

Index

- Australia
Australian Taxation Office 37–8
law reform 1, 37–42, 263
religion as charitable purpose
187–203
taxation 37–9, 187–8, 199, 201–2
- Barbados 104, 168, 170, 185, 229, 233
business activities of charities 5,
136–57, 217
altruism and 156
ancillary trading 143
business–charity collaboration 136–7
business–charity conflict 136, 268,
270
charitable purpose and 137–40
commercialisation 153–5
Community Interest Companies
137, 150–53
destination of income test 137
economic pressures 153–5
fundraising 144–7
hybrid organisations 5, 156–7
monopoly power 208
non-primary purpose trading 143–4
nonprofit vs for-profit 136
policy issues 153–5, 157
political issues 153–5
primary purpose trading 142–3
regulatory challenges 137, 157, 209
related business activity test 137
taxation law 140–50
trading subsidiaries 149–53
- Canada 2, 25–32, 263
charitable purposes
altruism and 237–9, 244
Charity Commission for England
and Wales 52–4, 139, 140
Charity Tribunal (England and
Wales) 54–5
civil society 230–31, 241–8
civil society organisations 235–41
coercion and 240
common law 14, 56, 228–54
see also Pemsel classification;
common law
disadvantage 246, 248–50
doctrine 228–54
education 59, 78, 247
England and Wales 52–70
excluded purposes (Ireland) 85–93
human rights 76, 87–9
Ireland 76–85, 119
measurement of 250–51
Pemsel classification 3, 16–18, 21,
103–4, 171–5, 188, 230, 234,
236, 239, 264
political causes 89–92
poverty 56–8, 77–8, 81, 172, 246
Preamble to Statute of Charitable
Uses 1601 6, 7, 53, 103, 164–6,
174, 229
public benefit 4, 14–17, 95,
239–40
see also public benefit
religion 7–8, 40–41, 59–61, 187–200,
247–8, 270–72
spirit and intent rule 16, 43,
174, 188, 237
sporting activities 63–4, 86–7
statutory definitions 17, 55–70,
76–85, 92, 170–75
trading activities and 137–40
United Kingdom 48–70
charitable status 18, 33, 51, 52–4, 103,
104, 105, 116, 117, 126
see also charitable purposes
Charities Commission (New Zealand)
see regulatory bodies
Charities Regulatory Authority
(Ireland) *see* regulatory bodies

- charity, definition of 170–71, 187, 197–8
see also charitable purposes
 altruism 237–9
 Australia 37, 38, 39–40, 187, 191, 237
 Barbados 229, 233
 Canada 30
 common law 13–15, 21, 49, 75, 187, 229–30
see also Pemsel case
 England and Wales 14, 55–70, 76, 105–6
 Ireland 76–85, 92–4
 law reform 37–41, 48–52, 74–6
 New Zealand 32
 Northern Ireland 14, 76
 Pemsel case 17–18, 103–4
see also Pemsel classification
 policy 94
 Preamble to Statute of Charitable Uses 1601 164–5
 public benefit 17, 170–71, 239–40
see also public benefit
 Scotland 14, 76
 spirit and intendment rule 13, 43
 Statute of Charitable Uses 1601 164–5
 statutory definition 14, 48, 52, 55, 56–7, 70, 76, 92–4, 105–6, 138, 191, 229
see also charitable purposes
 United Kingdom 14, 76
see also England and Wales
- charity–business boundary *see*
 business activities of charities
- Charity Commission for England and Wales *see* regulatory bodies
- Charity Tribunal (England and Wales) 19, 54–5
- China 128–9, 130–32
- civil law systems
 Japan 128
 nonprofit entities 128
- civil society 181–2, 241–5, 272–3
see also civil society organisations
 altruism 237–9, 241
 charitable purpose in 230–31
 competitive markets 208–10
 consumers, information to 216–18
 definition of 231, 241–50
 economics of 207–20
 externalities (economics) 215–16
 hybrid enterprises 217
 information deficits 216–18
 jurisprudence 231–3, 252–4
 production irregularities 218–19
 public goods provision 204–14
 regulation of 207–20
- civil society organisations
 altruism 237–9
 anti-competitive practices of 208–10
 charitable purposes of 234–5, 236–41
 China 129, 130–32
 coercion, absence of 240–41
 common law 233–5
 externalities of (economics) 214–16
 favour to 245–50
 hybrid enterprises 217
see also business activities of charities
 information asymmetry 216–18
 Japan 129–30
 monopolistic behaviour of 208–10
 political activities 215–16
 production, irregularity of 218–19
 providers of public goods 210–14, 219
 public benefit 239–40
 regulation of 207–20
 voluntariness 240–41
- commercialisation *see* business activities of charities
- Commissioner of Charities (Singapore) *see* regulatory bodies
- common law
see also Pemsel classification
 charitable purpose doctrine 228–30, 234–41
 charitable purpose, definition of 75, 229–30, 235–6
 civil society 230–31, 241–50, 252–4
 civil society organisations 235–41, 252–4
 public benefit 4, 239–40, 248–9
 public law–private law division 231–3
 reform of 13–15
 requirements of charity 14–17

