

# **CHARITIES (AMENDMENT) BILL**

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## **EXPLANATORY AND FINANCIAL MEMORANDUM**

### **INTRODUCTION**

1. This Explanatory and Financial Memorandum has been prepared by the Department for Communities in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So, where a clause or part of a clause does not seem to require an explanation or comment, none is given.

### **BACKGROUND AND POLICY OBJECTIVES**

3. The Charities Act (Northern Ireland) 2008 (“the 2008 Act”) established the Charity Commission for Northern Ireland (“the Commission”) and set out the regulatory framework for charities operating in Northern Ireland. Experience of regulation since commencement, stakeholder feedback, and comparative practice in other UK jurisdictions have highlighted areas where clarification and additional powers would improve the Commission’s effectiveness and reduce unnecessary burdens on charities.
4. To this end, the Minister for Communities commissioned an Independent Review of Charity Regulation in Northern Ireland (“the Review”). This commenced in January 2021. The Review undertook extensive public engagement with stakeholders across the sector. This included a public call for evidence, written submissions from charities, umbrella bodies, and professional advisers, as well as 9 community engagement webinars attended by 306 individuals from across the spectrum of charities, the general public, lawyers, accountants, and funders. It held 20 additional meetings with key stakeholders, including representatives from the Department, the Commission, charity regulators in Scotland, England and Wales and Ireland and responsible government bodies in Ireland and Scotland. It received 135 online questionnaire responses and a further 10 written submissions.
5. The Review published its report in January 2022, made 93 recommendations focused on constructing a modern, risk-based regulatory model that promotes public trust and accountability without imposing undue burdens on charitable organisations. The Bill progresses 18 of the Review’s recommendations and makes further amendment to the disclosure powers of the Commission to support effective regulation and liaison between regulators.
6. In particular, the Bill aims to:
  - (a) enhance the Commission’s ability 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;

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

(c) repeal section 167 of 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.

## **CONSULTATION**

7. As noted above, the bulk of the Bill's provisions give effect to recommendations made by the Review following its extensive consultation with the sector and other interested persons. Further consultation was carried out by the Department on 2 matters recommended by the Review.
8. One of the Review's recommendations was to adopt a more proportionate, tiered approach to reporting for small charities to reduce their reporting burden. It recommended that charities with income below a certain financial threshold should be required to complete an online financial template setting out basic financial information to replace the current reporting regime, and no longer be required to have their annual accounts independently examined, which in some cases comes at a cost to the charity. As part of another policy consultation carried out by the Department from May to August 2024, the Department sought views on whether the threshold for this template reporting and removal of the independent examination should align with the proposed registration threshold, below which charities will not be required to register with or report annually to the Commission, or if the income element should be £25,000 as recommended by the Independent Review. The majority of respondents favoured alignment with the registration threshold of £20,000 annual income and assets below £100,000.
9. Additionally, a 2-week targeted consultation was carried out in relation to the Review's proposal that further work should be undertaken on section 167 of the 2008 Act before it was brought into operation. This consultation, in September 2025, included 2 online events (120 participants), 30 questionnaire responses, and 6 written submissions. Feedback showed poor understanding of section 167's purpose and perceived benefits. Following consideration, a decision was made to propose the repeal of this section as the original policy intent of recognition with light-touch regulation cannot be delivered due to the widespread opposition to Northern Ireland-specific reporting and the practical effect of the territorial extent of the 2008 Act, e.g. the Commission could not remove a trustee appointed under the law of another jurisdiction.
10. Additionally, the Department carried out a four-week public consultation on the Bill which closed on 24 April 2026, attracting 38 responses. Amendments have been made to the Bill accordingly. Overall, respondents were broadly supportive of the Bill, particularly in strengthening regulatory powers, improving proportionality and reducing unnecessary administrative burden on the smallest charities. As a result, amendments have been made to:

- Clause 2: Disclosure - to limit the widening of the sharing powers;
- Clause 3: Official Warning - to introduce a specified timeframe for publication of an official warning withdrawal notice and to remove the disapplication of the official warning power to Designated Religious Charities;
- Clause 7: Requirement to prepare accruals accounts – to include the ability for the Department to specify a timeframe by which the Commission will communicate a decision on dispensation; and
- Clause 8: Audit Requirements: Disapplication for small charities – to remove the asset element from the relevant threshold.

