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PARLIAMENTARY REPORT

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CHARITIES (ANNUAL RETURN) REGULATIONS (NORTHERN IRELAND) 2014

The Charities (Annual Return) Regulations (Northern Ireland) 2014, which came into force on 1 April 2014, outline the information that charities operating in Northern Ireland and registered with the Charity Commission for Northern Ireland (CCNI) must provide in their interim annual report for the accounting period starting on or after 1 April 2014. Until now, charities in Northern Ireland have not been required to submit annual monitoring returns or accounts and reports to CCNI; however, with the start of compulsory registration of charities, annual reporting is gradually being introduced.

Also on 1 April 2014 the Charities (2008 Act) (Commencement No 5) Order (Northern Ireland) 2014 brought into operation provisions of the 2008 Act in relation to a range of matters:

i. Section 68(3) (annual reports), for the purpose only of giving effect to section 70(2);
ii. Section 70(2) (annual returns by charities), insofar as it is not already in operation;
iii. Section 71 (offences), insofar as it relates to section 70(2);
iv. Section 168 (manner of giving notice of charity meetings, etc);
v. Section 169(3) (manner of executing documents), except insofar as it relates to the official custodian;
vi. Section 170 (transfer and evidence of title to property vested in trustees); and
vii. Section 178 (restriction on institution of proceedings for certain offences), insofar as it is not already in operation.

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Full accounting and reporting regulations will not be published until 2015; during the interim period, charities will be allowed to continue submitting their accounts and reports in the format in which they currently prepare them. CCNI has published guidance on the registration process and on interim annual reporting; the latter explains the process and how to gather the necessary information. The Department for Social Development and CCNI expect to consult on the full accounting and reporting regulations later in 2014.

CHARITIES (EXCEPTION FROM REGISTRATION) (AMENDMENT) REGULATIONS 2014

The Charities (Exception from Registration) (Amendment) Regulations 2014 were laid before Parliament on 13 February 2014 and came into force on 31 March. The Regulations extend until 31 March 2021 the temporary exception granted to certain church charities with an annual income below £100,000 from the requirement under the Charities Act 2011 to be registered with the Charity Commission for England and Wales. The churches to which the continued exception applies are:

i. A church within the meaning of section 2 of the Baptist and Congregational Trusts Act 1951(1);
ii. A church affiliated to the Fellowship of Independent Evangelical Churches;
iii. A church that is a member of the General Assembly of Unitarian and Free Christian Churches;
iv. The Calvinistic Methodist or Presbyterian Church of Wales;
v. The Church of England;
vi. The Church in Wales;
vii. The Methodist Church;
viii. The Religious Society of Friends; and
ix. The United Reformed Church.

The extension was made partly because the Charity Commission would have been unable to cope with the resulting flood of new registrations had exception ended summarily on 31 March. However, the expectation is that this will be the last extension of excepted status and the likelihood is that registration will be phased in towards the end of the new exception period.

CHARITY DONOR BENEFITS

Under the current law, if a charity wants to give a donor (or people connected to a donor) a token of its appreciation, that token will count as a 'benefit'. It is

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unlikely that a church congregation would want to give a benefit to a donor but it is not beyond the bounds of possibility that a religious charity might wish to do so.

So long as the value of the benefit does not exceed certain limits, the donation will still qualify for Gift Aid. If, however, the benefit value exceeds those limits, the donation will *not* qualify. The donor benefit rules have been subject to considerable criticism on grounds of their complexity, and the Chancellor announced in the Budget that the Government is going to review the rules with a view to their simplification.

CHURCH OF ENGLAND (MISCELLANEOUS PROVISIONS) MEASURE 2014

The Church of England (Miscellaneous Provisions) Measure 2014 is the latest in a line of what might be described as 'housekeeping' legislation. Inter alia, the Measure:

i. Amends and clarifies section 25 of the Burial Act 1857 (Offence of removal of body from burial ground);
ii. Amends the Sharing of Church Buildings Act 1969, primarily by adding a long list of churches to that Act (set out in Schedule 3 to the Measure);
iii. Updates the powers of the Church Commissioners under the Episcopal Endowments and Stipends Measure 1943 to pay bishops' expenses and the stipends of suffragans and bishops' chaplains;
iv. Empowers the Church Commissioners to make investments in the derivatives market;
v. Amends the Parochial Church Councils (Powers) Measure 1956 to clarify the circumstances in which a parochial church council may enter into a paid contract of employment or other contract with one or more members of the council or one or more connected persons;
vi. Modernises the qualifications for appointment as a diocesan chancellor or Dean of the Arches;
vii. Empowers the two archbishops to grant a general permission to overseas clergy (perhaps surprisingly, the word used in the Measure is 'clergymen') to officiate as priest or deacon in his province;
viii. Provides a right of appeal against the findings contained in a report by a provincial tribunal under Part I or II of the Incumbents (Vacation of Benefices) Measure 1977;
ix. Amends the Patronage (Benefices) Measure 1986 to provide a special procedure for appointment of a priest-in-charge as incumbent;
x. Amends section 17 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 in relation to the conditions for a faculty for the demolition or partial demolition of a church;

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xi. Permits a cathedral chapter to invest endowment funds on a total return basis.

The Measure also makes it possible for the Lady Margaret's Chair of Divinity, annexed to a canonry at Christ Church, Oxford, to be held by a lay person. The same change was made in respect of the Regius Chair of Ecclesiastical History in 1995.

