

# CODE IN RELATION TO TRUSTS OF ASSOCIATION PROPERTY



**Mí Abireán 2022**

## CODE IN RELATION TO TRUSTS OF ASSOCIATION PROPERTY

This Code has been adopted by Central Council on 2<sup>nd</sup> April 2022 pursuant to Rule 5.3 of the Official Guide.

### 1. Identity of Trustees

#### (a) Personal Property

##### (i) Personal Property other than Intellectual Property

The Personal Property (other than Intellectual Property) owned or held by a Unit shall be vested in the Chairperson, Treasurer and Secretary who shall hold it in Trust for the Unit.

##### (ii) Intellectual Property held by an Administrative Unit

The Intellectual Property owned or held by an Administrative Unit shall be vested in the following who shall hold it in trust for that Administrative Unit:

The Corporate Trustee, unless the Executive Committee of the relevant Administrative Unit shall determine that the Trustees shall be the Chairperson, Treasurer and Secretary.

##### (iii) Intellectual Property of a Club

The Intellectual Property owned or held by a Club shall be vested in the following who shall hold it in trust for the Club

- (I) The Chairperson, Treasurer and Secretary or
- (II) The Corporate Trustee

##### (iv) Other Personal Property owned by the Association

All other Personal Property (including Intellectual Property) owned by the Association shall be held in trust for the Association by the Corporate Trustee.

#### (b) Real Property

##### (i) Club

The Real Property owned by a club, shall be vested in the following:

- (a) Up to five Trustees, up to three of whom shall be appointed for and on behalf of a Club, one of whom shall be appointed for and on behalf of the relevant County Committee, and one of whom shall be appointed for and on behalf of the relevant Provincial Council; or
- (b) Up to four Trustees, up to three of whom shall be appointed for and on behalf of a Club and the Corporate Trustee shall be appointed for and on behalf of the relevant County Committee and Provincial Council; or
- (c) One Trustee being the Corporate Trustee.

For Real Property situate in England and Wales the only available option is option (b).

(ii) **Administrative Units**

- (a) The Real Property held by the County Committee, or that held by the combination of Units under the control of a County Committee, shall be vested as follows:-
  - a. Three Trustees, one of whom shall be appointed for and on behalf of the relevant County Committee, one of whom shall be appointed for and on behalf of the relevant Provincial Council, and one of whom shall be appointed for and on behalf of Central Council; or
  - b. Two Trustees, one of whom shall be appointed for and on behalf of the County Committee, and the other being the Corporate Trustee shall be appointed on behalf of the relevant Provincial Council and Central Council; or
  - c. One Trustee being the Corporate Trustee.
- (b) The Real Property held by the Provincial Council shall be vested as follows:-
  - a. Three Trustees, two of whom shall be appointed for and on behalf of the Provincial Council, one of whom shall be appointed for and on behalf of the Central Council; or
  - b. Three Trustees, two of whom shall be appointed for and on behalf of the Provincial Council, and the other being the Corporate Trustee shall be appointed on behalf of Central Council; or
  - c. One Trustee being the Corporate Trustee.

- (c) The Real Property held by the Central Council shall be vested in the Corporate Trustee who shall be appointed to hold the Real Property for and on behalf of Central Council.
- (d) The Real Property of the Association not owned by a club or held by an Administrative Unit shall be vested in the Corporate Trustee.

## **2. Method of selection and appointment of Trustees to Real Property and Intellectual Property**

### **(a) Club**

- (i) The Executive Committee may determine whether the Corporate Trustee or other persons shall be appointed as Trustees for and on behalf of the Club for the purposes of paragraphs 1(a)(iii) and 1(b)(i) and who those persons shall be.
- (ii) The determination of the Executive Committee shall be ratified by a directive of the Club, which shall be given by a resolution of the full members of the Club, passed by a majority of the members present, entitled to vote and voting at a duly convened General Meeting and when so passed shall be binding upon all members of the Club.
- (iii) A certificate signed by the Secretary of the Club shall, in favour of any person relying on same, be conclusive evidence of the directive of the Club, the determination of the Executive Committee and the identity of the Trustees.

