due to you.

5 Donor benefits

A basic principle underlying gift aid is that the gift should be freely given with nothing substantial provided in return. This means the donor, and persons connected to the donor, must not receive anything substantial in return for the donation. However some benefits can be ignored, there are monetary limits below which a benefit is not considered 'substantial' and, if the benefit limits are breached, there are ways of splitting the donor's payment into payment for the benefit and a donation, so that the donation element can be gift aided.

Ignored benefits

Certain benefits are ignored for donor benefit purposes:

- Literature sent to donors for the purpose of describing the work of the charity. The literature must be relevant to and distributed in furtherance of the objects of the charity. Such literature is not regarded as a substantial benefit, even if it is otherwise sold. So newsletters, annual reports, yearbooks etc can usually be ignored for donor benefit purposes.
- An acknowledgement of a donor's generosity in a charity's literature or on a plaque etc will not amount to a benefit, provided the acknowledgement does not take the form of an advertisement for the donor's business. HMRC will take into consideration the size and prominence given to the acknowledgement and state 'the wording should be confined to thanks for the support the donor has given, together with the donor's name, and/or their logo'.
- The right of admission to view charity property is ignored if certain conditions are met. This is explained in section 6 below.

Minor benefits

Benefits valued below certain limits are not considered substantial. From 6 April 2007, the maximum benefit allowed for an individual donation is:

<i>Donation</i>	<i>Maximum benefit allowed</i>
Up to £100	25% of donation
Over £100 and up to £1,000	£25
Over £1,000	5% of donation

These limits are applied on a donation by donation basis, though if several donations and benefits are linked, they may have to be treated as one.

There is also a limit for the total value of all benefits. Any gift that provides a benefit and takes the value of all the benefits received by a

donor in a tax year over £2,500 (£500 before 6 April 2011), cannot be gift aided. However gifts within the £2,500 limit are unaffected as are gifts that provide absolutely no benefit at all.

Donor benefit example

An individual makes a donation of £30,000 to a charity on 6 April 2011 and receives a benefit valued at £1,300 in consequence of that donation. The benefit is less than 5% of £30,000 and is less than £2,500, so the £30,000 donation can be gift aided.

If the donor makes a second donation of £30,000 on 6 May and receives a benefit of £1,300 in consequence of the second donation, though the 5% limit is not breached, the second benefit takes all benefits received in the tax year above £2,500 and so the second donation cannot be gift aided. However gift aid recovery on the first £30,000 donation is unaffected.

If the donor then makes a donation of £30,000 on 6 June, but there are no benefits associated with this donation, then it can be gift aided. However if there are any benefits associated with this gift, however small, then the third donation cannot be gift aided.

Meaning of connected persons

Benefits provided to 'connected persons' are caught by these rules. For example if a donor makes a gift to a charity and the donor's wife receives a benefit in consequence of the gift, that benefit is caught by the rules. Connected persons include:

- 1 The donor's husband, wife, civil partner
- 2 Immediate family members who are 'ancestors' or 'descendants' e.g. son, daughter, parent, grandparent, grandchild etc
- 3 Any immediate family members (as in 2. above) of the donor's spouse or civil partner
- 4 A company under the control of the donor, or under the control of any of the above.

Valuing donor benefits

Where a benefit is normally sold by the charity or is sold commercially the value of the benefit will be the normal sale price.

Where a benefit is not commercially available HMRC state:

- **Events** Where a benefit takes the form of attendance at an event that is not open to the public (so that there is no ticket price) the benefit should be valued by reference to the cost to the charity of staging the event and the number of people in attendance.
- **Life membership** Where a benefit is given in return for a life membership subscription the value of all benefits that will be

received over the lifetime of the membership must be estimated when valuing the benefit. For practical purposes the benefits received over the first 10 years of membership will be taken as the benefits received over the life of the member when deciding whether the benefit limits have been breached.

