



DÁIL ÉIREANN

AN BILLE CARTHANAS 2007 CHARITIES BILL 2007

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

AN BILLE CARTHANAS 2007 —ROGHCHOISTE

CHARITIES BILL 2007 —SELECT COMMITTEE

Leasuithe Amendments

SECTION 2

1. In page 9, subsection (1), to delete lines 4 and 5.
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.
2. In page 9, between lines 23 and 24, to insert the following:
“(a) a body established by or under statute or statutory instrument or a body which is wholly owned by such a body or by a Minister of the Government, or a body whose members or any of them are appointed by such a body or by a Minister of the Government.”
—Jack Wall.
3. In page 9, line 25, to delete “, candidate or cause” and substitute “or candidate”.
—Jack Wall.
4. In page 9, line 25, to delete “, candidate or cause,” and substitute “or a political candidate.”
—Michael Ring.
5. In page 9, between lines 35 and 36, to insert the following:
“(f) organisations under the control of a Minister including public bodies or state agencies or organisations the constitutions of which contain clauses that entitle a Minister to set the form of, or exercise control over, constitutions/Memos/Articles of association or nominate a controlling number of directors.”
—Michael Ring.
6. In page 10, subsection (1), between lines 2 and 3, to insert the following:
““personal connection” shall be construed in accordance with *subsection (2)*.”
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.
7. In page 10, subsection (2)(a), between lines 34 and 35, to insert the following:
“(iv) a person is connected with any person by whom he is employed under a contract of service.”
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.
8. In page 11, subsection (2)(b), line 2, to delete “section 157 of the Corporation Tax Act 1976” and substitute the following:
“section 11 of the Taxes Consolidation Act 1997”.
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

[SECTION 3]

SECTION 3

9. In page 11, subsection (1)(d), line 9, after “community” to insert the following:

“including the advancement of human rights and the promotion of equality or for advancing social or economic policy”.

—Jack Wall.

10. In page 11, between lines 11 and 12, to insert the following subsection:

“(3) A body which has charitable purposes and provides public benefit does not meet the charity test if it is or one of its purposes is to advance a political party or a political candidate.”.

—Jack Wall.

11. In page 11, subsection (5), line 26, after “concerned” to insert the following:

“, provided that for the purposes of this section, ‘religion’ shall not include any organisation or cult which in the opinion of the Authority is primarily economic in nature or employs oppressive psychological manipulation of its adherents”.

—Jack Wall.

12. In page 11, subsection (8), line 42, to delete “includes—” and substitute “shall include, but shall not be limited to—”.

—Michael Ring.

13. In page 12, subsection (8)(c), line 3, to delete “promotion” and substitute “advancement”.

—Michael Ring.

14. In page 12, subsection (8)(d), line 5, to delete “promotion” and substitute “advancement”.

—Michael Ring.

15. In page 12, subsection (8)(f), line 8, to delete “promotion” and substitute “advancement”.

—Michael Ring.

16. In page 12, subsection (8), between lines 10 and 11, to insert the following:

“(h) the advancement of the efficient and effective use of the property of charitable organisations.”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

17. In page 12, subsection (8), between lines 15 and 16, to insert the following:

“(k) the advancement of human rights, social inclusion, social justice and civic participation.”.

—Michael Ring.

SECTION 13

18. In page 14, subsection (1), lines 16 to 43 and in page 15, lines 1 to 3, to delete paragraphs (a) to (k) and substitute the following:

“(a) establish and maintain a register of charitable organisations,

[SECTION 13]

- (b) encourage, facilitate and monitor compliance by charities with the provisions of this Act, including by way of issuing (or as is considers appropriate approving) guidelines, codes of conduct, and model constitutional documents,
- (c) carry out investigations in accordance with this Act,
- (d) take remedial or protective action in relation to the findings of such investigations,
- (e) give information or advice, or to make proposals to the Minister on matters relating to the Authority's functions,
- (f) do any other thing consistent with its responsibilities under this Act."

—Michael Ring.

19. In page 14, subsection (1)(i), line 34, after "facilitate" to insert the following:

" , having due regard to the independence of charitable organisations".

—Jack Wall.

SECTION 17

20. In page 15, lines 30 to 32, to delete all words from and including "and" in line 30 down to and including "incurred" in line 32 and substitute "by the Authority".

—Michael Ring.

SECTION 26

21. In page 20, between lines 15 and 16, to insert the following subsection:

"(2) The Freedom of Information Act 1997 shall apply to the Authority."

—Jack Wall.

SECTION 27

22. In page 20, subsection (1), line 17, to delete "in" and substitute "relevant to".

—Jack Wall.

SECTION 31

23. In page 21, before section 31, to insert the following new section:

"Provision of information to relevant persons.

31.—(1) The Authority may provide a relevant person with such information in the possession of the Authority as may reasonably be required for the purpose of enabling the relevant person to perform his or her functions.

