

EXPLANATORY MEMORANDUM TO

Charities (Accounts and Reports) Regulations (Northern Ireland) 2015

S.R. 2015 No. 384

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 64(1) and (2), 66(1), 68(1) and (2) and 179(5) of, and paragraphs 3(3) to (5), 4(2) and (3), 6(2), 8(3), 10(2) and (3) and 13 of Schedule 6 to, the Charities Act (Northern Ireland) 2008 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Regulations will make provision for the preparation and scrutiny of accounts prepared by charities and the preparation of annual reports by charities. The Regulations will also make provision for the preparation and scrutiny of group accounts and the preparation of group annual reports by parent charities

3. Background

- 3.1. Part 8 of the Act provides the accounting and reporting framework for charities. It confers powers on the Department to make Regulations to support the accounting and reporting framework, which primarily provide for: the form and contents of charities' accounts; the methods and principles adopted in preparing charities' accounts; information to be provided by way of notes to charities' accounts; the content of charities' annual reports; and group accounts and annual reports by parent charities
- 3.2. The reporting framework is designed to promote transparency and provide accountability for the stewardship of charitable funds and, through the audit or independent examination of accounts and their publication, provide assurance to funders and other stakeholders.
- 3.3. The particular requirements for individual charities are determined by the annual income thresholds set out in the Act ensuring that the regulations are proportionate. Where accruals accounts are to be produced the regulations stipulate that they must comply with Financial Reporting Standard (FRS) 102 and the applicable Statement of Recommended Practice (SORP).
- 3.4. Registered charities must file their report and accounts with the Charity Commission for Northern Ireland (CCNI) within 10 months of the end of the applicable financial year for publication on the CCNI website. This should promote public confidence in the sector.

4. Consultation

- 4.1. The Department consulted on the proposed Order as required in the Act. The consultation period ended on 30 October 2015.

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 Act. 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. Two Regulatory Impact Assessments were carried out to assess the impact of the Regulations, and to consider charities' accounts independent examination and audit thresholds.

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. The Order is in line with current draft proposals in England and Wales.

11. Additional Information

- 11.1. Not applicable.

Title: The Charities (Accounts and Reports) Regulations (Northern Ireland) 2015	Regulatory Impact Assessment (RIA)		
	Date: 18/11/15		
	Type of measure: Subordinate Legislation		
Lead department or agency: Department for Social Development	Stage: Final		
	Source of intervention: Domestic		
Other departments or agencies: None	Contact details: Kieran Doyle		
	Charities Team		
	Voluntary and Community Unit		

Summary Intervention and Options

What is the problem under consideration? Why is government intervention necessary? The current legislation requires charities to keep proper books of account for a period of seven years, but there is no requirement for charities to have their annual accounts openly accessible to the public. More transparency is necessary concerning charities' finances and activities and a more robust legal framework is to be introduced under Part 8 of the Charities Act (Northern Ireland) 2008.	
What are the policy objectives and the intended effects? All registered charities are to provide accurate, clear and publicly accessible information about their finances and activities, essential in promoting public confidence in individual charities and the charity sector. It is extremely difficult to determine the effects in the absence of a completed charity register in Northern Ireland therefore this assessment relies on best estimates based on the available data.	
What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base) Option 1: Do nothing: This would not provide necessary detail for the accounting and reporting requirements under Part 8 of the Charities Act (Northern Ireland) 2008, meaning those requirements could not be introduced. Option 2: Make Charities (Accounts and Reports) Regulations. This is the Department's preferred option as it will allow Part 8 of the Charities Act (Northern Ireland) 2008 to be put into effect.	
Will the policy be reviewed Yes	If applicable, set review date: review in 5 years

Cost of Preferred (or more likely) Option 2		
Total outlay cost for business £m	Total net cost to business per year £m	Annual cost for implementation by Regulator £m
8.066	6.408	Costs will be met by the Department for Social Development (as sponsor department)

Does Implementation go beyond minimum EU requirements?				N/A
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes

The final RIA supporting legislation must be attached to the Explanatory Memorandum and published with it.

Approved by: Chris Hughes

Date: 27 /11/15

ECONOMIC ASSESSMENT (Option I)

Costs (£m)	Total Transitional (Policy) (constant price)	Years	Average Annual (recurring) (excl. transitional) (constant price)	Total Cost (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	0		0	0

Description and scale of key monetised costs by ‘main affected groups’

In line with impact assessment guidance, the do nothing option has zero costs or benefits as impacts are assessed as marginal against the do nothing baseline.

Other key non-monetised costs by ‘main affected groups’

In line with impact assessment guidance, the do nothing option has zero costs or benefits as impacts are assessed as marginal against the do nothing baseline.

