



Charities Act (Northern Ireland) 2022

2022 CHAPTER 11

An Act to make provision about the lawfulness of decisions taken or other things done by staff of the Charity Commission for Northern Ireland, and about exempting charities, by reference to conditions related to thresholds, from the duty to be registered in the register of charities. [30th March 2022]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Actions of Commission staff treated as Commission actions

1.—(1) In this section “relevant action” means any decision made or purported to be made, or other thing done or purported to be done, by a member of the Commission’s staff before 16 May 2019 if—

- (a) it was made or done, or purported to be made or done, in connection with the exercise or discharge of any of the Commission’s functions, and
- (b) the persons by whom it could lawfully be made or done did not include members of the Commission’s staff acting in their capacity as such.

(2) Every relevant action is to be treated as, and as always having been, a decision made or thing done by the Commission (subject to subsections (3) to (6)).

Circumstances where deeming is restricted or excluded

(3) Subsection (2) does not alter the outcome of court or tribunal proceedings finally decided before the end of the day on which this Act receives Royal Assent.

- (4) If at the end of the day on which this Act receives Royal Assent—
- (a) court or tribunal proceedings are pending, and
 - (b) the validity of a relevant action is in issue in those proceeding—
 - (i) on the ground that the persons by whom it could lawfully be made or done did not include members of the Commission’s staff acting in their capacity as such, or
 - (ii) on grounds which include that ground,

the proceedings are to be decided as if subsection (2) does not apply to that relevant action.

- (5) Subsection (2) does not apply to a relevant action consisting of—
- (a) a decision, or purported decision, that an inquiry report be published,
 - (b) publishing an inquiry report or causing an inquiry report to be published,
 - (c) the giving of a direction purporting to be under section 22(3) of the 2008 Act,
 - (d) a decision, or purported decision, to give a direction under that provision,
 - (e) administering an oath, or requiring the making and subscription of a declaration of truth, under section 22(4) of the 2008 Act,
 - (f) the making, or purported making, of an order purporting to be under section 23(1) of the 2008 Act,
 - (g) a decision, or purported decision, to make an order under that provision,
 - (h) a disclosure of information under, or purporting to be under, section 24(1) of the 2008 Act,
 - (i) a decision, or purported decision, to disclose information under that provision,
 - (j) the making, or purported making, of an order purporting to be under any of sections 33 to 36 of the 2008 Act, or
 - (k) a decision, or purported decision, to make an order under any of those sections.

(6) Subsection (2) does not apply to a relevant action if in its place, and in the period beginning with the date of the relevant action and ending with the day on which this Act receives Royal Assent, a fresh decision or thing has been made or done by the Commission or by a committee established under paragraph 9 of Schedule 1 to the 2008 Act.

Refreshed appeal rights

- (7) Where—
- (a) subsection (2) applies to a relevant action, and

(b) the relevant action is one mentioned in column 1 of the Table in Schedule 3 to the 2008 Act (actions where there is a right of appeal or review), the Charity Tribunal Rules (Northern Ireland) 2010 apply in relation to the decision or other thing treated as made or done by the Commission with the modifications mentioned in subsection (8) (and so apply whether or not an appeal or review was initiated in relation to the relevant action as made or done by a member of the Commission's staff).

(8) The modifications are—

- (a) that rule 17(2) (time limit for initiating appeal or review) is to be read as if it provided that an appeal notice under rule 17(1) must be filed within 91 days of the end of the day on which this Act receives Royal Assent, and
- (b) that rule 17(3)(i)(iii) and (iv) are to be read as referring instead to the fact that the appeal or application is brought by virtue of subsection (7).

Disapplication of accounting and reporting requirements

(9) Where, as a result of a relevant action, a charity was purportedly added to the register of charities kept under section 16 of the 2008 Act, requirements imposed under any of sections 64 to 70 of the 2008 Act (accounts, reports and returns) do not apply in relation to an exempt year; and here “exempt year”—

- (a) if the charity was lawfully added to that register in the period beginning with its purported registration and ending with the day on which this Act receives Royal Assent, means a financial year of the charity beginning before its lawful registration, but
- (b) otherwise means a financial year of the charity beginning before 1 April 2022.

Interpretation etc

(10) For the purposes of this section, members of the Commission's staff are not acting in their capacity as such when they are acting as members of a committee established under paragraph 9 of Schedule 1 to the 2008 Act.

(11) In this section—

- “the 2008 Act” means the Charities Act (Northern Ireland) 2008;
- “the Commission” means the Charity Commission for Northern Ireland;
- “financial year”, in relation to a charity, has the same meaning as in the 2008 Act (see section 180(1) of the 2008 Act);
- “inquiry report” means any such report or statement as is mentioned in section 22(6) of the 2008 Act;
- “member of the Commission's staff” includes any person working for the Commission under paragraph 4(1)(a) or (b) or 5(1) of Schedule 1 to the 2008 Act (employees, service-providers and secondees).

(12) This section is to be treated as having come into operation on 27 March 2009.

Power of Commission to delegate to staff

2. In Schedule 1 to the Charities Act (Northern Ireland) 2008 (provision about the Charity Commission), after paragraph 9 insert—

“9A Performance of functions by staff”

(1) Anything authorised or required to be done by the Commission may be done by any member of the Commission’s staff who is authorised for that purpose by the Commission, whether generally or specially (but this is subject to sub-paragraphs (2) and (7)).

(2) The following may not be delegated under sub-paragraph (1)—

- (a) the instituting of an inquiry under section 22(1);
- (b) the making of a decision that a report or statement be published under section 22(6)(a) or (b);
- (c) the making of an order under any of sections 33 to 37;
- (d) the making of regulations in exercise of power conferred by a statutory provision.

(3) The Department may make a scheme describing—

- (a) things that may, consistently with sub-paragraph (2), be delegated under sub-paragraph (1), and
- (b) in relation to anything which may be delegated under sub-paragraph (1), the member or members of the Commission’s staff to whom it may be delegated.

(4) The delegation which may be allowed by a scheme under sub-paragraph (3) includes (in addition to delegation of described things or to described staff)—

- (a) delegation of all things authorised or required to be done by the Commission and not excepted by sub-paragraph (2), or delegation of all such things with additional exceptions described by the scheme;
- (b) delegation to all staff, or delegation to all staff other than those described by the scheme.

(5) Before making a scheme under sub-paragraph (3), the Department must consult the Commission; and before making the first scheme under sub-paragraph (3), the Department must carry out a public consultation.

(6) The Department must publish a scheme made by it under sub-paragraph (3).

(7) A delegation under sub-paragraph (1) is effective only so far as it is in accordance with a scheme under sub-paragraph (3).