

CHARITIES BILL

BRIEFING NOTE ON DESIGNATED RELIGIOUS STATUS

BACKGROUND

The draft Charities Bill ('the Bill') will require any organisation wishing to call itself a charity to register with the Charity Commission for Northern Ireland (CCNI). Section 166 of the Bill provides for a special category of 'designated religious status' to apply to religious organisations satisfying the following criteria:

- ❑ advancement of religion as their principal purpose;
- ❑ regular holding of public worship as its principal activity;
- ❑ having been established in Northern Ireland for at least 10 years;
- ❑ a membership of at least 1,000 persons over the age of 16 years who are normally resident in Northern Ireland; and
- ❑ an internal system of governance with supervisory and disciplinary functions and a requirement for the keeping of and auditing of accounts.

It is a provision of the Bill that the Department may by order alter or modify any of the provisions under the Act as they apply to charities with 'designated religious status'. CCNI will also have the power to withdraw 'designated religious status' if the charity ceases to satisfy the criteria in Section 166, or has been the subject of an unresolved investigation by the CCNI.

OVERVIEW

The Table below addresses some issues/questions in relation to Section 166 which are then explained in greater detail.

Table: 'Designated religious' charitable status proposed by the Bill.

Question	Answer
Is there a financial advantage in being a 'designated religious' charity?	None. Any financial advantage is in registration with the Inland Revenue for tax exemption.
Is the Inland Revenue concerned with whether a religious group has 'designated religious' status in Northern Ireland?	Not at all. They are only concerned that they fulfil the criteria set out by the Inland Revenue which are that their activities are carried out for charitable purposes. The Inland Revenue is not concerned with the regulations imposed by the CCNI.
What actual differences will there be for churches that have 'designated religious' status?	Charities with 'designated religious' status will still be required to produce annual reports and an audit of their accounts to the CCNI. The only difference between them and other

	registered charities will be that Sections 33-36 of the Bill will not apply. This means that the CCNI cannot remove trustees or appoint an interim manager to protect members and any other trustees if there is a suspicion of wrong-doing. The CCNI still has powers under Section 22 to investigate a 'designated religious' charity if it believes there are grounds to do so in line with its powers for all registered charities in Northern Ireland.
Does the CCNI have powers to investigate 'designated religious' charities and/or withdraw their status?	Yes. Firstly the CCNI can report any concerns to a 'designated religious' charity's own regulatory body. If the CCNI are still not satisfied that a matter has been dealt with, the CCNI can instigate its own investigation (under Section 22). Crucial is Section 166: 5 of the Bill which provides that if a 'designated religious' charity no longer fulfils the qualifying criteria (in Section 166: 2), or following an investigation by the CCNI, the CCNI can withdraw its 'designated religious' status.
What effect will this have?	This will mean that the full powers invested in the CCNI will apply to that charity as with all other registered charities in Northern Ireland. It will no longer be exempt from clauses 33-36 thus allowing the CCNI to remove its trustees and, if thought necessary, appoint an interim manager.

ISSUES EXPLAINED

Is there a financial advantage in having 'designated religious status'?

Registration with the CCNI will be a legal requirement for any organisation operating in Northern Ireland (religious or not) wishing to call themselves a charity and accepting donations from the public.

This is a completely separate issue from a charity claiming charitable status from the Inland Revenue ('the Revenue'). Recognition from the Revenue provides a charity with exemption from having to pay tax on any surplus funds they may hold after their charitable functions have been carried out. Churches that do not have 'designated religious' status will not be treated any differently by the Revenue; their designated religious status will not be of concern or make a difference to the Revenue's decision to grant tax exemption. All that is required is that they can satisfy the Revenue that their activities are carried out for a charitable purpose. It is generally the case that religious organisations, irrespective of their size, fulfil the Revenue's criteria. Once a charity has been granted charitable status by the Revenue, they do not provide

annual reports or audits to the Revenue as they will to the CCNI when it is established.

Status of a 'designated religious' charity

There is an advantage for the CCNI in allowing 'designated religious' charities to be self-governing. It means that the CCNI will not have to duplicate regulatory powers that can be provided by a central governing body with a proven record of having done so over a substantial period.

To take the example of what are referred to as 'the four main churches' in Northern Ireland, all have central governing bodies to regulate their finances, assets and disciplinary procedures. They also have elected governing bodies from within their membership. It is feasible therefore to assume, at least in the first instance, that they can govern themselves and have mechanisms in place that provide accountability to their members. This is the reasoning for the provision of at least 1,000 members and a church having been in existence for at least 10 years.

However, this does not mean that these churches do not still have to provide the CCNI with an annual report and audit of accounts. Nor does it mean that they cannot be the subject of an investigation by the CCNI, or have their 'designated religious' status withdrawn. If the CCNI believes that a charity no longer fulfils the criteria for a 'designated religious' charity, or if following an investigation under Section 22 the CCNI sees fit, it can withdraw 'designated religious' status.

The main difference between churches that have 'religious designated' status and those that do not is that clauses allowing the CCNI to act to protect charities¹ do not apply to churches that have 'designated religious' status unless there is reason for the CCNI to withdraw it. These clauses refer to the CCNI's powers to remove trustees and, if necessary, appoint interim management to protect the interests of other trustees and members.

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¹ Clauses 33-36 'Power to act for protection of charities'.