PLANNING, LISTED BUILDINGS AND CONSERVATION AREAS

The Enterprise and Regulatory Reform Act 2013 introduced a number of changes to the legal framework protecting heritage in England that are of relevance to those denominations that do not enjoy the ecclesiastical exemption from listed building consent. The changes were commenced on 6 April 2014.

Listed Building Heritage Partnership Agreements allow listed building consent to be granted for specified works of alteration or extension, but not demolition, to individual or groups of listed buildings covered by the agreement and for its duration. The effect is to allow works that would otherwise require a series of grants for listed building consent to be dealt with by a single consent mechanism, potentially covering a much longer period than a standard listed building consent.

The Act also provides for two new classes of consents: a Listed Building Consent Order made by the Secretary of State, which grants listed building consent in respect of works of any description for the alteration or extension (but not demolition) of listed buildings of any description in England, and a Local Listed Building Consent Order made by the local planning authority, which grants similar listed building consent for works in the authority's own area for the duration of the order.

The Act introduces a new Certificate of Lawfulness of Proposed Works. Though it is not obligatory to apply for a certificate (which is declaratory in nature), such a certificate will provide formal confirmation that the proposed works of alteration or extension (but not demolition) do not require listed building consent because they do not affect the building's character as one of special architectural or historic interest.

SAME-SEX MARRIAGE AND CIVIL PARTNERSHIP

England and Wales

In December the then Women and Equalities Minister, Maria Miller, announced that subject to Parliamentary approval the commencement date for same-sex weddings in England and Wales would be 29 March 2014. The Marriage

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(Same Sex Couples) Act 2013 (Commencement No 2 and Transitional Provision) Order 2014 brought into force section 3 of the Act, permitting notice of same-sex marriage to be given from 13 March. The Marriage of Same Sex Couples (Registration of Buildings and Appointment of Authorised Persons) Regulations 2014 also came into force on 13 March. They amend the Marriage Act 1949 in relation to the procedures for registering buildings within which same-sex marriages may take place and the appointment of authorised persons to be present at the solemnisation of marriages in registered buildings when no registrar is present. Subsequently, the Equality and Human Rights Commission published *The Marriage (Same Sex Couples) Act 2013: marriage and the law,*[1] in advance of the first marriages under the new legislation – which took place on Saturday 29 March.

Shortly after the period under review, on 26 June the Government announced its conclusions on the consultation on the future of civil partnerships, which had ended on 17 April. Given the lack of consensus among respondents on the way forward, ministers decided that the Government would not be making any changes to the existing law.

Scotland

The Marriage and Civil Partnership (Scotland) Act 2014 received Royal Assent on 12 March 2014 and the first group of provisions were commenced on 21 May.[2] The implementation timetable envisages that the bulk of the Act's provisions will come into force by the end of 2014, with the first same-sex marriages being possible around then. The Scottish Government has stated that it is too early to say precisely when in 2014 it will be possible for same-sex couples to give notice to marry but the existing maximum marriage notice period of three months will remain unchanged. Once all the provisions of the Act are in force, it will be possible for same-sex couples to have a civil marriage ceremony or a 'religious or belief' marriage ceremony where the religious or belief body concerned has opted in to solemnising same-sex marriage. The Act will also allow certain civil partners to change their civil partnerships into marriages.

Civil partnership will continue to be available to same-sex couples as an alternative to marriage and they will also have the option of a 'religious or belief' civil partnership where the religious or belief body has opted in to registration. The

1 Available at <http://www.equalityhumanrights.com/publication/marriage-same-sex-couples-act-2013-marriage-and-law>, accessed 29 May 2014. There is also a *Quick Guide*, last updated on 1 April.

2 Marriage and Civil Partnership (Scotland) Act 2014 (Commencement No 1) Order 2014, which brought into force section 7 (reset: abolition of defence), section 19 (marriage outside Scotland: evidence of dissolution of former civil partnership), section 20 (religious marriages: solemnisation by Church of Scotland deacons), section 22 (second marriage ceremony: form of endorsement), section 23 (sheriff court jurisdiction in relation to declarator of marriage), section 27 (dissolution of civil partnership: evidence) and section 32 (provision of certain information to district registrars).

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Government has stated that it intends to consult later in 2014 on the future of civil partnerships in Scotland, while making it clear that existing civil partnerships can remain and that there will be no obligation on existing civil partners to change their relationship to a marriage if they do not wish to do so.

Northern Ireland

In April, for the third time in eighteen months, the Northern Ireland Assembly rejected a motion by Sinn Féin calling for the introduction of same-sex marriage in the province.

POLITICAL ACTIVITY BY CHARITIES

The provisions of part 2 (non-party campaigning, etc) of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 come into effect from 19 September 2014. As noted previously, religious bodies and charities have expressed concern that the effect of the Act will be to impose unreasonable constraints on their ability to speak on such issues as poverty, arms limitation or overseas aid.

In February the Prime Minister promised a full review of the Act after the general election in 2015 and reiterated that it would apply only to third-party organisations or charities that spend money to procure the electoral success of a particular political party or candidate. However, misgivings persist and, pending the production of its comprehensive guidance, the Electoral Commission has produced a series of updates on aspects of the legislation:

i. Introduction to the rules (February 2014);
ii. Regulated activities (February 2014);
iii. Registering as a non-party campaigner (March 2014);
iv. Information gathered on non-party campaigner guidance (April 2014); and
v. Donations, permissibility and managing spending (May 2014).

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