- definition of charity *see* charity,
definition of
- economics
competitive markets 208–10
externalities 214–16
information asymmetries 216–18
monopoly power 206–10
public goods 210–14
- education as charitable purpose 59, 78
- England *see* United Kingdom
- fundraising 20, 22, 144–7
- government–charity relationship 6,
164–83, 268–70
Charity Commission for England
and Wales 175, 176
see also regulatory bodies
government funding 179
partnership 168–70, 180–81
politics 180–81
Preamble to Statute of Charitable
Uses 1601 164–6, 170, 180
reform of 167–71
regulatory control 175–7
service provision 182–3
taxation law 177–9
- human rights 64–7, 87–9, 172–3
- Ireland, Republic of 74–94
business activities of charities
138–46, 147, 149–50, 153–4,
156–7
Charities Regulatory Authority
86–93, 140
definition of charity 76–7, 92–4, 138
excluded purposes 85–92
law reform 74–6, 170
Pemsel classification 74–85, 171
public benefit 76, 95, 119
Revenue Commissioners 85, 88–93,
140–43
statutory charitable purposes 76–85
taxation 88–93, 140–43
- Japan 128–30
- Joint Regulatory Table (Canada)
25–8
- law reform
Australia 1, 37–42
Canada 2, 25–32, 170
China 130–32
common law jurisdictions 2–3, 13,
14, 104, 167–71
England and Wales 3, 14–17, 48–52,
170
Ireland 74–6, 170, 263–4
Japan 129–30
jurisprudence 252–3
New Zealand 2, 32–6, 170, 264
Northern Ireland 14–17, 170
Pemsel classification of charities
17–18, 48–52, 76
political context 41–2, 265
public benefit test 48, 51, 103–6, 177
Scotland 14–17, 170
Singapore 2, 21–5, 170
United Kingdom 3, 13–21, 167–8,
263–4
see also United Kingdom
- New Zealand 2, 32–6, 264
- nonprofit vs for-profit *see* business
activities of charities
- Northern Ireland *see* United Kingdom
- Office of the Scottish Charity
Regulator *see* regulatory bodies
- Pemsel classification 43, 103–4, 188,
234, 236, 264
additions and changes *see* statutory
extensions of
common law 13, 17, 21, 170, 188,
229, 264
England and Wales 48–70
Ireland 74–85
Pemsel plus 3, 17–18, 43, 48–70,
171–5, 266, 269, 273
public benefit and 17, 49, 112, 170,
182, 239
reform of 17–18, 48–52
statutory extensions of 3, 17–18, 43,
55–70, 76–85, 171–5, 264
political purposes 16, 89–92
poverty 56–8, 68, 77–8, 172, 246
profit making by charities *see* business
activities of charities