(2) In this section "relevant person" means —

(a) the Garda Síochána,

(b) the Revenue Commissioners, or

(c) any other person charged under any statute with —

(i) ensuring compliance with the provisions of any statute, or

[SECTION 31]

(ii) the detection, investigation or prosecution of any offence.”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

SECTION 32

24. In page 23, to delete subsection (6) and substitute the following:

“(6) In this section “foreign statutory body” means a person prescribed by regulations made by the Minister, in whom functions relating to charitable organisations or charitable trusts are vested under the law of a state other than the State.”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

SECTION 34

25. In page 24, subsection (4), line 2, to delete “effluxion” and substitute “efflux”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

SECTION 37

26. In page 25, subsection (1), line 38, after “section” to insert the following:

“and after consultation with the Revenue Commissioners”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

27. In page 25, after line 40, to insert the following subsection:

“(2) A once-off spontaneous collection to meet the needs of a specific community or personal tragedy or similar event which involves fundraising of not more than €50,000 over a period of not more than three months shall not require to be registered under this Act.”.

—Jack Wall.

28. In page 26, subsection (2), line 4, after “Minister” to insert the following:

“, provided that no fee shall be charged in respect of a small charitable organisation, being an organisation which comes within a threshold proscribed by the Minister”.

—Jack Wall.

29. In page 26, subsection (5), line 23, to delete paragraph (c) and substitute the following:

“(c) specify the names of the charity trustees and the addresses at which they ordinarily reside.”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

30. In page 26, subsection (5)(d), line 24, to delete “where it operates” and substitute “where the charitable organisation operates”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

31. In page 26, subsection (5)(h)(i), line 36, to delete “in respect of the period of 3 years” and substitute “during the 12 months”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

32. In page 26, subsection (5)(h)(ii), line 40, to delete “each year” and substitute the following:

“the period”.

[SECTION 37]

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

33. In page 27, subsection (5)(m)(i), line 18, to delete “3 years” and substitute “12 months”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

34. In page 27, subsection (5)(m)(ii), line 23, to delete “each year” and substitute “the period”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

35. In page 27, subsection (6), line 33, after “practicable” to insert “, and in any event not more than two months”.

—Jack Wall.

36. In page 28, subsection (9), line 21, to delete “until” and substitute “before”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

37. In page 28, subsection (10), line 31, to delete “until” and substitute “before”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

38. In page 28, subsection (11), line 33, to delete “*subsection (6)*” and substitute “this section”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

39. In page 29, subsection (14), line 8, to delete “during”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

40. In page 29, subsection (14)(a), line 9, to delete “the period” and substitute “during the period”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

41. In page 29, subsection (14)(b), line 11, to delete “that period” and substitute “during that period”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

42. In page 29, subsection (14)(b), line 12, to delete “that period” and substitute “the first-mentioned period”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

43. In page 29, subsection (15), line 16, to delete “registered”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

44. In page 29, between lines 18 and 19, to insert the following subsection:

“(16) The Authority shall make the register available for inspection by members of the public at all reasonable times at its principal office and shall also publish the register on the internet.”

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

SECTION 39

45. In page 30, subsection (1)(c), line 35, after “activities” to insert “whether in the State or elsewhere”.

—Jack Wall.

46. In page 31, subsection (10), line 40, to delete “until” and substitute “before”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

[SECTION 41]

SECTION 41

47. In page 32, between lines 12 and 13, to insert the following subsection:

“(2) A person who—

- (a) holds themselves or another person or a body (whether or not such a body is established under law or not) as a person or body,
- (b) implies that such persons or such body, or
- (c) in respect of such persons or such body a reasonable presumption can be made that they or any of them are persons or a body,

are acting or have acted in furtherance of charitable purposes, whether or not the word “charity” or any derivation of same is used in connection with such person or body, but where words and or expressions are used by them connoting or usually associated with charitable purposes or with appeals for such purposes, and, where such persons or body as the case may be has not been registered under this Act and where the Authority is satisfied on the balance of probabilities that such persons or body are not acting in furtherance of charitable purposes, such persons or body shall be guilty of an offence.”.

—Michael Ring.

48. In page 32, subsection (2), line 14, after “as” to insert “an “Irish Registered Charity”,”.

—Jack Wall.

49. In page 32, subsection (2), line 15, after “Ireland” ” to insert “or any other similar phrase”.

—Jack Wall.

SECTION 42

50. In page 33, before section 42, to insert the following new section:

“Consultation.

42.—The Minister shall consult with charities —

- (a) prior to the making of Regulations pursuant to or in relation to *sections 42 to 46*, and
- (b) on the operation of *sections 42 to 46*.”.

—Michael Ring.

