

EXPLANATORY MEMORANDUM TO

The Charities Act 2008 (Transitional Provision) Order (Northern Ireland) 2013

S.R. 2013 No. 211

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 182(1) and (2) and of the Charities Act (Northern Ireland) 2008 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Order makes transitional provision for the purposes of the Charities Act (Northern Ireland) 2008 (“the Act”) and the establishment of the register of charities (“the register”). It replaces the Charities Act 2008 (Transitional Provision) Order (Northern Ireland) 2011 (“the 2011 Order”).

3. Background

- 3.1. This Order is in response to a decision by the Charity Tribunal which concluded that, under the 2011 Order, to be treated as a charity, not only has an institution to have been granted charitable status for tax purposes by HM Revenue and Customs, but, additionally, the institution must be established under the law of Northern Ireland for charitable purposes only. This Order restores the policy intention and makes it clear that institutions established under the law of Northern Ireland which have been granted charitable status for tax purposes are to be treated as charities. This brings them within the jurisdiction of the Charity Commission for Northern Ireland, pending a decision concerning their registration in the register. It also allows the “deemed list” of charities to be up-dated and the Commission to exercise its functions under provisions of the Act which have come into operation since the 2011 Order was made.

4. Consultation

- 4.1. The Department has not consulted on the proposed Order, which makes a straight-forward transitional provision.

5. Equality Impact

- 5.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department conducted a screening exercise of the proposals in the Charities Bill (NIA Bill 9/07) which are now contained in the Charities Act (Northern Ireland) 2008. It concluded that the proposals do not have significant implications for equality of opportunity and therefore considered that an equality impact assessment was not necessary.

6. Regulatory Impact

- 6.1. A Regulatory Impact Assessment was not considered necessary as the proposals in the Charities Bill (NIA Bill 9/07) which are now contained in the Charities Act (Northern Ireland) 2008 impose no costs, savings or additional burden on business, charities or the voluntary sector.

7. Financial Implications

- 7.1. None.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that this Rule is not incompatible with any of the Convention rights, is not incompatible with Community law, does not discriminate against a person or class of person on the ground of religious belief or political opinion and does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. No.

11. Additional Information

- 11.1. Not applicable.