



DÁIL ÉIREANN

**AN BILLE CARTHANAS 2007
CHARITIES BILL 2007**

**LEASUITHE TUARASCÁLA
REPORT AMENDMENTS**

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AN BILLE CARTHANAS 2007 —AN TUARASCÁIL

CHARITIES BILL 2007 —REPORT

Leasuithe Amendments

1. In page 8, between lines 6 and 7, to insert the following:

““body” includes an individual;”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

2. In page 8, line 12, to delete “that applies” and substitute the following:

“that, under its constitution, is required to apply”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

3. In page 8, line 24, to delete “paid or”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

4. In page 9, between lines 20 and 21, to insert the following:

““EEA Agreement” has the same meaning as it has in the European Communities (Amendment) Act 1993;

“EEA state” means—

(a) a member state of the European Communities (other than the State), or

(b) a state (other than a member state of the European Communities) that is a contracting party to the EEA Agreement.

“establishment day” shall be construed in accordance with *section 11*;”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

5. In page 9, between lines 21 and 22, to insert the following:

“(a) A body which is part of the executive branch of Government;”.

—Jack Wall.

6. In page 9, to delete lines 22 and 23 and substitute the following:

“(a) a political party, or a body that promotes a political party or candidate,

(b) a body that promotes a political cause, unless the promotion of that cause relates directly to the advancement of the charitable purposes of the body;”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

7. In page 9, line 23, to delete “, candidate or cause” and substitute “or candidate”.

—Jack Wall.

8. In page 9, between lines 30 and 31, to insert the following:

“(iii) contrary to public policy.”

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

9. In page 9, line 31, after “activities,” to insert “whether in the State or elsewhere.”

—Jack Wall.

10. In page 9, between lines 33 and 34, 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.

11. In page 10, between lines 2 and 3, to insert the following:

““prescribed” means prescribed by regulations made by the Minister;”

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

12. In page 10, to delete lines 18 and 19 and substitute the following:

““registered charitable organisation” means—

(a) a charitable organisation that is registered in the register, or

(b) a charitable organisation that, by virtue of *section 39**, is deemed to be registered in the register;”

[* *This is the appropriate reference if amendment 44 is accepted*]

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

13. In page 10, line 35, to delete “he” and substitute “he or she”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

14. In page 11, 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.

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

“(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.

16. In page 11, to delete lines 21 and 22 and substitute the following:

“(4) It shall be presumed, unless the contrary is proved, that a gift for the advancement of religion is of public benefit.

(5) The Authority shall not make a determination that a gift for the advancement of religion is not of public benefit without the consent of the Attorney General.”

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

17. In page 11, 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.

18. In page 11, between lines 40 and 41, to insert the following:

“(8) There shall be no appeal to the Tribunal from a determination of the Authority to which *subsection (5)** applies.”

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

[* *This is the appropriate reference if amendment 16 is accepted.*]

19. In page 12, lines 3 and 4, to delete “in the community”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

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

“(h) the advancement of environmental sustainability;”

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

21. In page 12, between lines 17 and 18, to insert the following:

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

—Michael Ring.

22. In page 13, between lines 3 and 4, to insert the following:

“Act not to apply to certain trusts.

8.—This Act shall not apply to a trust the only property of which consists of—

(a) shares in a qualifying company established for the purposes of section 110 of the Taxes Consolidation Act 1997,

(b) shares in a company whose business consists solely of the leasing of plant and machinery, or

(c) dividends paid in respect of such shares that are not kept by the trust for more than 6 months.”

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

23. In page 13, line 27, to delete “5” and substitute “10”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

24. In page 13, to delete lines 45 to 48.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

25. In page 14, to delete lines 18 to 41 and in page 15, to delete lines 1 to 7 and substitute the following:

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

(b) to encourage, facilitate and monitor compliance by charities with the provisions of this Act, including by way of issuing (or as it considers appropriate approving) guidelines, codes of conduct, and model constitutional documents,

(c) to carry out investigations in accordance with this Act,

- (d) to take remedial or protective action in relation to the findings of such investigations,
- (e) to give information or advice, or to make proposals to the Minister on matters relating to the Authority's functions,
- (f) to do any other thing consistent with its responsibilities under this Act.”
—Michael Ring.