## **OPTIONS CONSIDERED**

11. The Department considered 2 options in determining that a Bill was necessary:

(a) Do nothing - this was rejected as a number of the recommendations from the Review, which the Department had accepted, would not therefore be delivered.

(b) Legislative change via primary legislation to:

- remove obligations under section 167 for institutions established elsewhere but operating for charitable purposes in or from Northern Ireland;
- strengthen intervention powers;
- update rules on accounts, audits and reporting;
- include technical changes to support proportionate regulation and public confidence as recommended by the Review.

12. Given that the Review made recommendations that required the amendment of the 2008 Act, option B was chosen as primary legislation is needed to effect the necessary changes and deliver on the Review's recommendations.

## **OVERVIEW**

13. The Bill comprises 14 clauses.

Clause 1 is an interpretation provision and relates to the general machinery of the Bill.

Clauses 2 to 6 relate to the Commission's powers, including clarifying disclosure powers (Clause 2), establishing an official warnings regime (Clause 3), clarifying removal powers following an inquiry (Clause 4), introducing a power to direct that specified action is not taken (Clause 5), and extending automatic disqualification to certain roles within charities (Clause 6).

Clauses 7 to 10 provide power for the Department to stipulate the form and content of accounts and allow the Commission to introduce template reporting for small charities,

dispense with audit requirements for small charities, and provide the power for the Department to define ‘gross income’ for particular purposes.

Clause 11 repeals section 167.

Clause 12 makes minor technical amendments.

Clauses 13 and 14 provide for commencement and the short title.

## **COMMENTARY ON CLAUSES**

### **Clause 1: References to the 2008 Act**

This clause provides that references in the Bill to “the Charities Act” are to the Charities Act (Northern Ireland) 2008.

### **Clause 2: Disclosure of information**

Section 24 of the 2008 Act deals with the disclosure of information by and to the Commission. In particular, subsection (1) empowers the Commission to disclose information to any “public body or office-holder”, for any purpose connected with the exercise of the Commission’s functions or for the purpose of enabling or assisting the public body or office-holder to exercise any functions. Section 24 is being amended so that “public body” extends to any body discharging functions of a public nature and/or regulatory functions as to charities or fund-raising. The latter aspect is designed in particular to allow the Commission to share information with the body known as the Fundraising Regulator, subject to normal data protection and General Data Protection Regulation (“GDPR”) considerations, as already provided for in section 24.

### **Clause 3: Official warning to be issuable**

The Review suggested a new statutory tool could be added to provide the Commission with the ability to issue an ‘official warning’ to a charity. This power will be capable of being exercised in place of a statutory investigation or at the conclusion of a statutory inquiry if issuing a warning is a more appropriate and proportionate outcome than use of other powers. It will enable the Commission to escalate its formal disapproval of a charity’s behaviour in a situation where the charity trustees or the charity were engaging in mismanagement or misconduct. An official warning regime is in operation in England and Wales. This clause inserts a new section 32A, establishing an official warnings regime in Northern Ireland. The Commission will be able to issue a warning to a charity, charity trustee, or trustee for a charity where it considers there has been breach of trust or duty, misconduct or mismanagement. Process safeguards include prior notice, specification of grounds and proposed publication, a period for representations, and the ability to vary or withdraw warnings and a specified timeframe of 28 days for publication of a withdrawal notice. In consequence, the clause also amends section 33(1)(a) to include failure to comply with the official warning as grounds for the Commission to take further action specified in section 33.

#### **Clause 4: Removal of trustees etc. following inquiry**

Section 33(2)(b)(i) allows the Commission by order to remove any trustee, charity trustee, officer, agent or employee of the charity who has been responsible for, or privy to misconduct or mismanagement or whose conduct has contributed to it or facilitated it. At present, such a person may resign the position held and avoid this regulatory action. This clause provides that where it has formally notified of its intention to do so, the Commission may remove a person from office or employment following an inquiry even if the person has already ceased to hold that position, ensuring disqualification effects apply as if removed. An amendment is also made to section 31(1)(b) to include ‘agents’ as persons who can be removed, aligning with the powers at section 33(2).

