

Final Regulatory Impact Assessment - Charities Bill

CHAPTER 1:

THE CHARITIES BILL (A SUMMARY)

INTRODUCTION

1) Proposal

- 1.1 To create a modern legal framework to support and encourage a vibrant and diverse voluntary sector.
- 1.2 This Regulatory Impact Assessment (RIA) assesses the overarching impact of all the measures to be included in the Charities Bill. It updates the RIA set out in 'Private Action, Public Benefit', published by the Prime Minister's Strategy Unit. This chapter presents the overarching position. Later chapters deal with each measure in greater detail. Chapter 2 deals with the bulk of the measures which have been grouped together. Chapter 3 deals with Public Collections and Chapters 4 and 5 deal with exempt and excepted charities respectively.

THE IMPORTANCE OF THE SECTOR

- 1.3 The voluntary sector has an enormous impact on everyday life and on the national economy, making the preservation and expansion of its sphere of influence an important aim of government. The sector provides vital services, strengthens communities, identifies and addresses new needs, and is often a powerful advocate for the marginalised in society.
- 1.4 According to recent figures published by NCVO, the UK voluntary sector in 2001/02 had a total income of £20.8 billion, operating expenditure of £20.4 billion and assets totalling £70.1 billion. The sector has 569,000 paid employees, some 2% of the national figure, and makes a contribution of £7.2 billion to UK Gross Domestic Product (GDP).
- 1.5 The number of registered charities has increased and continues to do so, rising from 98,000 active general charities in 1991 to 166,129 main charities on the Commission's register at present. However, in 2001/02 the sector's total income fell by £429 million compared to 2000/01 following the millennium. The largest charities – those with annual incomes of £1 million or more – actually experienced increases in income. The majority of the fall off was in small and medium-sized organisations.

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- 1.6 Surveys of individual donors suggest that giving to charity is an activity still engaged in by over two-thirds of the adult population. Giving to charity was worth an estimated £7.3 billion in 2002, a figure that is boosted by the increasing use of tax-efficient methods. The Home Office Citizenship Survey estimates that in 2001 27% of the population had volunteered through a group, club or organisation at least once a month. 39% of the population had volunteered formally at least once in the last year.

2) Purpose and intended effect

The Objectives

- 2.1 It has been over a decade since charity law was last reformed and many aspects of current legislation are considerably older in origin. As a result, charity law has not kept pace with changes in society and within the diverse voluntary sector. The government has reviewed these laws and has drafted new legislation to promote a dynamic and vibrant voluntary sector which continues to enjoy the high levels of public confidence upon which the sector depends.
- 2.2 The reforms will:
- update and expand the list of charitable purposes and place a clearer emphasis on the need to provide public benefit;
 - contain a range of measures designed to enable charities to administer themselves more efficiently and to be more effective in their work;
 - introduce a new legal form specifically for charities;
 - provide for a greater degree of accountability for charities which are currently excepted or exempt from the requirement to register with the Charity Commission;
 - improve the regulation of public charitable collections for charitable, philanthropic and benevolent purposes; and
 - modernise the Charity Commission's functions and powers as regulator and increase its accountability.

The Background

- 2.3 The Cabinet Office Strategy Unit report 'Private Action, Public Benefit' made a number of recommendations for changes to the legal and regulatory framework for the charitable and wider not-for-profit sector. The responses to the public consultation on this report, which ran from September 2002 to December 2002, demonstrated considerable support for many of the proposals. The Government's Response to the Strategy Unit report, which took account of the responses to the consultation, was published as 'Charities and Not-For-Profits: A Modern Legal Framework'. The proposals, with very few exceptions, were accepted by the Government and those requiring legislation form the basis of this Bill.

- 2.4 As the regulation of public collections is one where there is not a natural consensus, it was decided to seek views on the detailed provisions of the licensing scheme. A separate consultation entitled 'Public Collections: For Charitable, Philanthropic and Benevolent Purposes' was held from 9 September 2003 to 2 December 2003.
- 2.5 The draft Charities Bill was published on 27 May 2004 and was subject to pre-legislative scrutiny by a Joint Committee of both Houses of Parliament. The Joint Committee published a report of its recommendations in relation to the draft Bill and in relation to other matters on 30 September and the Government published its response to that report on 21 December.

