



**Northern Ireland  
Assembly**

**Committee for Social Development**

**Alex Maskey MLA**

**Chairperson**

16 November 2012

To all MLAs

**Legislative Consent Motion**

**Small Charitable Donations Bill**

- The Minister for Social Development is to table the following Legislative Consent Motion for debate in the Assembly on 20 November 2012:

*“That this Assembly endorses the principle of the extension to Northern Ireland of the Small Charitable Donations Bill and that its operation be made an excepted matter under the Northern Ireland Act 1998.”*

- The Committee agreed to prepare a short Report to be sent to all MLAs in advance of the debate. This Report, agreed by the Committee at its meeting of 15 November 2012, is attached and includes a summary of the Committee’s consideration of the Legislative Consent Motion, correspondence from DSD, NICVA’s response to the consultation and the relevant Hansard minutes of evidence.

Yours sincerely,

*Alex Maskey*

Alex Maskey MLA  
Chairperson  
Committee for Social Development

# **Report on the Legislative Consent Motion associated with the Small Charitable Donations Bill**

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## Background

1. On 31 May 2012, the Minister for Social Development wrote to the Committee to advise them of the UK Government's proposals to introduce a Small Charitable Donations Bill ("the Bill") at Westminster. The Bill, which was introduced in the House of Commons on 21 June 2012, will provide for a Gift Aid Small Donations Scheme (GASDS).
2. HM Treasury wishes to apply the GASDS ("the Scheme") across the UK and is seeking approval to include provisions relating to Northern Ireland in the Westminster Bill. This will ensure that eligible local charities can make claims and avail of payments from HMRC in the same way as other charities across the UK. Consent is therefore required from the Northern Ireland Assembly to include transferred provisions within the Westminster Bill.
3. At its meeting of 14 June 2012, the Committee considered a letter from the Minister for Social Development indicating that the Executive's support was to be sought for the Legislative Consent Motion associated with the aspects of the Small Charitable Donations Bill described above.
4. On 14 June 2012, the Northern Ireland Executive agreed the following recommendations:
  - that the Small Charitable Donations Bill and the GASDS should extend to Northern Ireland;
  - that the subject matter of the Bill should be made an excepted matter; and
  - that Assembly agreement should be sought by laying a Legislative Consent Memorandum and moving a motion in due course.
5. The Legislative Consent Motion Memorandum was laid before the Northern Ireland Assembly on 29 June 2012. It was agreed that the Motion would only be laid in the Assembly once the Committee Stage of the Small Charitable Donations Bill had concluded and any amendments had been made.

## **Details of the Small Charitable Donations Bill 2012**

6. The Bill makes provision for the Gift Aid Small Donations Scheme (GASDS) which was announced by the Chancellor in the 2011 Budget. From April 2013, eligible charities and Community Amateur Sports Clubs (CASCs) will be able to claim a Gift Aid-style top-up payment in respect of individual donations of £20 or less without having to obtain a declaration from donors as is required from Gift Aid. The policy objective of the Bill is linked to the UK Government's Big Society agenda and is to encourage charitable giving and build a more socially conscious society.
7. The Scheme will set an annual limit of £5,000 per organisation on donations eligible for top up payment; will only apply to small donations of £20 or less and will only be open to organisations that have a good track record of claiming Gift Aid for at least three tax years.

## **Purpose of the Legislative Consent Motion**

8. Whilst this Scheme will be administered by HMRC, it cannot be treated as tax relief under normal Gift Aid arrangements. This is due to the fact that, for small donations of £20 or less, there is normally no recorded link between the charity, the donor and their tax affairs. Any payments made to charities under the Scheme will be regarded as grant payments and it is, therefore, a transferred matter. In general matters dealt with by HMRC apply on a UK-wide basis and are excepted matters under the NI Act 1998.
9. Clause 15 of the Bill amends Schedule 2 to the NI Act 1998 to include the "operation of the Small Charitable Donations Act 2012". Amendment of the 1998 Act falls outside the legislative competence of the Assembly and can only be amended by a Westminster Bill/Act. Clause 19 of the Bill extends the provisions of the Bill to Northern Ireland.
10. GASDS has no financial implications for the Northern Ireland administration as the cost for the Scheme will be met by the UK Government centrally. The Northern Ireland administration does not have the financial resources to fund a separate and similar scheme to GASDS. HM Treasury has insisted that Northern Ireland charities and CASCs will only enjoy the benefits of the Scheme if the Bill is extended to Northern Ireland and becomes an excepted matter.

11. The Scheme will apply uniformly across all UK jurisdictions and the power to change for instance, the eligibility criteria or the monetary amounts involved, will rest with the UK Parliament. HM Treasury has insisted that there is no scope to introduce regional variations.