### **(b) Administrative Units**

- (i) Where a Trustee is to be appointed for and on behalf of an Administrative Unit, the person to be so appointed shall be determined by the relevant Administrative Unit, but subject to clause 1(a)(ii).
- (ii) A certificate signed by the Secretary of the relevant Administrative Unit shall, in favour of any person relying on same, be conclusive evidence of the determination of the relevant Administrative Unit and the identity of the Trustees.

## **3. Removal of Trustees of Real Property or Intellectual Property**

- (a) Where the trustee is an individual, a Trustee shall hold office until his/her retirement or death unless replaced in accordance with the provisions of this Code.
- (b) In the case of a Club or a County Committee, the majority of the Relevant Officers, may at any time, in their absolute discretion by notice in writing remove

any existing Trustee or Trustees (other than the Corporate Trustee) from his/her office as Trustee or Trustees.

- (c) In the case of a Provincial Council, the President of the Association may at any time, in his absolute discretion, by notice in writing remove any existing Trustee (other than the Corporate Trustee) from his/her office as Trustee.
- (d) In the case of a Club, the chairperson of the Relevant Officers shall be the chairperson of the Provincial Council concerned and in the case of the County Committee the chairperson of the Relevant Officers shall be the President of the Association.
- (e) In the event of the equality of votes, the chairperson of the Relevant Officers shall have a casting vote.
- (f) As and from the date of such removal, the Trustee or Trustees, so removed shall cease to hold office as Trustee or Trustees of the property.
- (g) In the case of removal of any such Trustee or Trustees, other than in respect of Real Property or Intellectual Property held by a Provincial Council, the chairperson of the Relevant Officers, and in the case of a Provincial Council, the President of the Association for the time being, is irrevocably appointed to be his/her or their lawful attorney and in his/her or their name and on his/her or their behalf to transfer his/her or their right title interest in and to the said lands and premises or any part thereof to any other person or person or corporation and to execute all deeds and documents and do all such things on his/her or their behalf necessary for that purpose. Where the Real Property is situate in Northern Ireland or in England and Wales, the Executive Committee and the continuing trustees shall take such steps as are necessary on foot of the appropriate legislation in the relevant jurisdiction.

#### **4. Power of Trustees**

##### **(a) Club**

- (i) The Trustees of a Club shall have, subject to the restrictions and limitations hereinafter contained, the Statutory Powers (as appropriate to the relevant legal jurisdiction) and to the extent that they are not comprised within the Statutory Powers, the powers set out in Rule 5.2 of the Official Guide. Trustees of a Club which hold Real Property situate in Northern Ireland shall have the same powers and be subject to the same obligations as Trustees holding Real Property in the Republic of Ireland including the power of the Corporate Trustee to receive and give a receipt in respect of capital money and for the avoidance of doubt this provision is to be interpreted as expressly conferring those powers and attendant obligations.
- (ii) Those powers are subject to the following restrictions and limitations:-

- a. Before exercising any power, other than a Permitted Power, the Trustees shall obtain the prior consent in writing of the Central Council and the directive of the Club.
  - b. The power to reinvest contained in the legislation applicable to the relevant jurisdiction shall not apply.
- (iii) Without impacting on the restrictions and limitations as set out above, the Trustees shall:-
- a. account to and hold the proceeds of sale or leasing for and on behalf of the Club;
  - b. account to the Club for those proceeds; and
  - c. subject to such directives as may be given to them by the club, pay and discharge the proceeds to the Club<sup>1</sup>.
- (iv) The Trustees shall exercise their powers and perform their duties from time to time as directed by the Club and where applicable Central Council and in accordance with this Code.
- (v) The directive of a Club shall in relation to the Permitted Powers be given by a resolution of the Executive Committee and in relation to any other power, be given by a resolution of full members of the Club, passed by a majority of the members present, entitled to vote and voting at a duly convened General Meeting and when so passed shall be binding upon all members of the Club.
- (vi) Without impacting on the restrictions and limitations as set out above, the Trustees of the Personal Property shall invest and use such property in accordance with the directive of the Executive Committee.
- (vii) An entry in the minute book shall be conclusive evidence of the giving of a directive of the Executive Committee. A certificate signed by the Secretary shall, in favour of any person relying on same, be conclusive evidence that a Directive, complying in all respect with the provisions of this paragraph, was duly given to the Trustees.

