CONVENTION RIGHTS MEMORANDUM
Charities (Amendment) Bill

INTRODUCTION

1. This memorandum has been prepared for the Committee for Communities ('the Committee') to assist with its scrutiny of the Charites (Amendment) Bill ('the Bill').

2. The Bill was introduced in the Assembly on 15 June 2026. This memorandum addresses issues arising under the European Convention on Human Rights ('the Convention) and Article 2(1) of the Windsor Framework ('Article 2(1)'), in relation to the Bill. It has been prepared by the Legal Services Office.

3. The memorandum does not constitute legal advice but sets out whether this Bill engages Convention rights, and where there is potential interference with a Convention rights. Where a clause of the Bill may occasion interference with one or more Convention rights, that clause may merit further scrutiny by the Committee and discussion with the Department for Communities ('the Department').

4. Where a clause of the Bill may engage rights which fall within the scope of Article 2(1), the rights issues in those clauses are set out, that clause may also merit further scrutiny and discussion with the Department to identify any potential incompatibility with Article 2(1).

5. The Convention rights given effect in domestic law are set out at Annex A to this memorandum. The text of Article 2(1) of the Windsor Framework and its associated annex is at Annex B to the memorandum

SUMMARY OF THE BILL

6. The Bill consists of 14 clauses. The long title describes it as 'a Bill to Amend the Charities Act (Northern Ireland) 2008 in various respects'.

7. The Explanatory and Financial Memorandum states that the Bill is intended to—

   - enhance the ability of the Charity Commission ('the Commission') to intervene proportionately where there is misconduct or mismanagement, including through official warnings, directions to prevent specified action, and strengthened removal powers to ensure that disqualification provisions apply appropriately to those involved in charity administration;

   - streamline accounting and reporting by enabling more flexible regulation proportionate to the size and complexity of charities; and

- repeal section 167 of the Charities Act (Northern Ireland) 2008 (‘the 2008 Act’) for institutions which are not charities under the law of Northern Ireland, but which operate for charitable purposes in or from Northern Ireland.'

SECTION 1: CONVENTION RIGHTS

8. This section sets out the Convention rights[1] which the Legal Services Office considers may be engaged by the Bill. These Convention rights are marked in the table below.

Part I	**The Convention Rights and Freedoms**	Engaged?
Article 2	Right to life	
Article 3	Prohibition of Torture	
Article 4	Prohibition of slavery and forced labour	
Article 5	Right to liberty and security	
Article 6	Right to a fair trial	X
Article 7	No punishment without law	
Article 8	Right to respect for private and family life	X
Article 9	Freedom of thought, conscience and religion	
Article 10	Freedom of expression	
Article 11	Freedom of assembly and association	
Article 12	Right to marry	
Article 14	Prohibition of discrimination	
Part II	**The First Protocol**	
Article 1	Protection of Property	x
Article 2	Right to Education	
Article 3	Right to free elections	

[1] As set out in Section 1(1) and Schedule 1 of the Human Rights Act 1998, see Annex A for further guidance

CLAUSES FOR FURTHER CONSIDERATION

9. This section of the memorandum only deals with provisions of the Bill which may raise Convention rights issues. The remaining provisions of the Bill are not considered to engage the Convention rights.

Clause 2

10. Clause 2 amends section 24 of the 2008 Act by inserting a new definition of public body to include a body discharging functions of a public nature or regulatory functions as to charities or fund-raising. Section 24 of the 2008 Act deals with disclosure of information by and to the Commission so will widen the information which may be disclosed to or from the Commission.

Rights engaged: Article 8.

11. Clause 2 may engage Article 8 as it widens the information which may be disclosed to or from the Commission and facilitates the sharing of information by the Commission with a wider category of public and regulatory bodies. This could involve the sharing of personal data relating to charity trustees, officers, employees or others connected with charities. Any interference with private life will only be lawful if it is in accordance with the law, pursues a legitimate aim and is considered necessary in a democratic society. The Committee will wish to be satisfied that any such interference will be justified and is a proportionate means to achieving a legitimate aim.

