

*These notes refer to the Charities Act (Northern Ireland)  
2022 (c.11) which received Royal Assent on 30 March 2022*

# Charities Act (Northern Ireland) 2022

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## **EXPLANATORY NOTES**

### **BACKGROUND AND POLICY OBJECTIVES**

3. In February 2020 the Court of Appeal dismissed an Appeal by the Charity Commission for Northern Ireland (the Commission) against Madam Justice McBride's High Court Judgment of May 2019, which found that the Charity Commissioners were the body corporate, "the Commission", and that they do not have implied or express power to delegate their functions to staff acting alone. The Judgment rendered decisions taken by Commission staff unlawful where the staff member's authority to take the decision depended on the Commission having delegated a statutory power or duty.
4. This Act amends the Charities Act (Northern Ireland) 2008 (the 2008 Act) with retrospective effect to render lawful previous decisions taken by Commission staff in reliance on unlawful delegation in cases where doing so is consistent with rights under the European Convention on Human Rights (ECHR) and the decision is not unlawful on other grounds. It will provide a power of delegation to Commission staff going forward provided the functions to be delegated are set out in a Scheme of Delegation approved by the Department, and also stipulates that certain functions can never be delegated to staff.
5. In addition this Act inserts a power to enable the Department to introduce a registration threshold at some future point, via regulations, subject to the draft affirmative procedure.