**(b) Administrative Units**

- (i) Trustees of the Association, Trustees of Central Council, Trustees of a Provincial Council, and Trustees of a County Committee shall have, subject

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<sup>1</sup> This is to deal with the technical point regarding the transfer of proceeds of sale (which are held by the Real Property Trustees) to the club

to the restrictions and limitations hereinafter contained, the Statutory Powers (as appropriate to the relevant legal jurisdiction) and to the extent that they are not comprised within the Statutory Powers, the powers set out in Rule 5.2 of the Official Guide. Trustees of an Administrative Unit which hold Real Property situate in Northern Ireland shall have the same powers and be subject to the same obligations as Trustees holding Real Property in the Republic of Ireland including the power of the Corporate Trustee to receive and give a receipt in respect of capital money and for the avoidance of doubt this provision is to be interpreted as expressly conferring those powers and attendant obligations.

- (ii) The foregoing powers are subject to the following restrictions and limitations:-
  - a. Before exercising any power, other than a Permitted Power, the Trustees shall obtain:-
    - a. the prior consent in writing of the Central Council; and
    - b. in the case of Real Property of a County Committee, the prior consent, in writing, of that County Committee; and
    - c. in the case of a Real Property of a Provincial Council, the prior consent in writing of that Provincial Council.
  - b. The power to reinvest contained in the legislation applicable to the relevant jurisdiction shall not apply.
  - c. Without impacting on the restrictions and limitations as set out above, the Trustees of an Administrative Unit shall:-
    - a. account to and hold the proceeds of sale, licensing or leasing for and on behalf of relevant Administrative Unit
    - b. account to the relevant Administrative Unit for those proceeds; and
    - c. subject to such directives as may be given to them by the relevant Administrative Unit, pay and discharge the proceeds to the relevant Administrative Unit.
- (iii) The Trustees shall exercise their powers and perform their duties from time to time as directed by the relevant Administrative Unit and in accordance with this Code.
- (iv) The directive of an Administrative Unit shall in relation to the Permitted Powers be given by a resolution of the Executive Committee and in relation to any other power, be given by a resolution of full members of the relevant Administrative Unit, passed by a majority of the members present, entitled

to vote and voting at a duly convened General Meeting and when so passed shall be binding upon all members of the Administrative Unit.

- (v) Without impacting on the restrictions and limitations as set out above, the Trustees of the Personal Property shall invest and use such property in accordance with the directive of the relevant Administrative Unit.
- (v) An entry in the minute book shall be conclusive evidence of the giving of a directive of the Executive Committee. A certificate signed by the Secretary of the relevant Administrative Unit shall, in favour of any person relying on same, be conclusive evidence that a Directive, complying in all respect with the provisions of this paragraph, was duly given to the Trustees.

(c) **Consent of Central Council**

- (i) Central Council may from time to time adopt or vary procedures for the consideration of applications in connection with and the giving of consent for the purposes of this Code and any matters incidental thereto. Those procedures may include the delegation of some or all of those functions to a committee, officer or employee of the Association.
- (ii) In giving its consent under clause (i) hereof, such consent may be issued subject to such particular or general conditions as Central Council (in its sole discretion) requires.

