

*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

### COMMENTARY ON SECTIONS

#### ***Section 1: Actions of Commission staff treated as Commission actions***

Section 1 makes provision with retrospective effect to make the majority of decisions taken by Commission staff lawful and provide fresh appeal rights for those decisions in accordance with Schedule 3 to the Act.

Importantly, decisions which are the subject of ongoing litigation or were taken under section 22(3), (4) or (6) or 24(1) of the 2008 Act and decisions to make an order under sections 23(1) and 33 to 36 will not be subject to the section in order that individuals' rights under Article 6 or 8 of, or Article 1 of Protocol 1 to the European Convention on Human Rights (ECHR) are protected. Such decisions will therefore remain unlawful, as will decisions which were additionally unlawful on grounds other than the unlawful-delegation ground. Where an unlawful decision has been replaced by a fresh lawful decision before this Act becomes law, this Act does not alter the operation of that replacement decision.

This Act also modifies the Charity Tribunal Rules (Northern Ireland) 2010 in relation to appeal rights for decisions made lawful by virtue of this Act.

#### ***Section 2: Power of Commission to delegate to staff***

Section 2 inserts paragraph 9A into Schedule 1 to the 2008 Act allowing for certain functions to be delegated to staff provided they are set out in a Scheme of Delegation approved by the Department. It also stipulates that the following can never be delegated: power under section 22(1) to institute an inquiry; decisions under section 22(6) that a report or statement be published; power to make an order under sections 33 to 37; and any statutory power of the Commission to make regulations.

#### ***Section 3: Power to introduce a registration threshold via regulations***

Section 3 inserts new sections 16A to 16C into the 2008 Act to provide a power to introduce a registration threshold through regulations at some future point, subject to the draft affirmative procedure (except in the case of varying the amount of an existing threshold). The power will allow for the regulations to:

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- exempt charities falling below the threshold from the requirement to register;
- determine the nature of the threshold;
- determine any evidence to be provided to the Commission and allow for that evidence to be used in pursuance of the Commission's functions;
- apply or disapply any provision of the Act to any charity exempted from registration by the threshold; and
- amend any offences or introduce similar or corresponding ones as a consequence of the threshold.

The section itself will permit charities falling below the threshold to register voluntarily or be removed from the register if they so wish.