Clause 3

12. Clause 3 inserts a new section 32A into the 2008 Act which makes provision for the Commission to issue official warnings to a trustee or charity. The Commission may issue such warnings to a trustee or charity where it considers a breach of trust or duty or other misconduct or mismanagement has been committed. Before issuing a warning, the Commission must provide notice and an opportunity for representations.

13. Clause 3(3) amends section 33(1)(a) of the 2008 Act to provide that a failure to comply with an order or direction of the Commission, or a failure to remedy a breach specified in a warning issued under new section 32A, may constitute grounds for the Commission to exercise its powers under section 33(1). Decisions taken under section 33(1) are subject to appeal to the Charity Tribunal.

Rights engaged: Article 6; Article 8.

Article 6

14. Article 6(1) provides 'In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law…'

15. There is no right of appeal against an official warning issued under the new section 32A. However, an official warning does not itself impose any legal sanction or enforceable consequence and is therefore unlikely to involve the determination of a civil right for the purposes of Article 6.

16. The Commission is not an independent and impartial tribunal for the purposes of Article 6 - it is a regulator and not a court. However, a failure to comply with an order or direction of the Commission and failure to remedy any breach specified in a warning under section 32A is a ground of action for an order under section 33(1) which may appealed to the Charity Tribunal, which does satisfy the Article 6 requirement of access to an independent and impartial tribunal.

17. The Committee should consider the procedural safeguards such as notice requirements, opportunity to make representations and right of appeal in relation to subsequent section 33 decisions, to ensure clause 3 can operate in a manner which is compatible with Article 6.

Article 8

18. Article 8 protects individuals from arbitrary interference in their private life, family life, home and correspondence. Such interference will only be lawful if it is in accordance with the law, pursues a legitimate aim and is considered necessary in a democratic society. The Committee will wish to be satisfied that any such interference will be justified and is a proportionate means to achieving a legitimate aim.

19. The power to issue an official warning to, most obviously, a charity trustee may engage Article 8 as such a warning, if published, has the potential to affect the reputation of that individual. The Committee may wish to give further consideration to this clause because such a warning cannot be appealed. However the Committee will note that as a public body, the Commission must exercise its powers in a manner comnpatible with the Convention (section 6 of the Human Rights Act 1998).

Clause 4

20. Clause 4 amends section 33 of the 2008 Act to allow the Commission to make an order removing a person from an office or employment with a charity even

where that person no longer holds the relevant position. The principal effect of this is discussed as regards clause 6 below.

Rights engaged: Article 6, Article 8

Article 6

21. Clause 4 is likely to engage Article 6 as the ultimate effect of an such an order is to prevent an individual acting as a trustee (the effect of clause 6), which may be said to be a civil right. However, clause 4 applies only to orders made by the Commission under section 33(2) of the 2008 Act, and any such order is subject to appeal to the Charity Tribunal, which should ensure compliance with Article 6.

Article 8

22. An order may also engage Article 8 as it has the potential to affect the reputation of that individual by precluding them from service as a charity trustee, albeit the ability to act as a trustee is arguably an aspect of public rather than private life. However, the Committee will still wish to be satisfied the the interference potentially occasioned by such an order will be a proportionate means to achieving a legitimate aim. In this regard it will note that the order may be appealed to the Charity Tribunal, which may be expected to take account of this element in its deliberations.

Clause *5*

23. Clause 5 makes provision for the Commission to make directions for specified action not to be taken by a charity. It inserts a new section 36A into the 2008 Act which provides that where an inquiry into misconduct or mismanagement of the administration of the charity has been instituted, the Commission may make an order specifying action which should not be taken and by whom and should be reviewed every 6 months. Clause 5 inserts a right of appeal for section 36A orders to the Charity Tribunal.

Rights engaged: Article 6: Article 1 of the First Protocol

Article 6

24. Clause 5 is likely to engage Article 6 as directions to restrict actions could engage civil rights. The Commission, as a public body, must act in a manner compatible with the Convention. Clause 5 inserts a right of appeal for section 36A orders to the Charity Tribunal.

Article 1 of the First Protocol No. 1 (‘A1P1’)

25. The right to peaceful enjoyment of possessions could be engaged where a section 36A order affects the management or use of charitable property.