**5. Proceedings of Trustees**

- (a) Where the Corporate Trustee is a Trustee, but not the sole Trustee, the chairperson of Trustees shall be such person as is nominated by resolution of the board of the Corporate Trustee to act as its representative at meetings of Trustees. Such a nomination may be for meetings generally of Trustees, for meetings of specific Trustees or for one or more specified meetings. One or more persons may be nominated to act as substitutes or alternates.
- (b) Where the Corporate Trustee is not a Trustee:-
  - (i) in the case of a Club, or County Committee, the chairperson shall be the Trustee nominated by the relevant Provincial Council; or in his/her absence, the Trustee thereof for the time being nominated by the relevant County Committee; and
  - (ii) in the case of a Provincial Council, the chairperson shall be the Trustee nominated by Central Council, or in his/her absence, one of the other trustees as agreed between them.
- (c) The chairperson of the Trustees shall be entitled to a casting vote in the event of a tie.



- (d) Trustee meetings shall be duly summoned by the chairperson and at least five days notice of the time and place of such meeting shall be given and every notice of a meeting shall state the place, day and hour of the meeting.
- (e) Every question of fact at any such meeting shall be decided by a majority vote of the Trustees present and voting at such meetings.
- (f) Save where the Corporate Trustee is the sole Trustee, the quorum for a meeting of Trustees shall be two, one of whom shall be the Corporate Trustee.

## 6 Dealings with Third Parties

- (a) No purchaser, mortgagee or other person or entity dealing with the Association or a Unit shall be concerned to enquire whether the powers of the Association or the Unit exercised or purported to be exercised by its trustees have been validly exercised.
- (b) Any instrument executed by a Trustee, acting on behalf of the Association or a Unit, when entering into such contracts shall state that he is the Trustee acting on behalf of the Association or the relevant Unit, under the powers contained in this Code.
- (c) Where the consent or directive of a Unit or officer of the Association is required, a certificate signed by the secretary for the time being of that Unit, by the Director General or by any other person authorised by the Director General in that behalf shall in favour of any person relying on same, be conclusive evidence and binding in respect of any third party, that the required consent or directive, complying in all respects with the provisions of this paragraph, was duly given.
- (d) This Code does not impact on the powers of the Director General and other officers set out in Rule 3.44 of the Official Guide.

## 7. Interpretation

Words and phrases used in this Code shall have the same meaning as in the Official Guide save where the context otherwise requires.

In this Code, the following terms shall have the following meanings:-

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| <b>“Administrative Units”</b>  | means a Unit other than a Club.   |
| <b>“Intellectual Property”</b> | means all intellectual property rights of any and every sort, including without limitation patents, trade marks design rights, copyright and related rights, internet designations (including domain names) for the full term |

of such rights and including any extension to or renewal of the terms of such rights and all rights or forms of protection of a similar nature or having similar effect to any of these which may exist anywhere in the world.

**“Permitted Power”**

means each of the following:-

- The power to enter into a hiring agreement;
- Any of the powers set out in Rules 5.2(b),(e),(f) of the Official Guide exercised in the ordinary course of activity of the Association or the Relevant Unit.
- Any other power (from time to time prescribed as a Permitted Power for the purposes of this Code) by the Management Committee of Central Council subject to such conditions or limitations as may be specified by the Management Committee of Central Council.

**“Personal Property”**

means the property of a moveable nature, comprising all playing or sporting equipment, as well as all stock in trade and money and Intellectual Property or other assets not classified as fixtures or fittings on Real Property.

**“Real Property”**

means property of an immovable nature, comprising any playing pitches, grounds or buildings, whether of leasehold or freehold tenure, with all fixtures or fittings attached thereto and used therewith, including (until otherwise directed by the relevant Unit, the proceeds of sale of such property).

**“Relevant Officers”**

means:-

- in relation to a Club, the chairperson of the relevant Club, the chairperson of the relevant County Committee and the chairperson of the relevant Provincial Council; and
- in the relation to a County Committee the chairperson of the relevant Provincial Council and the President of the Association; and
- in relation to Provincial Council, the President of the Association.

**“Statutory Powers”**

means the powers conferred on trustees by the law of the relevant jurisdiction.

**“Trustee(s)”**

means the Trustees of a Unit or Units as appointed from time to time in accordance with this Code.