Benefits (£m)	Total Transitional (Policy) (constant price)	Years	Average Annual (recurring) (excl. transitional) (constant price)	Total Benefit (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	0		0	0

Description and scale of key monetised benefits by ‘main affected groups’

In line with impact assessment guidance the do nothing option has zero costs or benefits as impacts are assessed as marginal against the do nothing baseline.

Other key non-monetised benefits by ‘main affected groups’

In line with impact assessment guidance the do nothing option has zero costs or benefits as impacts are assessed as marginal against the do nothing baseline.

Key Assumptions, Sensitivities, Risks

In line with impact assessment guidance the do nothing option has zero costs or benefits as impacts are assessed as marginal against the do nothing baseline.

BUSINESS ASSESSMENT (Option I)

Direct Impact on business (Equivalent Annual) £m			
Costs:	Benefits:	Net:	N/A

Cross Border Issues (Option I)

How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland)

This option would put Northern Ireland out of line with the other UK and Republic of Ireland charity jurisdictions, which apply the same financial reporting standard for charities.

ECONOMIC ASSESSMENT (Option 2)

Costs (£m)	Total Transitional (Policy) (constant price)	Years	Average Annual (recurring) (excl. transitional) (constant price)	Total Cost (Present Value)
Low	1.214	1	3.770	4.984
High	2.102		9.045	9.147
Best Estimate	1.658		6.408	8.066

Description and scale of key monetised costs by ‘main affected groups’

The transitional administrative costs are familiarisation £0.888m (low), £1.776m (high) or £1.332m (best estimate) and initially finding a qualified independent examiner £0.326m. Annual independent examination (by qualified person) costs are estimated as £2.1m. A low estimate of the annual cost of preparing accruals accounts where they have not previously been done is £1m. A high estimate of the annual cost of preparing accruals accounts where they have not previously been done is £2m. A mid range figure of £1.5m provides the best estimate. A low estimate of annual audit costs is that charities requiring an auditor will already have one and are already incurring audit costs. A high estimate of audit costs £4.275m would be that no charities presently have such costs. A mid-range figure £2.138m

Other key non-monetised costs by ‘main affected groups’

Additional costs could be the identification of previously undetected charity fraud, leading to a decrease in public trust in charities and possible fall in donations. There is no evidence to suggest high levels of charity fraud.

Benefits (£m)	Total Transitional (Policy) (constant price)	Years	Average Annual (recurring) (excl. transitional) (constant price)	Total Benefit (Present Value)
Low	0		0	0
High	0		0	0
Best Estimate	0		0	0

Description and scale of key monetised benefits by ‘main affected groups’

None.

Other key non-monetised benefits by ‘main affected groups’

While the Regulations could result in significant costs for some charities, there may be indirect benefits through increased transparency, accountability and public confidence, which could promote charitable giving. This could not be quantified.

Key Assumptions, Sensitivities, Risks

The assessment is based on a figure of 10,000 charities. The process of registering all charities is ongoing and will not be completed for several years. Until then, an accurate profile of the charity sector is difficult to provide. The accounting and reporting arrangements will reduce risks to charities by making them more accountable.

BUSINESS ASSESSMENT (Option 2)

Direct Impact on business (Equivalent Annual) £m			
Costs: 6.408	Benefits: 0	Net: 6.408	N/A

Cross Border Issues (Option 2)

How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland)

This option is broadly in line with the other UK and Republic of Ireland charity jurisdictions, which apply the same financial reporting standard for charities.

Evidence Base

The policy problem and the rationale for government intervention

The current legislation provides that charities are required to keep proper books of account for a period of seven years. There is no requirement for charities to have their annual accounts openly accessible to the public.

A more robust legal framework is to be introduced under Part 8 of the Charities Act (Northern Ireland) 2008, requiring charities to provide information on their finances and activities essential in ensuring public confidence in individual charities and the charity sector. The Charities (Accounts and Reports) Regulations (“the Regulations”) are required to provide further detail of the accounting and reporting requirements.

Policy objectives and intended effects

All charities will have to prepare annual accounts and an annual report in line with the new legislative requirements. For charities with gross annual income up to £100,000 (an estimated 70% of charities), this can be on a receipts and payments basis (rather than accruals accounts). Charities must have their accounts externally examined (if the gross income is more than £100,000 this must be by a qualified independent person) or audited (if the gross income is more than £500,000). Charities will also be required to publicly report on their activities which have promoted public benefit, financial activities, financial position and performance.

The reporting framework is designed to promote transparency and provide accountability for the stewardship of charitable funds and, through the audit or independent examination of accounts and their publication, provide assurance to funders and other stakeholders. This should promote public confidence in the sector.