- **Charity discounts** Where the benefit takes the form of, for example, a discount on purchases from a museum shop, the valuation needs to take account of factors such as the take-up of the discount by the average donor.
- **Third party discounts** The value to be arrived at is the value to the recipient. Consideration in the form of a third party discount or benefit may cost the charity nothing to provide but will still be of value to the recipient. However if a third party discount is entirely unsolicited by either the charity or the donor, HMRC accept there is no benefit for gift aid purposes.

Splitting the benefit

If a benefit has a readily ascertainable value (for example it is commercially available or genuinely otherwise sold by the charity) and the donor is aware of this value at the time of making their payment, the donor can specify that part of their payment is consideration for the benefit with the balance a pure donation. The charity should retain evidence of the donor's instruction, for example a pre-printed form the donor signs. However this approach will not work for items that are not commercially available such as celebrity enhanced items.

The split benefit approach is commonly used for charity auctions (see section 6 below).

6 Special situations

Right of admission to view charity property

There is a special gift aid exemption that allows admission charges to view charity property to be treated as a donation and gift aided provided either:

- The payment grants a right of admission for at least 12 months at all times when the public have access (though admission may be denied on upto 5 'event days'), or
- The payment is at least 10% more than the normal admission charge – in which case the whole payment can be gift aided, not just the 10% excess.

Charity property is property preserved, maintained, kept or created by a charity for its charitable purposes and includes buildings, grounds or other land, plants, animals, works of art, artefacts, and property of a scientific nature. Entrance charges to performances (such as plays) are specifically excluded, though HMRC accept gift aid can apply to entry charges to property that include incidental performances such as historic re-enactments, demonstrations of technical processes and interactive experiments.

The admission charge can also grant access for members of the donor's family and it is not necessary for all members of the family to visit at the same time.

Membership subscriptions

If a membership subscription provides no substantial member benefits or the value of benefits provided is within the donor benefit limits, then the whole subscription can be gift aided.

Benefits such as the provision of literature that explains the work of the charity, the occasional opportunity to visit and view the work of the charity and the right to attend and vote at general meetings are not usually regarded as substantial benefits for gift aid purposes.

Sponsored events

Individuals may raise money for charity by asking for sponsorship for their participation in events such as marathons. The participant is actually asking other individuals to donate to their chosen charity, so these donations can normally be gift aided. If the charity provides a sponsorship form for the participant to collect donations, then this can be used as the gift aid declaration providing it gathers the necessary details. So ensure that the form asks for name and home address and provide a tick box for donors to elect for gift aid, with appropriate

narrative in a footnote to explain the sufficient tax requirement and make this the gift aid declaration. HMRC provide a model gift aid sponsorship form on their website.

Charities can modify the claim procedure for such events. The R68 schedule can be used to list participants rather than donors, with the donation amount listed against each participant being the total of gift aided sponsorships obtained. The sponsorship forms must be retained by the charity and such claims must be submitted separately from normal R68 claims.

Problems can arise where the participant completes the sponsorship form on behalf of sponsors. To be effective as a gift aid declaration there must be evidence that the donor personally made or authorised the entry, for example by signing the form.

Participants sometimes receive substantial benefits such as travel and accommodation provided for a challenge event. If the benefits breach the donor benefit rules then sponsorship payments from persons connected to the participant cannot be gift aided. However, if the participant pays towards their benefits, reducing the value of the gift aid benefit below the donor benefit limits, then sponsorship payments from connected persons can be gift aided. It is important that literature provided to the participants explains this, so that the charity can demonstrate that it informed participants when gift aid can and cannot be claimed.

Charity auctions

Charity auctions typically involve participants paying over the odds for auction items with the intention that the excess is a donation. Even if the donor benefit rules are broken, provided there is a clear market value for the item and the participant is aware of this at the point at which they become committed to the purchase, the excess can be gift aided (subject to the normal gift aid rules).

To have a clear market value HMRC normally insist that the item must be commercially available. Where an everyday item has been celebrity enhanced, for example a signed football, its market value will be taken to be the full price paid by the participant so no part of it can be gift-aided.

The charity should retain evidence of the commercial value of items auctioned and that bidders were made aware of this – for example by having the values printed in an auction programme.