#### **Clause 5: Directions for specified action not to be taken**

Section 36 allows the Commission, after opening a statutory inquiry and identifying misconduct or risk, to order trustees, staff, or the charity itself to take specified actions needed to protect the charity. This clause creates a complementary new power enabling the Commission, after instituting an inquiry, to direct that specified action is not taken or continued where such action would constitute misconduct or mismanagement. The order must be reviewed at intervals not exceeding 6 months. The clause also makes consequential amendments to ensure consistency across the Act. The amendment to section 10(3) enables the Commission to act under the new power despite the restriction in section 10(2). The amendment to section 38(1) extends the requirement for a copy of order and the Commission's reasons to be sent to the charity as a result of this new provision. The clause amends section 165(1) so that designated religious charities will also be exempt from this requirement. The clause extends section 174 to include failure to comply with an order made under this section. An amendment to Schedule 3 provides appeal rights equivalent to those that already exist for the direction to take action under section 36.

#### **Clause 6: Automatic disqualification from being trustee**

Section 86(1)(d) disqualifies anyone who has been formally removed as a trustee for wrongdoing from being a trustee again. This clause extends this automatic disqualification from acting as a charity trustee or a trustee for a charity to officers, agents or employees of a charity where a person is removed from any of those positions following an inquiry.

#### **Clause 7: Requirement to prepare accounts**

Section 64(3) currently sets out in primary legislation the type of accounts that smaller charities may prepare. This clause repeals that subsection so that the Department can instead set the form and content of charity accounts through regulations, allowing different requirements to be applied to different classes of charity (for example, by reference to gross income) in a more flexible and responsive manner. This clause also enables the Commission to prescribe the form and content of accounts for particular classes of charity, and to dispense with or modify accounting requirements for specific charities or for particular financial years. These powers will allow the Department to implement Review recommendations to simplify accounting and reporting for small charities and will allow the Commission to exempt a charity from the requirement to prepare accruals accounts in an exceptional year of income. Consequential amendments are made to sections 66, 68, 69 and to paragraph 3(6) of Schedule

6 to remove obsolete references to section 64(3) and to ensure consistency across auditing, reporting, inspection and group accounts provisions. Although these provisions are removed from primary legislation, the underlying requirements will continue to apply and will instead be restated in regulations made under the revised section 64.

### **Clause 8: Auditing: disapplication for small charities**

Section 65 sets out the rules for when a charity must have its accounts audited and when an independent examination is sufficient. Currently, all unincorporated charities with an annual income below £500,000 may opt to have their accounts independently examined. This clause removes the requirement for independent examination of accounts for charities with a gross annual income under £20,000. A consequential amendment to section 65(10)(a) provides powers for the Department to adjust the financial threshold by order.

### **Clause 9: Gross income: provision about what counts**

Section 180(1) defines “gross income” for the purposes of the 2008 Act. The current definition lacks clarity and does not clearly distinguish between income and capital receipts. This has created practical uncertainty for charities, particularly smaller organisations, when preparing their annual reports. This clause inserts a new power enabling the Department to specify, through regulations, what counts (or does not count) as income for the purposes of determining “gross income”. This allows the definition to be updated and clarified as needed, ensuring greater consistency and reducing ambiguity without requiring further primary legislation.

### **Clause 10: Annual reports and returns**

Sections 68 and 70 require charity trustees to prepare an annual report and return which must include the trustees’ account of the charity’s activities during that year and other information prescribed by regulations made by the Department, for each financial year. This clause introduces a power for the Department to tailor the form and content of annual reports and returns for different classes of charities, including very small charities, thereby allowing simplified or “template” reporting where appropriate. It also replaces references to accounts being “attached to” the annual report with “accompanied by”, modernising the wording and avoiding implications of physical document submission.

### **Clause 11: Removal of regulatory arrangements**

Section 167 is a not yet commenced provision of the 2008 Act that was designed to regulate institutions that operate for charitable purposes in or from Northern Ireland but are not established under Northern Ireland law. This clause repeals section 167 in its entirety. Consequential amendments are made to section 179 to remove obsolete references to section 167. The effect of this is that these institutions can continue to operate in or from Northern Ireland for charitable purposes and they will not be required to register as a section 167 institution with the Commission, nor be required to comply with any requirements of the 2008 Act. They will continue to be regulated by the regulator in the jurisdiction in which they are registered.