3) Risk Assessment

- 3.1 The current legal framework is out-dated. It places unnecessary restriction on charities and does not deliver the degree of accountability and transparency by charities which is necessary to maintain public trust and confidence in the charitable sector. The aim of the changes is to help new and existing charities to thrive, grow, and realise their full potential and to promote public trust and confidence in it.
- 3.2 Retaining the status quo would:
- hamper the growth of a diverse and vibrant voluntary sector;
 - maintain unnecessary burdens on the sector through outdated regulation;
 - risk the lowering of public confidence in charities; and
 - leave in place a system under which many large charities operate without there being effective oversight of their compliance with charity law.

4) Options

- 4.1 The options relating to each of the proposals are set out in Chapters 2-5. The ones chosen have been selected to achieve the best balance between costs and benefits.

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5) Expected Costs and Benefits

5.1 The table below summarises the costs and benefits for the main measures that are included in the Charities Bill.

Description	Costs	Benefits
<p>1) New legal form for Charities (chapter 2): The introduction of the Charitable Incorporated Organisation (CIO), which will be available only to charities.</p>	<p>There would be costs to a charity in converting to a CIO or in constituting itself as a CIO.</p> <p>However, this is a permissive measure so there would be no unavoidable costs to charities.</p>	<p>It would provide a new corporate vehicle specifically for charities, thus reducing the burden of registration with both Companies House and the Charity Commission and the attendant double reporting requirements.</p>
<p>2) Changes to the Charity Commission (chapter 2): These involve improving the accountability and transparency of the Charity Commission through a number of different measures.</p>	<p>Costs to the Charity Commission estimated as continuing annual costs of £431,000.</p>	<p>To enhance confidence in the effectiveness and accountability of the regulator.</p>
<p>3) Appeals against Commission decisions (chapter 2): An independent tribunal would be introduced to hear appeals, and that would include appeals in relation to the public collections certificate (chapter 3).</p>	<p>Costs to the Government have been estimated at one-off costs of £145,000 with continuing costs of between £700,000 and £1.4m.</p> <p>Charities would not have to pay to use the tribunal.</p> <p>The Charity Commission estimate that their total costs for processing appeals would be between £444,000 and £602,400 per annum.</p>	<p>To promote confidence in the regulator's decision-making by providing an accessible, and independent forum in which charities could contest the Charity Commission's decisions.</p>
<p>Total costs for Chapter 2: Cost to Government – one-off costs of £145,000 continuing annual costs of £700,000 - £1.4m (apprx) Charity Commission – continuing annual costs of £875,000 - £1m (apprx)</p>		

<p>4) Public Collections (chapter 3): A new, updated licensing scheme for public collections.</p> <p>This would involve an assessment of the eligibility of organisation to collect by the Charity Commission, who, if satisfied would issue a public collections certificate. Then processing of applications for permits by the relevant local authority on the basis of capacity only.</p> <p>Local, short-term collections would be subject only to the requirement to notify the local authorities within whose area the collection was to take place.</p> <p>Collections undertaken on a house to house basis would be subject to the requirement to obtain a public collections certificate and then required only to notify the relevant local authority about the collection.</p>	<p>While it is difficult to provide an estimate of the costs to the Charity Commission in issuing certificates of fitness the Charity Commission has provided estimates as to costs. The Charity Commission and the Home Office recognise the need for further research in this area, which will be undertaken prior to implementation. It has been estimated that it will cost the Commission between £4.3m and £7.4m for infrastructure development and first year costs, with continuing costs of between £2.7m and £8.5m per annum dependent on volumes.</p> <p>The costs for the majority of local authorities would decrease as a result of the revised scheme. However, there would be increased costs for the London Boroughs as a result of the transfer of the issuing of permits to collect from the Metropolitan Police to them, estimated at £32,500 - £93,807 per annum.</p> <p>Costs to Government would also include the introduction and processing of appeals to the Magistrates' courts in relation to applications for a permit and decisions to require a full application for a collection notified as local, short-term. Costs estimated at £6,232 - £10,496 per annum.</p>	<p>To public confidence in public collections and, therefore, to the income raised for charitable, philanthropic and benevolent purposes.</p>
<p>Total costs for Chapter 3: Cost to Government – continuing annual costs of £39,000 - £104,500 (apprx) Charity Commission - 1st year costs of £4.3m - £7.4m (apprx) continuing annual costs of £2.7 - £8.5m (apprx)</p>		

