



**European Association for
Philanthropy and Giving**

Making sense of philanthropy

United Kingdom – Northern Ireland

Governance

In Northern Ireland, as in other countries in the UK, the growing role of charities in public service delivery and the substantial social role played by very large, international charities has led to calls for improved legislation in a country where there is no registration regime for charities. Under the previous legal framework charities in Northern Ireland could not register. For practical purposes the main indication that an organisation was a charity in Northern Ireland was having charitable status for tax purposes acknowledged by Her Majesty's Revenue and Customs.

The Charities Act (Northern Ireland) 2008 introduced major changes to charity law in Northern Ireland. The Act established a new Charity Commission, as well as a Tribunal and a register for all Northern Ireland charities. The legislation further creates reporting obligations similar to those contained for England and Wales in the Charities Acts 1993 and 2006. However, in June 2010 the Charity Commission Northern Ireland (CCNI) referred a technical problem in the legislation relating to its public benefit test to the Department for Social Development for consideration. CCNI has not made public the precise nature of the defect, but it seems that it relates to the fact that the test is an amalgamation of the English and Scottish public benefit tests which, it has been argued by some, do not entirely reconcile under the current wording. The legislation may now be amended, and until such time as the matter is resolved (summer 2011 is anticipated), implementation of the charity registration process will be delayed.

Charitable purposes

Most notably, the new statutory descriptions of 'charitable purposes' mirror those in the Charities Act 2006 almost exactly. However, the category relating to support of the armed forces, police or emergency services has been excluded and the purpose relating to the promotion of human rights, conflict resolution or reconciliation expressly includes the advancement of peace and good community relations.

Other proposals also have the potential to substantially alter the current environment; for example, the introduction of charitable incorporated organisations (CIOs) in Northern Ireland, would be regulated solely under charity law rather than having dual regulation under charity and company law, as is the current position for charities with limited liability status. Such organisations would be distinct from Community Interest Companies - CICs - in Northern Ireland, which are defined as inherently non-charitable organisations for the promotion of social enterprise.

Until the legislative defect noted above is corrected and CCNI starts to accept applications for registration, HMRC will continue to act as registrar and be responsible for oversight of published accounts, although it does not possess the same responsibility as the Charity Commission for England and Wales or OSCR in supporting the role of charities. At present, HMRC therefore continues to be responsible for formal recognition of charitable status.

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