

The Charities Act 2009

The main implications of the Act

- there will be a Charity Regulator that will maintain a Register of charities that will be available to the public.
- all charities will have to secure inclusion in the Register of Charities.
- existing charities (those currently recognised by the Revenue Commissioners) will be deemed to be charities by the Regulator and will be automatically included in the Register. The Regulator will verify the continuing bona-fides of these charities.
- any other organisations that present themselves to the public as being charities, or fundraise for charitable purposes, will have to apply for, and secure inclusion in the Register.
- it will be an offence for an organisation that is not a registered charity to describe itself in terms that would cause the public to believe that it is a charity.
- the Regulator will have discretion to reduce the amount of documentation required from a charity when registering (if it thinks that supplying all the specified information would be unduly onerous to the charity concerned).
- there will be no automatic entitlement to the tax relief on profits granted by the Revenue Commissioners who will continue to determine eligibility for tax reliefs for charities registered with the Charity Regulator.
- charities will be able to advocate for political causes that are directly related to the furtherance of their charitable purposes.
- however, the Act does not recognise the promotion of human rights as a charitable activity.
- all charities will have to submit an Annual Activity Report to the Charities Regulator. The Minister will consult with the sector on what the content of Annual Activity Reports should be.

- charities that are Companies Limited by Guarantee will continue to be bound by the requirements of Company law in relation to submitting audited accounts to the Companies Registration Office.
- companies Registration Office will automatically forward Annual Returns by charities that are companies to the Charity Regulator (to reduce dual reporting).
- charities that are not companies will face the following financial-reporting requirements:
 - organisations with income above a yet-to-be-prescribed threshold of up to a maximum of €500k per annum will be required to submit audited accounts to the Regulator.
 - charities with income less than the yet-to-be-prescribed-threshold may submit examined accounts (less demanding and expensive to produce).
 - charities with income/expenditure of less than €10,000 per annum will not be required to submit audited or examined accounts, but will have to include a summary of their finances in their Annual Activity Report.
- charities will have to show their charity name and number on collectors' garments and on collection boxes.
- similar general requirements will apply for all fundraisers/collectors whether they are collecting cash or non-cash (direct debits, standing orders etc) donations – and will include such things as the wearing of garments and the display of charity details.
- cash collection boxes will have to be sealed but the Regulator will have the discretion to make exceptions to the sealed-collection-box rule to enable those charities that offer fixed-price tokens to make change for donors.
- there will be a three step approach to the regulation of fundraising:
 - Garda permits will be required for all types of fundraising including non-cash collections.
 - requirements are set out for the conduct of both cash and non-cash collections.
 - details of fundraising activity and income will be required in the Annual Activity Report/Annual Returns
- the operational and administrative fundraising issues are to be regulated by means of agreed codes of practice to be developed with the sector (Irish Charities Tax Research Ltd recently developed a scheme for this in partnership with the Department of Community, Rural and Gaeltacht Affairs). If this approach proves ineffective the Minister has reserved the power to legislate on the issue. You can download details of the scheme at www.ictr.ie.
- a charity will be permitted to remunerate a trustee/s for providing a service for it - as long as that service does not relate to the performance of their duty as a Trustee.
- charities will now be able to indemnify their trustees out of charitable funds for any act done, or omitted from being done, in good faith and in the performance of his or her functions as a charity trustee.
- the High Court will be able to grant relief from personal liabilities for trustees where in the opinion of the court a trustee has acted in good faith and in line with their fiduciary responsibilities.

- there will be no requirement for foreign-based charities to have a registered place of business in Ireland prior to their registering with the Regulator.
- a Charity Appeals Tribunal will be established to enable organisations to challenge decisions made by the Regulator.

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