
STATUTORY RULES OF NORTHERN IRELAND

2011 No. 264

CHARITIES

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

Made - - - -

8th July 2011

Coming into operation

10th August 2011

The Department for Social Development makes the following regulations in exercise of the powers conferred by sections 35(6) and (7) and 179(5) of the Charities Act (Northern Ireland) 2008(1).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Charities (Interim Manager) Regulations (Northern Ireland) 2011 and shall come into operation on 10th August 2011.

(2) In these Regulations—

“the Act” means the Charities Act (Northern Ireland) 2008;

“interim manager” means a person appointed by order under section 33(1)(vii) of the Act to act as receiver and manager in respect of the property and affairs of a charity;

“the date of appointment” means the date on which an interim manager is appointed under the relevant order;

“the relevant charity” means the charity in respect of which an interim manager is appointed; and

“the relevant order” means the order by which an interim manager is appointed.

Security by interim manager

2. The Commission is authorised to require an interim manager to give security for the due discharge of functions imposed by, or by virtue of, the relevant order within such time and in such form as the Commission may specify.

Remuneration of interim manager

3.—(1) The Commission is authorised to determine the amount of an interim manager’s remuneration.

(1) 2008 c. 12 (N.I.)

(2) The remuneration of an interim manager shall be payable out of the income of the relevant charity.

(3) The Commission is authorised to disallow any amount of an interim manager's remuneration where, on the expiry of the time specified in the notice referred to in regulation 4(2) and after consideration of such representations, if any, as are duly made in response to such a notice, it is satisfied that the interim manager has failed in such manner as is set out in regulation 4(1)(a) or (b) and specified in such a notice.

Notice of failure to, and removal of, interim manager

4.—(1) Where it appears to the Commission that an interim manager has failed—

- (a) to give security within such time or in such form as the Commission has specified; or
- (b) to satisfactorily discharge any function imposed by, or by virtue of, the relevant order or by regulation 5,

and it wishes to consider exercising its powers under regulation 3(3) or paragraph (3), the Commission shall give the interim manager, whether in person or by post, a written notice complying with paragraph (2).

(2) A notice given to an interim manager under paragraph (1) shall inform that person of—

- (a) any failure under paragraph (1)(a) or (b) in respect of which the notice is issued;
- (b) the Commission's power under regulation 3(3) to authorise the disallowance of any amount of remuneration if satisfied as to any such failure;
- (c) the Commission's power under paragraph (3) to remove an interim manager if satisfied as to any such failure; and
- (d) an interim manager's right to make representations to the Commission in respect of any such alleged failure within such reasonable time as is specified in the notice.

(3) On the expiry of the time specified in the notice referred to in paragraph (2) and after consideration of such representations, if any, as are duly made in response to such a notice, the Commission may remove an interim manager where it is satisfied that that person has failed in such manner as is set out in paragraph (1)(a) or (b) and specified in such notice (whether or not it also exercises the power conferred by regulation 3(3)).

Reports by interim manager

5.—(1) This regulation makes provision in respect of the reports which are to be made by an interim manager to the Commission (and which, in addition to the matters which are required to be included by virtue of paragraphs (2) to (4), may also include particulars of any matter which, in the opinion of the interim manager, should be brought to the Commission's attention).

(2) An interim manager shall make a report to the Commission not later than three months after the date of appointment setting out—

- (a) the interim manager's estimate of the total value of the property of the relevant charity on, or shortly after, the date of appointment;
- (b) such information about the property and affairs of the relevant charity immediately prior to the date of appointment as the interim manager believes should be included in the report, notwithstanding that it may also be eventually included in a report under section 22 of the Act (general power to institute inquiries); and
- (c) the interim manager's strategy for discharging the functions conferred by, or by virtue of, the relevant order.

(3) Until the interim manager ceases to hold office as such, the interim manager shall make a report to the Commission not later than one month after each anniversary of the date of appointment setting out—

- (a) the interim manager's estimate of the total value of the property of the relevant charity on that anniversary of the date of appointment in respect of which the report is required to be made;
- (b) a summary of the discharge of the functions conferred by, or by virtue of, the relevant order during the twelve months ending with that anniversary; and
- (c) where there have been changes to the interim manager's strategy for discharging the functions conferred by, or by virtue of, the relevant order, as last set out in a report in accordance with paragraph (2)(c) or, as the case may be, this sub-paragraph, those changes.

(4) Subject to paragraph (5), an interim manager shall make a report to the Commission not later than three months after the date on which the interim manager ceases to hold office as such setting out—

- (a) the interim manager's estimate of the total value of the property of the relevant charity on that date; and
- (b) a summary of the discharge of the functions conferred by, or by virtue of, the relevant order during the period ending with that date and beginning with either—
 - (i) the date of appointment; or
 - (ii) if that date is more than twelve months before the date when the interim manager ceased to hold office as such, the day immediately after the last anniversary of the date of appointment.

(5) Paragraph (4) does not apply where an interim manager ceases to hold office one month or less after an anniversary of the date of appointment and a report has been made to the Commission in accordance with paragraph (3) in respect of that anniversary.

Sealed with the Official Seal of the Department for Social Development on 8th July 2011

(L.S.)

Maeve Walls
A senior officer of the Department for Social
Development

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of an interim manager appointed by order of the Charity Commission for Northern Ireland (“the Commission”) under section 33(1)(vii) of the Charities Act (Northern Ireland) 2008 (“the Act”).

Section 33 of the Act confers powers on the Commission to take a number of measures in order to act for the protection of charities. Those powers may, however, only be exercised following the institution of an inquiry under section 22 of the Act (general power to institute inquiries) and where the Commission is satisfied that, (a) there is or has been misconduct or mismanagement in the administration of the charity, or (b) it is necessary or desirable to act for the purpose of protecting the property of the charity, or securing a proper application for the purposes of the charity of that property, or of property coming to the charity.

Section 33(1)(vii) provides that the appointment of an interim manager must be in accordance with section 35 of the Act. Section 35 allows the Commission to include in the order of appointment, provision with respect to the functions to be discharged by the interim manager. It also gives the Department the power to make regulations with respect to the interim manager’s appointment and removal, remuneration and duty to submit reports to the Commission. The regulations may, in particular, authorise the Commission to require the interim manager to give security for the discharge of functions specified in the order of appointment, to determine the amount of the interim manager’s remuneration and to disallow any amount of remuneration in such circumstances as are specified in the regulations.

Regulation 1 provides for citation, commencement and interpretation of the Regulations.

Regulation 2 authorises the Commission to require an interim manager to give security for the due discharge of the functions specified in the order of appointment.

Regulation 3(1) authorises the Commission to determine the amount of an interim manager’s remuneration. Regulation 3(2) provides that the remuneration shall be payable out of the income of the charity in respect of which the appointment has been made. Regulation 3(3) authorises the Commission to disallow any amount of the remuneration in the circumstances prescribed by regulation 4.

Regulation 4 provides for removal from office or disallowance of remuneration where it appears to the Commission that the interim manager has failed to, (a) give security within the time specified, (b) satisfactorily discharge any function specified in the order of appointment, or (c) meet the reporting requirements specified in regulation 5. It also specifies the conditions which the Commission must meet before resorting to either course of action.

Regulation 5 requires the interim manager to make reports to the Commission and stipulates the timing, frequency and content appropriate in different circumstances.