26. In page 14, line 37, to delete “of charitable trusts and the property”.
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

27. In page 18, line 44, to delete “2001” and substitute “2007”.
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

28. In page 18, line 47, to delete “1973 to 2001” and substitute “1973 to 2005”.
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

29. In page 18, line 47, to delete “1977 to 2001” and substitute “1977 to 2007”.
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

30. In page 26, between lines 18 and 19, to insert the following:

“(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.

31. In page 26, line 22, 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.

32. In page 26, line 28, to delete “A charitable organisation” and substitute “Subject to *section 39**, a charitable organisation”.
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

[* *This is the appropriate amendment if amendment 44 is accepted.*]

33. In page 26, to delete lines 39 and 40 and substitute the following:

“(b) in the case of an application by, or on behalf of, a charitable organisation that—

(i) is established in the State,

(ii) is established in a state (other than an EEA state), or

(iii) is established in an EEA state and that has a principal place of business in the State,

specify the name of the charitable organisation and its principal place of business in the State,

(c) in the case of an application by, or on behalf of, a charitable organisation that—

(i) is established in an EEA state, and

- (ii) does not have a principal place of business in the State,
specify the name of the charitable organisation and its principal place of
business in that EEA state,”
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

34. In page 28, to delete lines 6 and 7 and substitute the following:

- “(o) contain such other information (if any)—
- (i) as the Authority may reasonably require to enable it to perform its
functions under this Act, and
- (ii) as may be prescribed by regulations made by the Minister, and”
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

35. In page 28, to delete lines 9 to 11 and substitute the following:

- “(6) Subject to *subsections (7)*, (9) and (10) and section 39***, the Authority
may, as soon as practicable after it receives an application in accordance with this
section, grant the application and enter in the register—”
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

[* *This is the appropriate reference if amendment 40 is accepted.*

** *This is the appropriate reference if amendment 44 is accepted.*]

36. In page 28, line 9, after “practicable” to insert “, and in any event not more
than two months”.

—Jack Wall.

37. In page 28, to delete lines 12 and 13 and substitute the following:

- “(a) in the case of a charitable organisation that—
- (i) is established in the State,
- (ii) is established in a state (other than an EEA state), or
- (iii) is established in an EEA state and that has a principal place of business
in the State,
the name of the charitable organisation, its principal place of business in
the State,
- (b) in the case of a charitable organisation that—
- (i) is established in an EEA state, and
- (ii) does not have a principal place of business in the State,
the name of the charitable organisation and its principal place of business
in that EEA state,”
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

38. In page 28, line 14, to delete “premises” and substitute “premises (if any)”
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

39. In page 28, to delete lines 24 to 26 and substitute the following:

“and a charitable organisation shall stand registered for the purposes of this Act upon the performance by the Authority of its functions under this subsection in relation to the charitable organisation.”

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

40. In page 28, between lines 26 and 27, to insert the following:

“(7) The Authority shall refuse an application under this section unless it is satisfied that the applicant is a charitable organisation.

(8) Where the Authority makes a decision to grant an application under this section, it shall, as soon as may be thereafter, notify the applicant in writing of the decision.

(9) Where the Authority makes a decision to refuse an application under this section, it shall, as soon as may be thereafter, notify the applicant in writing of—

(a) the decision and the reasons for the decision, and

(b) the entitlement to appeal the decision under *section 42(1)**.”

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

[* *This is the appropriate reference if amendment 56 is accepted.*]

41. In page 28, line 29, to delete “charitable trust” and substitute “charitable organisation”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

42. In page 29, to delete lines 14 to 45.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

43. In page 29, after line 48, to insert the following:

“(17) The Authority shall, as soon as may be after the registration by it in the register of a charitable organisation that is a company, notify the registrar of companies in writing of such registration.”

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

44. In page 29, after line 48, to insert the following:

“Certain charitable organisations deemed to be registered for purposes of Act.

39.—(1) A charitable organisation in respect of which—

(a) there was, immediately before the commencement of *section 38*, an entitlement to an exemption under *section 207* or *section 208* of the Taxes Consolidation Act 1997,

(b) the Revenue Commissioners had issued a number (commonly referred to as a “CHY number”) for the purposes of such exemption,

shall, subject to *section 41**, be deemed to be registered in the register for so long only as there continues to be an entitlement to such exemption.