Donated goods sold in charity shops

Goods donated to charity for resale cannot be gift aided as they are not donations of money. However, the donor can agree that the charity sells

the goods on their behalf as agent. Provided the donor has the option of keeping the proceeds on sale of the donated items, the donor can then give the proceeds to the charity under gift aid. HMRC provide guidance on their website on how these arrangements should be done and it is important to follow them carefully.

Care must also be taken to establish any other tax consequences before instigating such an agency arrangement. If the charity charges a commission for selling the goods this is standard-rated for VAT purposes and likely to be non-primary purpose trading income in the hands of the charity. If the charity does not charge a commission VAT recovery on selling costs may be restricted. Agency selling arrangements may also affect any business rate relief.

7 Record keeping

Charities must maintain auditable records of declarations and of receipt of donations on which gift aid has been claimed. Most charity's accounting systems should be able to provide an auditable record of receipt of donations but special systems may need to be set up to store and retrieve declarations.

For charities with a small number of gift aid donors a simple manual filing system will usually suffice. It may be simplest to set up individual donor files which hold the donor's declaration, correspondence with the donor and details of donations made.

As the number of gift aid donors increases most charities find it easiest to use special donor management software. There are many software packages available and these vary considerably in features and cost, though most systems can generate the R68 claim forms for you. Systems usually operate by assigning a unique ID to each donor, with this ID being used to cross-link donations, declarations, gift aid claims and donor correspondence. Some packages allow you to dispose of paper records by scanning in and storing declarations and donor correspondence electronically.

For oral declarations charities must either maintain a sound recording of the declaration or a record of the follow up letter sent to the donor. Follow up letters can be printed off and filed, copies stored electronically or HMRC accept a template mail merge letter together with a database record providing the donor's details and the date the template letter was sent to the donor.

To link donations to declarations, most software packages provide facilities for entering donations against donors and then either automatically or manually posting these as a batch receipt to the accounting system. This avoids the need to enter individual donations in both the donor management system and in the accounting system.

Charities must maintain declarations for as long as HMRC can make an assessment on any gift aid claimed against that declaration. For open ended declarations (where the declaration covers all future donations) the charity may need to keep the declaration indefinitely if it is possible the donor will continue making donations. Where it is known the donor has ceased making donations, or the declaration relates to a fixed period, the time limit is the time limit for claims as explained in section 3 above.

8

Gift aid audits

HMRC conduct periodic audits of gift aid claims. The audit involves checking a sample of donations from the charity's R68 claim forms to obtain evidence that each donation was received and was covered by a valid declaration.

An error rate is determined by taking the total value of problem donations found and dividing this by the value of all donations in the sample. This error rate is then applied ('extrapolated') to the whole of the sampled claims and potentially over all claims made in the previous four years.

From 12 March 2008 HMRC will allow charities to 'repair' errors in a sample before extrapolation. For a missing or incomplete declaration the charity may be able to obtain a replacement declaration. For missing banking records the charity may be able to obtain evidence of receipt from the bank or donor.

From 12 March 2008 HMRC also introduced a 'de-minimis' error regime:

<i>Repaired error rate</i>	<i>Amount at stake</i>	<i>Action by HMRC</i>	<i>Yellow card issued?</i>
Less than 4%	Less than £100	No action	No
	Less than £500	Recover in year of audit but not in prior years.	Yes
	More than £500		
More than 4%	Less than £500	Recover in year of audit and in prior years	No
	More than £500		

The amount at stake is the annual amount of gift aid claimed by the charity multiplied by the repaired error rate.

Where HMRC issue a yellow card they will not extrapolate errors back to prior years but issue advice on how errors should be avoided in future. If a future HMRC visit shows that remedial action has not been taken then HMRC will go back and assess for earlier years.

Minimising audit risk

If the repaired error rate is significant and there are many claims across which this can be extrapolated the resultant HMRC assessment for over paid gift aid can be very high. There are however steps you can take to reduce the risk from HMRC gift aid audits:

- You can undertake periodic in house gift aid checks or ask external consultants to do this for you. This should flag up potential problems well in advance of any HMRC audit.