Policy options considered, including alternatives to regulation

Option 1 – Do nothing

Not making regulations to provide detail of the accounting and reporting arrangements under Part 8 of the Charities Act (Northern Ireland) 2008 means that Part 8 could not be brought into operation and would leave an inadequate system in place. This is contrary to the intention of the Northern Ireland Assembly in approving the provisions of Part 8 of the Charities Act (Northern Ireland) 2008.

Option 2 – Make Charities (Accounts and Reports) Regulations

Making the Regulations will mean that, for the first time in Northern Ireland, financial information about charities will be very accessible to the public, as well as charity donors and funders. Annual accounts will be available for public inspection, promoting confidence in charitable giving and the charity sector. The Regulations are therefore for the benefit of the public, individual charities and the charity sector.

Monetised costs and benefits – Option 2

Costs

Familiarisation costs: The Charity Commission estimates there are between 7,500 and 12,000 charities operating in Northern Ireland. For the purposes of this assessment we have used a mid-range figure of 10,000 charities. All charities registered in Northern Ireland will be affected by the introduction of the Regulations.

Charities will already be preparing accounts, including accruals accounts for some, and they will have to come into line with the new legislative requirements. Less overall familiarisation time may be needed in the case of groups of charities.

Approximately 10,000 charities' trustee boards will bear the costs of familiarisation with the Regulations. We have estimated that it would take one trustee 6 hours (best estimate) to read the Regulations, check their charity's income, and disseminate information contained in them to the other trustees. Trustees undertake their duties on a voluntary basis but, for the purposes of this impact assessment, we have costed their time at £22.2 per hour (this is based on data from the Annual Survey of Hours and Earnings (ASHE) 2013, on the median gross hourly wage for 'Other Managers'¹, including 30% non-wage costs and expressed in 2014/15 terms).

The total familiarisation costs are therefore estimated to be £1.332m (10,000 charities x £22.2 x 6 hours). Since familiarisation times can vary, depending on a trustee's ability to check amounts and disseminate information, a low cost estimate based on familiarisation time of 4 hours is £0.888m (10,000 x 22.2 x 4) and a high cost estimate based on familiarisation time of 8 hours is £1.776m (10,000 x 22.2 x 8). These figures do not represent actual expenditure; rather they represent monetised voluntary effort.

Search costs: It is expected that the scrutiny responsibilities contained in the Regulations may result in additional costs to affected charities with finding a qualified independent examiner.

It is anticipated that many higher income charities affected by the regulatory requirements will continue to use their existing auditors. For charities requiring independent examination by a qualified person (charities with gross income over £100,000, up to £500,000), it is conservatively assumed that, on average, a day (7 hours) of trustee time will be devoted to search and negotiation for every charity affected by the regulatory requirements.

With an estimated 2,100 charities affected (see 'Costs by Charity Income Band' section below), the total search cost is calculated at £0.326m (2,100 x 22.2 x 7). This figure does not represent actual expenditure; rather it represents monetised voluntary effort.

¹ Occupational category as used in the Administrative Burdens Measurement Exercise Technical Summary: <http://webarchive.nationalarchives.gov.uk/20070603164510/http://www.dti.gov.uk/files/file35995.pdf>

Summary of cost assumptions

Regulations familiarisation costs				
<i>Estimate</i>	<i>Familiarisation time (hours)</i>	<i>Rate per hour (£)</i>	<i>Charities affected</i>	<i>Total (£m)</i>
High	8	22.2	10,000	1.776
Low	4	22.2	10,000	0.888
Best	6	22.2	10,000	1.332

Search costs for a qualified independent examiner			
<i>Search hours</i>	<i>Rate per hour</i>	<i>Charities affected</i>	<i>Total (£m)</i>
7	£22.2	2,100	0.326

Costs by Charity Income Band: As of 19 January 2015, the Charity Commission had registered 786 charities. The percentages for income bands that have been summarised in the table below are based on [research](#) published by the Commission in March 2015².

Registered charities by income band	
<i>Income Band</i>	<i>Percentage</i>
Up to £100,000	70%
Over £100,000, up to £500,000	21%
Over £500,000	9%
Total	100%

A figure of 10,000 charities is used for the estimates below.

Charities with an annual gross income up to £100,000

It is estimated that 7,000 charities (70%) in Northern Ireland have an income up to £100,000.

The Regulations will provide that charities with an annual income up to £100,000 will have their accounts (which can be prepared on a receipts and payments basis) examined by an independent person who is reasonably believed by the charity's trustees to have the requisite ability and practical experience to carry out a competent examination of the accounts. The independent person could be an accountant or bank official who may provide their services free of charge or for a nominal charge to the charity. The conclusion therefore is that the costs to charities in this income band will be relatively low.