(2) The Revenue Commissioners shall, in respect of a charitable organisation to which *subsection (1)* applies, provide the Authority with all such information relating to the charitable organisation as—

(a) the Authority requests, and

(b) is in its possession or procurement.

(3) The Authority may require a charitable organisation to which *subsection (1)* applies to provide the Authority with all or any of the information that that charitable organisation would be required to so provide if it were an applicant under *section 38*.

(4) A charitable organisation to which *subsection (1)* applies shall pay to the Authority such fee (if any) as may be determined by the Authority sufficient only to defray the costs incurred by the Authority in the performance of functions in relation to that charitable organisation under this section.

(5) The Authority shall, as soon as practicable after receiving information under *subsection (2)* or *(3)* in respect of a charitable organisation enter in the register—

(a) in the case of a charitable organisation that—

(i) is established in the State,

(ii) is established in a state (other than an EEA state), or

(iii) is established in an EEA state and that has a principal place of business in the State,

the name of the charitable organisation, its principal place of business in the State,

(b) in the case of a charitable organisation that—

(i) is established in an EEA state, and

(ii) does not have a principal place of business in the State,

the name of the charitable organisation and its principal place of business in that EEA state,

(c) the address of each premises in the State at which it operates or carries on its activities,

(d) the names of the charity trustees,

(e) a number from which it will be possible to identify the charitable organisation (in this Act also referred to as the “registration number”),

(f) the objects of the charitable organisation or charitable trust concerned, and

(g) such other particulars as the Authority considers appropriate.”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

[* *This is the appropriate reference if amendment 55 is accepted.*]

45. In page 29, after line 48, to insert the following:

“Offence for unregistered charitable organisation to carry on activities in State.

40.—(1) Any person who—

(a) advertises on behalf of, or causes another person to advertise on behalf of, a charitable organisation that is not registered,

(b) invites, or causes another person to invite, members of the public to give money or property to a charitable organisation that is not registered, or

(c) accepts, or causes another person to accept, a gift of money or other property on behalf of a charitable organisation that is not registered,

shall be guilty of an offence.

(2) A charitable organisation that is a body corporate and is not registered shall be guilty of an offence if it—

- (a) advertises, or causes another person to advertise on its behalf,
- (b) invites, or causes another person to invite, members of the public to give money or other property to it, or
- (c) accepts, or causes another person to accept, a gift of money or property on its behalf.

(3) This section shall not apply in respect of a charitable organisation to which *subsection (4) of section 38* applies—

- (a) during the period referred to in that subsection, or
- (b) where the organisation has made an application under that subsection, during that period and any further period beginning on the expiration of the first-mentioned period and ending when the Authority notifies the charity trustees in writing of its decision in relation to the application referred to in that subsection.

(4) The charity trustees of a charitable organisation in respect of which there is a contravention of this section shall each be guilty of an offence.”

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

46. In page 31, lines 1 and 2, to delete all words from and including “refuses” in line 1 down to and including “or” in line 2.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

47. In page 31, between lines 17 and 18, to insert the following:

“(c) contrary to public policy,”

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

48. In page 31, line 18, after “activities,” to insert “whether in the State or elsewhere,”

—Jack Wall.

49. In page 31, to delete lines 28 to 36.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

50. In page 31, line 38, to delete “has ceased to be” and substitute “is not”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

51. In page 32, to delete lines 1 to 6.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

52. In page 32, lines 13 and 14, to delete all words from and including “If” in line 13 down to and including “or (8),” in line 14 and substitute the following:

“If, upon an application under *subsection (8)*, the High Court”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

53. In page 32, between lines 18 and 19, to insert the following:

“(10) If a registered charitable organisation that is a body corporate is convicted on indictment of an offence, the Authority may remove from the register all of the information entered in relation to that organisation, and that organisation shall, thereupon, cease to be registered.

(11) Where, in relation to a charitable organisation, the Authority is satisfied that there has been a contravention of—

- (a) *section 43, 44, 45 or 47*, or
- (b) a direction under *section 45 or 46*,

the Authority may remove from the register all of the information entered in relation to that organisation, and that organisation shall, thereupon, cease to be registered.

