



Changes afoot for Charities

The Charities (Northern Ireland) Order 2007 is presently moving through the consultative process of the Assembly and it is hoped that it will be implemented toward the end of the year. This is the most far reaching and radical change to the law as it affects charities within Northern Ireland and brings the law into line with charities law as it affects the remaining parts of the UK.

Presently there is no register as such of charities in Northern Ireland and no Charity Commission policing the activities of local charities. The DSD is the charity authority for Northern Ireland carrying out functions attributable to it under the current laws, but it has no statutory role in connection with the setting up of a charity. If an organisation wishes to form a charity it merely prepares a constitutional document incorporating charitable approved activities and has the same approved by the Revenue in Bootle for tax purposes which will issue the charity with a charitable reference number.

The new Order fundamentally alters this and establishes a Charity Commission for Northern Ireland (CCNI) and a Charity Tribunal for Northern Ireland and creates a register of charities. It provides a definition of "charity" and "charitable purpose" provides a new form of charitable body (a charitable incorporated organisation) and deals with the regulation of charities and public charitable collections.

The Commission will have extensive powers and a number of functions such as determining whether or not an organisation is a charity and identifying and investigating apparent misconduct or mismanagement in charities. In addition it will maintain a register of charities which will be available for public inspection and every charity in Northern Ireland will be obliged to register and to notify the Commission of subsequent changes. The registration process will involve the supply by the charity to the Commission of certain documents and information including its constitutional documents. Charities will need to include their registration details on any formal documentation as prescribed by the Order which includes cheques and invoices.

The Order places a duty on charity trustees to ensure that accurate accounting records are maintained and prescribes the form of accounts depending on whether the annual income for the charity is more or less than £100,000. The Order provides for auditing requirements dependent again on the level of income and charity assets.

Many charities today are formed as charities limited by guarantee and accordingly are subject to company legislation. The Order makes provision for the establishment of a new charitable incorporated organisation, a "CIO", which is regulated by the Commission and

allows for conversion of existing incorporated charities (that is companies without a share capital such as a company limited by guarantee) into a CIO.

Those volunteer trustees involved in the running of charitable concerns will know the time and commitment required and the difficulties in recruiting volunteers to what is essentially an unpaid role. The Order makes provision for remuneration for certain trustees provided stringent conditions are met as set out in the Order. These conditions include stipulating the maximum amount of remuneration in a written agreement, the payment of remuneration being a reasonable thing for the charity to do, the payment being in the best interests of the charity and that the constitutional documents of the charity don't prohibit such payment. A great deal of the constitutional documents for charities, particularly those registered as companies limited by guarantee, prevent such payments and accordingly these would need to be altered involving the consent of the members of the charity and in due course the Commission.

The Order also deals with the regulation of public charitable collections which includes street and door-to-door collections. Those involved in such collections require, in certain circumstances, a public collections certificate and permits.

The Order which has been widely consulted upon and welcomed extends to 183 Articles and 9 schedules and will have a fundamental impact on the administration of charities in Northern Ireland.

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