- public benefit 3–5, 14–17, 49–50, 103–20, 239–40, 248–50
 - see also* public benefit organisations
 - activities test 111–12, 188
 - Barbados 185
 - Charity Commission for England and Wales 110–16, 120
 - China *see* public benefit organisations
 - common law 4, 14–15, 103–4
 - defined 106–7, 116–19
 - education and 59, 78, 96
 - England and Wales *see* United Kingdom
 - Ireland 76, 95, 119
 - Japan *see* public benefit organisations
 - Northern Ireland 104, 118
 - Office of the Scottish Charity Regulator 116–18
 - political purposes 90, 99
 - poverty and 56–8, 67–8
 - presumption of 4, 43, 49, 79, 112–13, 182, 185, 188, 191–2
 - private benefit and 110
 - reforming public benefit test 103–5, 119–20, 248–9
 - religion and 7–8, 59–61, 78–80, 191–7
 - Scotland 104, 118
 - statutory test 4, 15, 55, 104, 105, 106–20, 170–71
 - United Kingdom 14–15, 48–70, 103–20
- public benefit organisations
 - see also* civil society organisations
 - China 128–9, 130–32
 - Japan 128–30
- public goods
 - civil society organisations as providers of 210–14, 219
 - definition of 210
- regulatory bodies
 - Australian Taxation Office 37–8
 - Charities Commission (New Zealand) 32–5
 - Charities Regulatory Authority (Ireland) 86–93, 140
 - Charity Commission for England and Wales 52–4, 106–18, 176, 120
 - Commissioner of Charities (Singapore) 22–4
 - Office of the Scottish Charity Regulator 116–18
 - Revenue Commissioners (Ireland) 85, 88–93, 140–43
- relationship with government *see* government–charity relationship
- religion
 - charitable purpose 7–8, 187–203
 - definition 17, 59–60, 79, 80
 - excluded organisations 200–201
 - freedom of 194–5, 248
 - historical recognition as charity (Australia) 188–91
 - public benefit 59–61, 191–7, 193, 199–200, 247
 - religious harmony 83–4
 - statutory charitable purpose (England and Wales) 17, 59–61, 78–80
 - statutory charitable purpose (Ireland) 78–80
 - statutory definition 17, 59–60
 - taxation treatment (Australia) 187–8, 199, 201–2
- Scotland *see* United Kingdom
- Singapore 2, 21–5
- sporting activities 63–4, 86–7
- taxation 175–6, 177–9
 - Australia 5, 38, 39–41, 187–8, 201–2
 - business activities of charities 140–50, 155
 - Canada 28
 - fundraising 144–7
 - Ireland 88–93, 140–43
 - New Zealand 35–6
 - public benefit test 15
 - religion 201–2
 - United Kingdom 140–44, 146–9, 155
 - Unrelated Business Income Tax (United States) 155, 159

- third sector 230–32, 241, 253
 - see also* civil society
- trading activities of charities *see*
 - business activities of charities
- United Kingdom
 - business activities of charities 137–44, 146–57
 - Charity Commission for England and Wales 52–54, 106–18, 176
 - charity definition 55–70, 105–6
 - Charity Tribunal 54–55
 - Community Interest Companies 137, 150–53
 - Deakin Commission 104
 - England and Wales 48–70
 - law reform 3, 48–52, 263
 - Northern Ireland 13–14, 15, 17, 18, 19, 118–19, 170, 171
 - Pemsel plus 48, 55–70, 171
 - public benefit test 106–18
 - Scotland 13–14, 15, 17, 18, 19, 118–19, 170, 171
 - taxation 178–9
 - Wales *see* England and Wales
- United States of America
 - business activities of charities 139, 143, 148, 155
 - common law charitable purpose 229
 - faith-based charities 190
 - taxation 155, 244
 - Unrelated Business Income Tax (UBIT) 155, 158–9
- Wales *see* United Kingdom