(12) If a registered charitable organisation fails to comply with a direction of the Authority under *section 48**, the Authority may remove from the register all of the information entered in relation to that organisation, and that organisation shall, thereupon, cease to be registered.”

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

[* *This is the appropriate reference if amendment 78 is accepted.*]

54. In page 32, line 20, to delete “*subsection (7) or (8)*” and substitute “*subsection (8) or (10)*”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

55. In page 32, between lines 29 and 30, to insert the following:

“Determination that charitable organisation to which *section 39** applies no longer deemed to be registered.

41.—(1) Where the Authority, after consultation with the Garda Síochána, is of opinion that a body that is deemed to be registered in the register by virtue of *section 39** is or has become an excluded body by virtue of its promoting purposes that are—

- (a) unlawful,
- (b) contrary to public morality,
- (c) contrary to public policy,
- (d) in support of terrorism or terrorist activities, or
- (e) for the benefit of an organisation, membership of which is unlawful,

it shall by notice in writing inform the body that it is no longer deemed to be so registered.

(2) Where the name of a charitable organisation that is deemed to be registered in the register by virtue of *section 39** is changed in contravention of *section 39(2)**, the Authority shall by notice in writing inform the charitable organisation that it is no longer deemed to be so registered.

(3) If a body corporate that is deemed to be registered in the register by virtue of *section 39** is convicted on indictment of an offence, the Authority may, by notice in writing, inform the body that it is no longer deemed to be so registered.

(4) Where, in relation to a charitable organisation that is deemed to be registered in the register by virtue of *section 39**, the Authority is satisfied that there has been a contravention of—

(a) *section 43, 44, 45 or 47*, or

(b) a direction under *section 45 or 46*,

the Authority may by notice in writing, inform the charitable organisation that it is no longer deemed to be so registered.

(5) If a charitable organisation that is deemed to be registered in the register by virtue of *section 39** fails to comply with—

(a) a requirement of the Authority under *section 39(3)**, or

(b) a direction of the Authority under *section 48***,

the Authority may by notice in writing, inform the charitable organisation that it is no longer deemed to be so registered.

(6) Upon the service of a notice under this section, the body to whom it applies shall cease to be registered in the register.

(7) Where the Authority is of opinion that a body that is deemed to be registered in the register by virtue of *section 39** is not a charitable organisation, it shall apply to the High Court for a declaration that the body is not a charitable organisation.

(8) If the High Court, upon an application under *subsection (7)*, grants a declaration that the body in respect of which the application is made is not a charitable organisation, the body shall cease to be deemed to be registered in the register.

(9) If a charity trustee of a body that is deemed to be registered in the register by virtue of *section 39** ceases to be qualified for the position of charity trustee by virtue of *section 49*, the Authority may apply to the High Court for an order authorising the Authority to declare that the body is no longer deemed to be so registered, and, upon such an application, the High Court may make such an order if it considers it appropriate in all of the circumstances.

(10) Upon the making of a declaration pursuant to an order under *subsection (9)*, the body to which the declaration applies shall cease to be deemed to be registered in the register.

(11) A body to which a declaration referred to in *subsection (8)*, or a declaration pursuant to an order under *subsection (9)*, applies shall not, before the expiration of one year, or such shorter period as the Minister may determine, from the date of the declaration be eligible to apply to be registered, and the Authority shall not, before such expiration, perform any functions in relation to that organisation under *section 38(6)*.

(12) Where, in accordance with this section, a body ceases to be deemed to be registered in the register, the Authority shall—

(a) subject to *paragraph (b)*, remove any information in the register relating to the body, and

(b) enter in the register a statement that the body has ceased to be deemed to be a registered charitable organisation and a statement of the reasons therefor.”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

[* *This is the appropriate reference if amendment 44 is accepted.*

** *This is the appropriate reference if amendment 78 is accepted.*]

56. In page 32, to delete lines 30 to 44 and substitute the following:

“Appeal to Tribunal
against decision of
Authority.

42.—(1) A person whose application under *section 38* is refused by the Authority may appeal the refusal to the Tribunal, not later than 21 days, or such longer period as the Tribunal may, for good and sufficient reason, determine, after service on the person of a notification in writing of the refusal by the Authority.

