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Arthur Cox has a long history of involvement in the community and voluntary sector in general, and with charities in particular.

Our core Charity Law Group comprises four lawyers from a variety of disciplines. They are assisted by other relevant specialists from our Property, Employment & Industrial Relations, Pensions, Technology, Intellectual Property, Tax, Litigation and Corporate and M&A Groups.

The fact that we have an office in Belfast means that clients have the benefit of a full one firm service where charity law issues involve both jurisdictions in Ireland.

Arthur Cox has considerable experience obtained over many years. We act for a number of Irish charities and a number of our partners and associates participate at board level with significant charitable bodies. As a result, we are aware of many of the practical issues which face charities ranging from day to day practical issues to technical issues such as trust questions, dealing with the Revenue, or considering the manner in which to become established.

Arthur Cox is a sustaining member of the Dublin chapter of the European Association for Philanthropy and Giving.

## Contact

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## ■ CHARITIES ACT 2009

The Charities Act 2009 is now on the statute books but its provisions have not yet been commenced. At this time therefore it is not clear exactly what steps must be taken by Charities in order to comply with the Act.

Nevertheless, there are a number of preparatory actions that can be taken to reduce the likely compliance burden once the Act and associated regulations are implemented. This Update sets out a suggested general “to do list” and “review list” to assist in this regard.

## To Do List

## 0-3 months

- Identify your “Charity Trustee(s)”\* and brief them on the new Charities Act 2009.
- Identify areas for new record keeping - retention of materials.
- Monitor developments.

## 3-12 months

- Review governing documents, assets and “board” / Charity Trustee structure.
- Discuss with accountants / advisers / board what changes, if any, necessary to financial records.
- Consider what, if any, changes are likely to be required to fundraising programme.
- Review protection for assets, Charity Trustees and employees and remuneration arrangements for any charity trustees who are paid.
- Consider amendments to governing documents / organisational structure regarding the above.

## 1-3 years

- Implement any proposed changes to governing documents and/or organisational structure.
- Implement any record keeping, governance and fundraising process changes.
- Align financial reporting with anticipated CRA requirements.

\* “Charity Trustee” includes:

- (a) in the case of a charitable organisation that is a company, the directors and other officers of the company, and
- (b) in the case of a charitable organisation that is a body corporate (other than a company) or an unincorporated body of persons, any officer of the body or any person for the time being performing the functions of an officer of the body, and references to a charity trustee of a charitable organisation shall be construed as including references to a trustee of a charitable trust.

## Review List

### Identifying your charity

- Identify Charity Trustees: Do they know their role? Are they properly appointed?
- Find governing documents: Are they accurate and consistent with what you do? Are revisions required? Revenue consent?
- Check Revenue and Approved Body status. If multiple CHY numbers, consider whether reorganisation is advisable or necessary.

### What does the charity own?

- What does the charity own and who owns it?
- Are deeds and custodian / trustee appointments up to date?
- Are funds reserved for more than 2 years? Why? Revenue consent?

### What records are kept?

- Charity Trustee minutes / Executive minutes / other records.
- Financial records: consider accounting advice and guidelines in light of €100k threshold.
- Are Charity Trustees paid as employees or for services? Revenue consent?
- What is “expense ratio” and how it compares to others?
- Fundraising records: See voluntary code of practice.

### How does the charity get money? (Fundraising / Trading / VAT)

- What fundraising activities do we participate in?
- Are we involved in trading? Revenue consent?
- Do we comply with the current voluntary code of practice?
- Is the charity an approved body? Should you be? Revenue application?

### Protections

- What insurances and indemnities are in place?
- Do assets need protecting from possible liabilities?

### Non CHY (International and other NFP)

- Do you fall within new definitions?
- Should you register with the CRA? If so, when?
- If international - what activities are regulated and what do you need to do?

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This document contains a general summary of recent developments and is not a complete or definitive statement of the law. Specific legal advice should be obtained before taking action based on the summary set out herein.

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