



EDWARDS & CO. Solicitors

Charities Factsheet

The Charities Act (Northern Ireland) 2008 was passed in September 2008. It will however be some time before all of the functions being introduced by the legislation are fully operational, it is anticipated that this will not be until April 2011.

The Act establishes a Charities Commission for Northern Ireland which will regulate, investigate and support good practice in the Charities sector.

The legislation provides a definition of a Charity as an institution which:-

- ✍ is established for charitable purposes only and
- ✍ is both subject to the control of the Court and the exercise of its jurisdiction with respect to Charities

The categories of charitable purpose largely reflect those operated by the Charity Commission for England and Wales with some "local flavour added" e.g. the category of charitable purpose for the advancement of human rights, conflict resolution or reconciliation, promotion of religious or racial harmony and equality and diversity includes the words "the advancement of peace" in the local legislation.

The legislation provides for substantial administrative change for Charities. Prior to the legislation there was no facility for the registration of the Charities locally and only limited control on the running of charities. Under the new legislation registration with the Charities Commission is compulsory for all Charities although there will be some relaxation of the rules for a special category of designated religious charities. This will provide a clearer picture of the Charitable Sector in Northern Ireland where a lot of small Charities operate.

Non Northern Irish Charities which operate in Northern Ireland are not under a duty to register but will have to provide a financial statement and an account of their activities in Northern Ireland to the Commission and their fund raising activities will be controlled.

All Charities will have to make annual returns to the Charities Commission detailing their fund raising and spending, outlining their performance and demonstrating their activities throughout the year.

This return will be made public. There are different requirements in respect of the accounting report dependant on the annual turnover of the Charity. Further guidance on the submission of accounts will issued by the Commission.

It is anticipated that the Charities Commission will not be established until Spring 2009 and that the Charities Register will not be introduced until September 2009. Initially Charities which are currently registered with HMRC will be transferred across to the new register. An audit process will then be carried out to de-register any Charities which are inactive or which do not meet the defined test of a charity. The applications for registrations by other Charities will take place from April 2010. It is anticipated that the first financial returns and reports will be due in April 2011.

The new structure is aimed to improve regulation of Charities and will make it easier for members of the public or concerned trustees to make a complaint about a Charity. The Charities Commission will have powers of investigation and Charities will be obliged to co-operate with any investigation. Where a Charity wishes to dispose of land, it will in some circumstances require the consent of the Charities Commission or the Court. The Charities Commission will also have an advisory role to support the work of charitable organisations.

The Charities Act also introduces a new form of Charitable Body to be known as "Charitable Incorporated Organisation" and introduces the regulation of public collections by way of licence and permit.

The legislation passed in September 2008 is a first step in the process of establishing the new structures; secondary legislation will be required to complete the process over the coming few years.

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