(2) A person who has been removed from the register in accordance with *subsection (1), (2), (10)* or (11)* of section 40* may appeal the decision to remove the person from the register, not later than 21 days, or such longer period as the Tribunal may for good and sufficient reason determine, after service on the person of a notification in writing of the decision by the Authority.

(3) A body that, in accordance with *subsection (1) or (2) of section 41***, is no longer deemed to be registered may appeal the notice referred to in that subsection, not later than 21 days, or such longer period as the Tribunal may for good and sufficient reason determine, after service on the person of the notice.

(4) A body that, in accordance with *subsection (7) or (8) of section 41***, is no longer deemed to be registered may appeal the notice referred to in that subsection, not later than 21 days, or such longer period as the Tribunal may for good and sufficient reason determine, after service on the person of the notice.

(5) The Minister may appeal a decision of the Authority to register a person under *section 38*, not later than 21 days, or such longer period as the Tribunal may, for good and sufficient reason, determine after the person is so registered.

(6) Upon an appeal under *subsection (1)*, the Tribunal may make a determination

- (a) requiring the Authority to register the appellant in the register, or
- (b) affirming the decision of the Authority.

(7) Upon an appeal under *subsection (2)*, the Tribunal may make a determination

- (a) requiring the Authority to restore the appellant to the register,
- (b) requiring the Authority to restore the appellant to the register subject to such conditions as the Tribunal may specify, or
- (c) affirming the decision of the Authority.

(8) Upon an appeal under *subsection (3) or (4)*, the Tribunal may—

- (a) revoke the notice under *section 41***,
- (b) revoke the notice under *section 41*** subject to such conditions as the Tribunal may specify, or
- (c) affirm the decision of the Authority.

(9) Upon an appeal under *subsection (5)*, the Tribunal may make a determination

- (a) granting the relief sought by the Minister, or
- (b) affirming the decision of the Authority.

(10) The Authority shall comply with a determination of the Tribunal under this section.”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

[* *These are the appropriate references if amendment 53 is accepted.*

** *These are the appropriate references if amendment 55 is accepted.*]

57. In page 32, to delete lines 47 to 50 and substitute the following:

“(2) A body (other than a registered charitable organisation) that, in any notice, advertisement, promotional literature or any other published material, describes itself or its activities in such terms as would cause members of the public to reasonably believe that it is a charitable organisation shall, subject to *subsection (6)*, be guilty of an offence.”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

58. In page 32, line 48, after “as” to insert “an “Irish Registered Charity””.

—Jack Wall.

59. In page 32, line 49, after “Ireland” ” to insert “or any other similar phrase”.

—Jack Wall.

60. In page 33, between lines 6 and 7, to insert the following:

“(5) A person or body who—

(a) holds themselves or another person or body (whether or not such a body is established under law or not),

(b) implies that such persons or such body,

is acting or has acted in furtherance of charitable purposes as defined in this Act, whether or not the word “charity” or any derivation of same is used in connection with such person or body, without having been registered under this Act shall be guilty of an offence where the Authority is satisfied, on the balance of probabilities, that such persons or body are not acting in furtherance of any such charitable purposes.”.

—Michael Ring.

61. In page 33, to delete lines 14 to 16 and substitute the following:

“(6) It shall be a defence to proceedings for an offence under *subsection (3)* for the defendant to prove that—”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

62. In page 33, line 24, to delete “out” and substitute “on”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

63. In page 33, to delete lines 26 and 27 and substitute the following:

“(e) the notice, advertisement, promotional literature or other published material containing the description of which the offence is alleged to consist also contains a statement as to its place of establishment.”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

64. In page 35, line 22, to delete “of a requirement”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

65. In page 35, line 24, to delete “person” and substitute “person (other than the defendant)”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

66. In page 35, line 25, to delete “that requirement” and substitute “this section”.
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

67. In page 36, line 11, to delete “the contravention of a requirement under this section” and substitute “a contravention of this section”.
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

68. In page 36, between lines 17 and 18, to insert the following:

“Annual returns
under Companies
Acts.