26. However, A1P1 is a qualified right, with states able to enforce laws that can deprive an individual of his possessions or control the use of property in accordance with the general interest. Controls on the use of property must be proportionate and strike a fair balance between the general interest of the community and the private interests of the property owner.

27. The Committee may think that clause 5, which allows a limitation to be placed on the use of charitable assets where there is already a suspicion of misconduct or mismanagement of charitable assets, is a proportionate means of achieving the protection of these assets in the general interest.

SECTION 2: ARTICLE 2(1) OF THE WINDSOR FRAMEWORK

1. It is not considered that any clause in the Bill falls within the scope of Article 2(1) of the Windsor Framework.

SECTION 3: SUMMARY

Convention Rights:

- There are no clauses of the Bill which call for particular scrutiny by the Committee.
- Whilst clauses 2,3,4 and 5 have the potential to engage the Convention rights noted above, none of these clauses raise particular concerns as regards compatibility with the Convention.
- Article 2(1) is not engaged by the Bill.

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Legal Services Office
September 2026

ANNEX A: THE CONVENTION RIGHTS AND FREEDOMS

Article 2: Right to life

(1) Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

(2) Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

Article 3: Prohibition of torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 4: Prohibition of slavery and forced labour

(1) No one shall be held in slavery or servitude.

(2) No one shall be required to perform forced or compulsory labour.

(3) For the purpose of this Article the term "forced or compulsory labour" shall not include:

- (a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
- (b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
- (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
- (d) any work or service which forms part of normal civic obligations.

Article 5: Right to liberty and security

(1) Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

- (a) the lawful detention of a person after conviction by a competent court;

(b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
(d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
(e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

(2) Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

(3) Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

(4) Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

(5) Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

Article 6: Right to a fair trial

(1) In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

(2) Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

(3) Everyone charged with a criminal offence has the following minimum rights:
    (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
    (b) to have adequate time and facilities for the preparation of his defence;
    (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
    (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
    (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 7: No punishment without law

(1) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.

(2) This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

Article 8: Right to respect for private and family life

(1) Everyone has the right to respect for his private and family life, his home and his correspondence.

(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 9: Freedom of thought, conscience and religion

(1) Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

(2) Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society

in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 10: Freedom of expression

(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 11: Freedom of assembly and association

(1) Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

(2) No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

Article 12: Right to marry

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

Article 14: Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 16: Restrictions on political activity of aliens

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

Article 17: Prohibition of abuse of rights

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

Article 18: Limitation on use of restrictions on rights

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

Article 1 of the First Protocol: Protection of property

(1) Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

(2) The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Article 2 of the First Protocol: Right to education

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

Article 3 of the First Protocol: Right to free elections

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

ANNEX B: ARTICLE 2 OF THE WINDSOR FRAMEWORK

Article 2: Rights of individuals

(1) The United Kingdom shall ensure that no diminution of rights, safeguards or equality of opportunity, as set out in that part of the 1998 Agreement entitled Rights, Safeguards and Equality of Opportunity results from its withdrawal from the Union, including in the area of protection against discrimination, as enshrined in the provisions of Union law listed in Annex 1 to this Protocol, and shall implement this paragraph through dedicated mechanisms.

(2) The United Kingdom shall continue to facilitate the related work of the institutions and bodies set up pursuant to the 1998 Agreement, including the Northern Ireland Human Rights Commission, the Equality Commission for Northern Ireland and the Joint Committee of representatives of the Human Rights Commissions of Northern Ireland and Ireland, in upholding human rights and equality standards.

Annex 1: provisions of Union law referred to in Article 2(1)

- Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services[1]
- Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation[2]
- Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin[3]
- Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation[4]
- Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC[5]

[1] OJ L 373, 21.12.2004, p. 37.
[2] OJ L 204, 26.7.2006, p. 23.
[3] OJ L 180, 19.7.2000, p. 22.
[4] OJ L 303, 2.12.2000, p. 16.
[5] OJ L 180, 15.7.2010, p. 1.

- Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security[1]

[1] OJ L 6, 10.1.1979, p. 24.