### **Clause 12: Updating as to department and staff**

Makes minor amendments to section 16A and to paragraph 9A of Schedule 1. These amendments remove the references to the Department for Communities which were inserted by an amendment in the Charities Act (Northern Ireland) 2022. These changes are made on the basis that the existing definition of “the Department” in section 180 already captures the Department for Communities. The Department’s name was changed in 2016 by section 1(7) of the Departments Act (Northern Ireland) 2016. An amendment to paragraph 9A is made as persons working for the Commission are defined in paragraph 4(1)(a) and (b) and 5(1). No further clarification in paragraph 9A is therefore required.

### **Clause 13: Commencement**

Provides for commencement (with the ability to commence sections 7, 8 and 10 by order with transitional provision relating to accounting and reporting).

### **Clause 14: Short title**

Provides the short title of the Act.

## **FINANCIAL EFFECTS OF THE BILL**

14. The Bill is expected to have minimal net cost to the public sector. The Commission may incur limited administrative costs to implement new powers (e.g. amendment to IT systems, processes for official warnings, development of new manuals and guidance etc). One-off costs are anticipated for the Commission of approximately £100,000 capital for IT and £240,000-£250,000 resource between 2026-2028.
15. For charities, the net financial impact is expected to be positive, particularly for small and medium-sized organisations. The introduction of an independent examination threshold and proportionate reporting should reduce compliance costs. While individual charities subject to warnings or directions may incur remedial expenses, these are associated with addressing misconduct or mismanagement and are outweighed by the benefits of preventing harm to charitable assets and reputation.

## **HUMAN RIGHTS ISSUES**

16. The Department considers the provisions to be compatible with the European Convention on Human Rights. Powers affecting individuals or organisations include procedural safeguards (notice, representations, review and appeal mechanisms) and are proportionate to the legitimate aims of protecting charitable assets and public trust.

## **EQUALITY IMPACT ASSESSMENT**

17. A screening assessment indicates no adverse differential impact on groups under section 75 of the Northern Ireland Act 1998. Provisions are of general application and include measures that support smaller charities across all community backgrounds through proportionate regulation.

## **SUMMARY OF THE REGULATORY IMPACT ASSESSMENT**

18. The proposals are expected to reduce the regulatory burden for smaller charities by enabling tailored accounting and reporting requirements and by clarifying audit thresholds. Any additional compliance arising from warnings or directions is limited to cases of misconduct or mismanagement and is necessary to protect beneficiaries and charitable resources.

## **DATA PROTECTION IMPACT ASSESSMENT/DATA PROTECTION BY DESIGN**

19. The Bill does not itself create new personal data processing activities beyond those already undertaken by the Commission in regulation. Disclosure amendments facilitate sharing with public bodies and regulators, where this is lawful and necessary. The Commission will continue to operate within UK GDPR and the Data Protection Act 2018, designing its processes to protect people's privacy, using appropriate safeguards, including publication considerations for official warnings.

## **RURAL NEEDS IMPACT ASSESSMENT**

20. The Department recognises the distinct circumstances of rural organisations, many of which are small, volunteer-led and have limited access to administrative capacity and professional support and that governance changes and regulatory interventions can place greater relative demands on volunteer-led groups and may carry heightened reputational risks in close-knit communities. Proportionate reporting and audit changes benefit small charities, including those serving rural areas, by reducing compliance costs while maintaining necessary assurance.

## **LEGISLATIVE COMPETENCE**

21. At Introduction the Minister for Communities had made the following statement under section 9 of the Northern Ireland Act 1998:

*“In my view the Charities (Amendment) Bill would be within the legislative competence of the Northern Ireland Assembly.”*









**Northern Ireland  
Assembly**

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For more information please contact:

Northern Ireland Assembly  
Parliament Buildings  
Ballymiscaw  
Stormont  
Belfast BT4 3XX

Telephone: 028 90 521137

Textphone: 028 90 521209

E-mail: [info@niassembly.gov.uk](mailto:info@niassembly.gov.uk)