

EXPLANATORY MEMORANDUM TO

The Charities (Interim Manager) Regulations (Northern Ireland) 2011

S.R. 2011 No. 264

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 sections 35(6) and (7) and 179(5) of the Charities Act (Northern Ireland) 2008 ("the 2008 Act") and is subject to the negative resolution procedure.

2. Purpose

- 2.1. These Regulations make provision with respect to the appointment of an interim manager under section 33(1)(vii) of the 2008 Act to act as receiver and manager in respect of the property and affairs of a charity.

3. Background

- 3.1. Section 33 of the 2008 Act (power to act for protection of charities) prescribes the measures which the Commission may take to protect a charity where, following the institution of an inquiry under section 22 of that Act (general power to institute inquiries) it is satisfied that (a) there is or has been misconduct or mismanagement in the administration of the charity, or (b) that it is necessary or desirable to act to protect the property of the charity.
- 3.2. Section 33(1)(vii) provides that the Commission may by order appoint an interim manager to act as a receiver and manager in respect of the property and affairs of the charity. That section also provides that the appointment of an interim manager must be in accordance with section 35 of the 2008 Act.
- 3.3. Section 35(6) gives the Department the power to make regulations with respect to the interim manager's appointment, removal, remuneration and duty to submit reports to the Commission. Section 35(7) provides that those regulations may, in particular, (a) authorise the Commission to require the interim manager to give security for the discharge of functions specified in the order of appointment, (b) determine the amount of the interim manager's remuneration and (c) disallow any amount of remuneration in such circumstances as are specified in the regulations.

4. Consultation

- 4.1. A consultation has not been carried out in respect of the Regulations as the provisions which they implement were consulted on by both the Department and the Social Development Committee at primary legislation stage.

5. Equality Impact

- 5.1. An assessment has not been made as the Regulations reflect the policy intention of the 2008 Act for which an Equality Impact Assessment was not considered necessary.

6. Regulatory Impact

- 6.1. The Regulations do not require a Regulatory Impact Assessment as they do not impose a cost on business, charities, social enterprise or voluntary bodies. Provision made by the Regulations for payment of an interim manager's remuneration from the income of the charity in respect of which an appointment is made applies only to charities which the Commission considers to be in need of protection from mismanagement or misconduct.

7. Financial Implications

- 7.1. Not applicable.

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 Order (a) is not incompatible with any of the Convention rights, (b) is not incompatible with Community law, (c) does not discriminate against a person or class of person on the ground of religious belief or political opinion and (d) 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. The parity principle laid down in section 87 of the Northern Ireland Act 1998 does not apply to charity law. However, these Regulations make provision for Northern Ireland corresponding to provision applicable to England and Wales and contained in the Charities (Interim Manager) Regulations 1992 (S.I. 1992/2355) ("the 1992 Regulations"). The enabling powers in these Regulations replicate the updated version of section 20A of the Charities Act 1960 under which the 1992 Regulations were made. Section 20A was inserted by section 9 of the Charities Act 1992 and replaced by section 19 of the Charities Act 1993. Sections 33(1)(vii) and 35(6) and (7) of the 2008 Act replicate the provision of section 19 as amended by paragraph 112 of Schedule 8 to the Charities Act 2006.

11. Additional Information

- 11.1. Not applicable.