## **Committee Consideration**

12. On 6 September 2012, the Committee took evidence from Departmental officials and representatives from the NI Council for Voluntary Action (NICVA) on the proposed Legislative Consent Motion. Briefing papers from the Department and NICVA can be found in the appendices below.
13. The Department explained that the Legislative Consent Motion is seeking the Assembly's approval for the Small Charitable Donations Bill to be extended to Northern Ireland and for its operation to be made an excepted matter under the Northern Ireland Act 1998. This would allow for up to 6,000 charities in NI to benefit from the proposed new Gift Aid and Small Donations Scheme (GASDS) which could potentially result in an additional £100 million of revenue per annum.
14. Members expressed concern that following the introduction of the public benefit test in the proposed new Charities Bill, not all of the 6,000 charities would be able to benefit from this new Scheme.
15. The Committee also queried the rationale for the eligibility criteria applied to the Scheme which will require all Charities to have been in existence for at least 3 years and completed at least three Gift Aid exemption claims before they become eligible for the new Scheme. The Department indicated that the eligibility criteria and in particular the 3 year restriction may be revised following Committee Stage of the Small Donations Bill in Westminster. This is expected to conclude on 30<sup>th</sup> October 2012.
16. In its briefing to the Committee on 6<sup>th</sup> September, NICVA outlined its response to a recent consultation on the proposed new Small Charitable Donations Bill and the proposed new Scheme. NICVA welcomed GASDS as a measure that will bring financial gain to eligible charities and CASCs, but considered that a Bill to simplify and extend the Gift Aid Scheme would be more beneficial. NICVA consider that many of the smaller organisations who would have benefitted from the introduction of the GASDS may be excluded from it. NICVA have recommended that there should be no qualification period for entering the scheme and no requirement for a Gift Aid matching criteria for GASDS precisely to attract organisations into the scheme.

17. NICVA noted that 70% of individual donations given in Northern Ireland (worth approximately £48 million per annum) are not gift aided as many smaller charities consider that the bureaucracy and complexity of the Gift Aid Scheme would outweigh any benefits that could be realised. NICVA also outlined that the eligibility criteria of the new Scheme presents difficulties for larger organisations as the amount of donations eligible for this new payment is capped at £5,000.
18. The Committee recognised that the new Gift Aid and Small Donations Scheme could be potentially beneficial to many charities in Northern Ireland but expressed disappointment that the excessive bureaucracy involved and the restrictive eligibility criteria may prevent many organisations from benefiting from the additional revenue that this scheme would generate.
19. The Committee welcomed the introduction of the new Gift Aid and Small Donations Scheme but called for revisions to the Scheme to allow all organisations, both large and small, to quickly and easily access the Scheme. The Committee agreed to await the outcome of the Committee Stage of the Small Charitable Donations Bill and any resulting amendments before concluding its consideration of the Legislative Consent Memorandum.
20. At its meeting of the 13<sup>th</sup> September 2012, the Committee agreed the contents of a letter to be sent to the Chair of the Small Charitable Donations Bill Committee expressing the Committee's concerns in respect of the proposed new Scheme. The Committee's letter to the Chair of the Small Charitable Donations Bill Committee is in the appendices.
21. On 8 November 2012, Departmental officials returned to brief the Committee on the outcome of the Committee Stage of the Westminster Small Charitable Donations Bill which provides for the new Gift Aid and Small Donations Scheme.
22. The Committee noted a number of amendments that were agreed at the Committee Stage in Westminster. Details of the mainly technical amendments can be found in Annex B of the Department's briefing paper dated 7 November 2012.
23. The Committee reiterated that the potential excessive bureaucracy involved and the restrictive eligibility criteria may prevent many organisations from benefiting from the additional revenue that this scheme would generate.
24. In relation to these issues the Committee acknowledged a commitment by the UK Parliament that the Scheme would be reviewed after three years with a view to making appropriate changes as required.
25. The Department noted that the UK Parliament was maintaining its position that *"the scheme is applied in a consistent manner across all administrations by HMRC and that there is no scope to introduce regional variations"*.

26. As noted above, in relation to making this issue an excepted matter, it is the intention that the Scheme will be administered by HMRC. The Department reiterated that, in general, matters dealt with by HMRC apply on a UK-wide basis and are excepted matters under the NI Act 1998.

27. The Committee questioned what the implications would be if the Assembly did not pass the Legislative Consent Motion. The Department was clear that the effect of the Assembly not supporting the Legislative Consent Motion by the 26 November 2012 would mean that Northern Ireland would not be included in the Westminster Bill and local charities would therefore not be able to make any claims under the Scheme.

28. On the basis of this information and notwithstanding the stated concerns of the Committee, on 15 November 2012 the Committee for Social Development agreed that it would support the draft motion:

**“That this Assembly endorses the principle of the extension to Northern Ireland of the Small Charitable Donations Bill and that its operation be made an excepted matter under the Northern Ireland Act 1998.”**