Charities with an annual gross income over £100,000, up to £500,000

It is estimated that 2,100 charities (21%) have an annual gross income over £100,000, up to £500,000. The typical cost of an independent examination by a qualified person for a charity in this income band is estimated to be around £1,000 (using the amount in the Cabinet Office Regulatory Impact Assessment: Raising the Charity Audit Threshold, dated 31 October 2014)³. This will result in an estimated cost of £2.1m (2,100 charities x £1,000) for this income band.

² What do charities look like in Northern Ireland. Available online at: <http://www.charitycommissionni.org.uk/about-us/research/research-reports/#oneyear>

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384992/Charity_Audit_Threshold_Impact_Assessment.pdf

Although some charities falling within this income band will be required to produce accruals accounts for the first time we estimate at least half will be charitable companies and will already be doing it. We therefore estimate that 1,000 charities will pay in the region of £1,500 to have accruals accounts produced, resulting in an estimated cost for this income band of £1.5m.

Charities with an annual gross income over £500,000

It is estimated that 900 charities (9%) have an annual gross income over £500,000. It is likely that most charities in this income band will already have their accounts audited (though difficult to confirm in the absence of data). The Cabinet Office Regulatory Impact Assessment: Raising the Charity Audit Threshold dated 31 October 2014, uses £4,750 as a conservative estimate of the average cost of an audit for a charity with an annual income of between £500,000 and £1 million (and assets of less than £3.26 million⁴). This is based on the figure for charities in the £0-£1 million bracket from the charity Financials Audit fee report, June 2014⁵. Taking £4,750 as the average cost of a charity audit, a high estimate of the resulting cost to this income band will be £4.275m (900 charities x £4,750). Given the likelihood that a large number of charities in this income band will already have their accounts audited, £2.138m provides a mid-range (best estimate) of costs.

Annual Reporting

The annual report to the Commission will give an overview of a charity's financial performance in a specific financial year, as well as details of their activities which have promoted public benefit throughout the year. Charities will be able to file their annual report on the Commission's website.

We have estimated that it would take one trustee 3 hours (best estimate) and that the cost to file annual accounts will be £666,000 (10,000 charities x £22.2 x 3 hours). As trustees undertake their duties on a voluntary basis, this figure does not represent actual expenditure; it is in effect a monetised voluntary effort.

Non-monetised costs / other considerations

Additional costs could be the identification of previously undetected charity fraud, leading to a decrease in public trust in charities and possible fall in donations. There is no evidence to suggest high levels of charity fraud.

The requirements introduced by the Charities Act (Northern Ireland) 2008 and the Regulations will assist the Charity Commission to:

- check for compliance with charity law;
- discover where there is misconduct, mismanagement and inappropriate use of charitable property and funds;
- encourage good practice;
- provide information about the charity sector;
- provide information on individual charities;
- provide an up-to-date register of charities in Northern Ireland.

⁴ The figure is based on 1208 charities in this income bracket from data on the 'top' 5000 UK charities, where 'top' includes all charities with: income >£1.6 million or net assets >£3.2 million. It is assumed that the number of charities meeting these criteria with income below £500,00 is low due to the nature of the 'top' charity definition (i.e. the number of charities with income below £500,00 but expenditure below > £1.56 million and /or > 3.2 Million is low). Available online at:

<http://secure.charityfinancials.com/reports.aspx>

⁵ Northern Ireland charities are not required to include assets when preparing their accounts.

Benefits

While the Regulations could result in significant costs for some charities, there may be indirect benefits through increased transparency, accountability and public confidence, which could promote charitable giving.

Summary and preferred option

The framework for charities' accounting and reporting requirements is set out in Part 8 of the Charities Act (Northern Ireland) 2008, which includes powers to enable the Department to provide further detail by regulations. The intention is that the Regulations will come into operation on 1 January 2016, for the financial years of registered charities beginning on or after that date. Compliance with the Regulations will be assisted by guidance issued by the Charity Commission.

Much of the costs outlined are notional in that they relate to amounts attributed to voluntary effort. Actual costs will be for an independent examination (mainly when carried out by a qualified person), the production of accruals accounts or for an audit. The costs outlined are necessary for the introduction of the accounting and reporting arrangements in the Charities Act (Northern Ireland) 2008.

The Department's preferred option is Option 2, which will introduce new Charities (Accounts and Reports) Regulations which will allow Part 8 of the Charities Act (Northern Ireland) 2008 to be put into effect.