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<p>6) Exempt Charities (chapter 4): Where a main regulator has been identified and accepted, the monitoring regimes already in place for these charities would be extended to include basic charity law requirements.</p> <p>Where no main regulator has been identified the exempt charity would register with the Charity Commission, if it has an annual income of above £100,000 per annum. Charities with income below that level would come within the Commission's jurisdiction, although not required to register.</p>	<p>Continuing costs would be between £19,820 and £68,360 per annum for the main regulators.</p> <p>Costs for the Charity Commission would be one-off registration costs of between £546,000 and £1,014,000 with continuing costs of between £220,000 and £408,500 per annum.</p> <p>Costs to these charities should be modest. Every effort will be made to ensure that existing systems are adapted rather than new systems being created so as to minimise the bureaucratic burden.</p>	<p>It would ensure that exempt organisations enjoying the benefits of charitable status are, like other charities, overseen in respect of their adherence to charity law.</p>
<p>Total costs for Chapter 4: Cost to Government - continuing annual costs of £19,820 - £68,360 Charity Commission - one-off costs of £546,000 - £1,014,000 continuing annual costs of £220,000 - £408,500</p>		
<p>6) Excepted Charities (chapter 5): Excepted charities with incomes above £100,000 would be required to register with the Charity Commission.</p>	<p>Costs to the Charity Commission would be one-off registration costs of between £350,000 and £650,000 with continuing costs of between £137,962 and £256,214 per annum.</p> <p>Costs to these charities should be modest. Every effort will be made to ensure that existing systems are adapted rather than new systems being created so as to minimise the bureaucratic burden.</p>	<p>It would ensure that charities with excepted status – a historic status that is nowadays hard to justify – are put on a par with other charities, improving their accountability and increasingly public confidence in the sector more widely.</p>
<p>Total costs for Chapter 5: Charity Commission – one-off costs of £350,000 - £650,000 continuing annual costs of £137,962 - £256,214</p>		

5.2 The policy objective and proposals would have no impact on the environment and rural areas.

5.3 Information on the Race Equality Impact Assessment is set out in Chapter 2 sections 1.63 to 1.92 and the full Assessment is at Annex A of Chapter 2.

6) Impact on Small Business

6.1 Overall, the impact on small business is expected to be minimal. The views of the Small Business Service have been sought as part of the consultation process. The principal concern was that the more onerous accounting requirement for charities compared with those applying to small businesses might prove a burden. However, the Small Business Service has accepted that stakeholders legitimately have a greater desire for more information about charities than they do about small businesses. Other lesser concerns were identified and are dealt with in subsequent chapters.

7) Results of Consultation

7.1 Approximately 1,100 written responses were received to the consultation on 'Private Action, Public Benefit' and over 250 to the public collections consultation.

7.2 The draft Charities Bill was published with a draft Regulatory Impact Assessment on 27 May 2004 and has been subject to a period of pre-legislative scrutiny by a Joint Committee of both Houses. On 30 September the Joint Committee published a report of its recommendations in relation to the draft Bill, some of which called for changes to the Bill and some of which called for changes to policy and practice. The Government published its response to the Joint Committee's report on 21 December. The Government has accepted the majority of the Joint Committee's recommendations without modification.

7.3 In developing its proposals the Government has, therefore, taken into account the responses to the consultation exercises, the recommendations of the Joint Committee as well as representations it has received direct on the draft Charities Bill. Overall, the responses justify proceeding with the measures.

8) Devolution

8.1 Charity law is a devolved issue in Scotland and Northern Ireland. The measures will primarily affect England and Wales and the proposals have been developed in full consultation with the Welsh Assembly.

8.2 The Charities and Trustee Investment (Scotland) Bill was introduced to the Scottish Parliament on 15 November 2004.

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9) Guidance, Enforcement and Evaluation

9.1 The Charity Commission will continue to act as the principal focal point for guidance, enforcement and evaluation of the diverse charitable sector.

9.2 There will be a review of the legislation by the Home Office after a period of five years.


10) Summary

10.1 The measures included in the Charities Bill are designed to strengthen the vibrant and diverse voluntary sector, giving it a legal and regulatory framework that will be empowering and facilitate long term growth.

11) Declaration

I have read this Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed:



Date: 21 December 2004

Fiona Mactaggart MP
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