51. In page 34, subsection (7), lines 19 and 20, to delete all words from and including “, being” in line 19 down to and including “kept” in line 20 and substitute the following:

“(being a book of account required to be kept under this section)”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

SECTION 43

52. In page 35, subsection (1), line 4, after “Minister” to insert “following consultation with the sector”.

—Jack Wall.

[SECTION 43]

- 53.** In page 35, subsection (3)(a), line 22, after “organisation” to insert the following:

“, and such an account shall be reviewed by the charitable organisation’s accountants but need not be audited unless the Authority so directs”.

—Jack Wall.

SECTION 46

- 54.** In page 38, subsection (3), line 10, to delete “*subsection (5)*” and substitute “*subsection (4)*”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

SECTION 50

- 55.** In page 40, subsection (1), line 31, to delete “or had reasonable grounds for knowing”.

—Michael Ring.

SECTION 52

- 56.** In page 41, lines 12 to 16, to delete subsection (1) and substitute the following:

“52.—(1) Where, in the course of, and by virtue of, carrying out his or her duties in respect of the charity, a relevant person obtains information that leads him or her to form the opinion that there is reasonable cause to believe that a material contravention of the Act of 2001 (other than section 8, 12 to 15, 49(1) or 52(8) of that Act) regarding the resources of the charitable organisation concerned has occurred, or is occurring, the relevant person shall notify that opinion in writing to the Authority as soon as practicable and provide details of the grounds on which he or she formed that opinion.”.

—Jack Wall.

SECTION 58

- 57.** In page 44, subsection (1), line 19, to delete “or agent of a charitable organisation” and substitute “or relevant person”.

—Jack Wall.

- 58.** In page 45, subsection (6), line 19, after “organisation” to insert “an auctioneer,”.

—Jack Wall.

- 59.** In page 45, to delete lines 25 to 30 and substitute the following:

“ “charity trustee” includes, in relation to a charitable organisation, a person who was, but is no longer, a charity trustee of the charitable organisation.”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

SECTION 59

- 60.** In page 46, subsection (3)(b), to delete line 13 and substitute the following:

“(vii) the Director of Public Prosecutions,

[SECTION 59]

or”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

SECTION 61

61. In page 47, subsection (2)(b), line 1, to delete “that”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

62. In page 47, subsection (2)(c), line 3, to delete “that”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

63. In page 47, subsection (2)(d), line 6, to delete “that”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

SECTION 63

64. In page 48, subsection (1), to delete paragraph (a), and substitute the following:

“(a) for the purpose of detecting, investigating or prosecuting an offence,”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

SECTION 66

65. In page 49, subsection (1), line 32, to delete “*section 42, 44, 45, 46 or 47*” and substitute “*section 42, 43, 44, 45 or 46*”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

SECTION 67

66. In page 51, subsection (4), to delete lines 8 and 9.

—Jack Wall.

SECTION 70

67. In page 54, subsection (1), line 9, after “public” to insert the following:

“, unless the Tribunal decides, where it considers that in the particular circumstances of a case it is appropriate to do so, to conduct proceedings in private”.

—Jack Wall.

SECTION 81

68. In page 57, before section 81, but in Part 7, to insert the following new section:

“Permits.

81.—(1) It is an offence for a charity to conduct public fundraising without holding a valid permit.

(2) The form and operation of the permit system shall be determined by the consultative panel provided for in *section 34 (1)*.”

—Michael Ring.

69. In page 60, line 5, to delete “shall” and substitute “may”.

—Jack Wall.

[SECTION 81]

70. In page 60, between lines 8 and 9, to insert the following:

“(2) The Chief Superintendent concerned may refuse an Application, or revoke a non-cash collection permit where he is of the opinion that collectors on behalf of the Applicant have previously, or are likely to, so conduct themselves, whether by way of harassment, intimidation, or assertive collecting as to be likely to give rise to complaints from members of the public.”.

—Jack Wall.

SECTION 82

71. In page 62, between lines 35 and 36, to insert the following:

“(a) the holder of a permit shall report to the relevant Chief Superintendent as to whether and to what extent the permit was availed of during the time permitted, and where a permit was not, or not fully, availed of, the Chief Superintendent may take that matter into account in determining whether to issue a further permit to the person concerned and in determining the duration of the permit;”.

—Jack Wall.

SECTION 85

72. In page 64, subsection (1), line 4, to delete “may” and substitute “shall”.

—Jack Wall.

SCHEDULE 1

73. In page 65, paragraph 2, between lines 10 and 11, to insert the following:

“(3) One of the 9 Members of the Authority referred to in *subparagraph (1)* shall be a full time employee of a charitable organisation.”.

—Jack Wall.

74. In page 65, paragraph 2(7), line 27, to delete “effluxion” and substitute “efflux”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

75. In page 66, paragraph 4(2), line 26, to delete “*paragraph 9*” and substitute “*paragraph 8*”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.