- Gift aid problems usually arise from process failures, with some processes having higher error rates than others. If different types of gift aid claim are subject to significantly different processes, you may be able to stop HMRC determining a single error rate and extrapolating this across all claims. Instead HMRC will have to determine separate error rates for each distinct process. For example, subjecting high value donations to extra procedures and checks may be worth the effort if this results in a much lower error rate for all high value donations. If this approach is adopted it is usually best to claim each process type on separate R68 forms.

9 Donations to foreign charities

Before 2009 gift aid was only available for donations to UK charities. A 2009 European Court of Justice case (*Persche v Finanzamt Lüdenscheid C-318/07*) established that this restriction was in breach of the Treat of Rome. With effect from 6 April 2010 gift aid is extended to donations by UK taxpayers to charities in other EU states, Norway and Iceland.

To deal with gift aid claims from foreign charities, the government has changed the conditions under which any charity (including established UK charities) may claim gift aid. From this date gift aid is only available to a body or trust if it meets all the following conditions:

- 1** It is established for charitable purposes only. Charitable purposes are as defined in the Charities Act 2006, so a foreign charity must meet the English law definition of a charity to qualify.
- 2** It is subject to the jurisdiction of the courts of the UK, another EU state, Norway or Iceland.
- 3** It has complied with any requirement to be registered with a regulator, for example the Charity Commission in England and Wales and OSCR in Scotland.
- 4** Its managers are 'fit and proper persons' to be managers of the body or trust. Managers means the persons having the general control and management of the administration of the body or trust. HMRC have provided guidance on their website on the meaning of fit and proper person.

From April 2010, all charities wishing to claim gift aid for the first time will have to submit an application form to HMRC to establish they meet the above tests. HMRC will in due course publish, on their website, a list of all charities (UK and non-UK) that have been approved as meeting the above tests.

10 Conclusions and future developments

For companies giving to charities, gift aid is very simple.

For donations from individuals (and partnerships), the additional tax recovery is very welcome, but it does come at the price of maintaining adequate records. Charities must ensure they have good systems in place for obtaining, storing and retrieving declarations, for recording the receipt of donations and for linking gift-aided donations to declarations. Sooner or later most charities claiming gift aid will be subjected to an HMRC audit. If significant problems are found the cost can be very high.

At the time of writing the following gift aid developments have been announced:

- HMRC has promised to improve its gift aid guidance and to clarify the meaning of benefit for gift aid purposes
- From April 2013 charities that receive small donations of £10 or less will be able to apply for a gift aid style repayment without the need to obtain gift aid declarations for those donations. The amount of small donations on which the new repayment can be claimed will be capped at £5,000 per year, per charity.
- In 2012-13 HMRC will introduce a new online system for charities to register their details for gift aid and to make gift aid claims. HMRC will also work with the charity sector to develop a supporting electronic gift aid database for gift aid declarations.

Further information

HMRC guidance on gift aid

www.hmrc.gov.uk/charities/giftaid-charities/how.htm

R68 claim forms and model gift aid declaration

www.hmrc.gov.uk/charities/forms.htm

UK government gift aid portal

www.direct.gov.uk/en/MoneyTaxAndBenefits/ManagingMoney/GivingMoneyToCharity/DG_10015097

Institute of Fundraising, Guide to tax effective giving

www.tax-effective-giving.org.uk/

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CFDG (Charity Finance Directors' Group) is the professional body for finance directors within the sector, and has nearly 1,600 members. CFDG provides assistance to charities on a range of issues, such as accounting, taxation, audit and other finance-related functions. CFDG's mission is to deliver services that are valued by members and enable those with financial responsibility in the charity sector to develop and adopt best practice.

For more information go to www.cfdg.org.uk



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made simple guides

Made Simple guides are aimed at finance professionals and other managers working in charities. They cover technical areas such as tax and VAT treatments as well as information management areas and aim to provide practical guidance to busy managers and trustees in charities.

The content of guides is correct at the time of going to print, but inevitably legal changes, case law and new financial reporting standards will change. You are therefore advised to check any particular actions you plan to take with the appropriate authority before committing yourself. No responsibility is accepted by the authors for reliance placed on the content of this guide.

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