45.—The registrar of companies shall, as soon as practicable after receiving the annual return of a company in respect of which it has received a notification under *section 38(17)**, give a copy of that annual return and copies of all documents annexed to the annual return to the Authority.”

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

[* *This is the appropriate reference if amendment 43 is accepted.*]

69. In page 36, lines 21 to 23, to delete all words from and including “person” in line 21 down to and including “auditor,” in line 23 and substitute “qualified person”.
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

70. In page 36, line 31, to delete “exceeds €100,000” and substitute “exceeds such amount as may be prescribed”.
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

71. In page 36, between lines 31 and 32, to insert the following:

“(2) The Minister shall not prescribe an amount under *subsection (1)* greater than €500,000.”

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

72. In page 36, line 40, to delete “a person referred to in *subsection (1)*” and substitute “a qualified person”.
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

73. In page 36, line 46, to delete “a person referred to in *subsection (1)*” and substitute “a qualified person”.
—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

74. In page 37, to delete lines 1 to 7 and substitute the following:

“(4) Where there has been a contravention of *subsection (1)* or the Authority is not satisfied with the manner in which the accounts of a charitable organisation to which that subsection applies have been audited, the Authority may appoint such qualified person as it considers appropriate to audit the accounts concerned.

(5) Where there has been a contravention of *subsection (2)* or the Authority is not satisfied with the manner in which the accounts of a charitable organisation to which that subsection applies have been examined or audited, as the case may be, the Authority may appoint such qualified person as it considers appropriate to audit the accounts concerned.”

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

75. In page 37, between lines 42 and 43, to insert the following:

“(13) In this section “qualified person” means—

- (a) a person who, in accordance with section 187 of the Companies Act 1990, is qualified to be appointed as a company auditor, or
- (b) in relation to a charitable organisation that—
 - (i) is established in an EEA state, and
 - (ii) does not have a principal place of business in the State,

a person who is qualified under the law of that EEA state to perform functions the same as or similar to those performable in the State by a person referred to in *paragraph (a)*.”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

76. In page 38, to delete lines 36 and 37 and substitute the following:

“(3) The following shall be attached to an annual report submitted by a charitable organisation (other than one that is required to annex its accounts to the annual return made by it to the registrar of companies under the Companies Acts) in accordance with this section:”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

77. In page 39, to delete lines 3 to 11 and substitute the following:

“(4) (a) A copy of the accounts prepared by a charitable organisation in accordance with the Companies Acts shall, in respect of the financial year concerned, be attached to an annual report submitted by that charitable organisation in accordance with this section.

(b) This subsection applies to a charitable organisation that—

- (i) is a company, and
- (ii) is not required to annex its accounts to the annual return made by it to the registrar of companies under the Companies Acts.”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

78. In page 39, between lines 19 and 20, to insert the following:

“Requirement to provide information. 48.—(1) The Authority may, by direction in writing, require a charitable organisation to provide the Authority with such information as it may reasonably require to enable it to perform its functions.

(2) A charitable organisation shall comply with a direction under this section.”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

79. In page 41, to delete lines 39 to 43 and substitute the following:

“53.—(1) Where, in the course of, and by virtue of the carrying out of, his or her duties in relation to a charitable organisation, information comes into the possession of a relevant person that causes him or her to form the opinion that there are reasonable grounds for believing that an offence under the Act of 2001 has been or is being committed, the relevant person shall, as soon as may be, notify the Authority in writing of that opinion and provide the Authority with a report in writing of the particulars of the grounds upon which the opinion was formed.”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

80. In page 49, line 39, to delete “proved” and substitute “shown”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

81. In page 49, line 40, to delete “admissible in”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

82. In page 51, to delete lines 28 and 29.

—Jack Wall.

83. In page 54, line 30, 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.

84. In page 58, between lines 13 and 14, to insert the following:

“Permission to enter into certain agreements with charity trustees or connected persons.

82.—(1) A charitable organisation may enter into an agreement (in this section referred to as an “agreement”) with a relevant person for the provision by the relevant person of a service to, or on behalf of, the charitable organisation in consideration of the payment to the relevant person out of the property of the charitable organisation of such sum or sums as may be specified in the agreement or as may be determined in accordance with the agreement.

(2) An agreement shall be in writing.

(3) Any sum or sums payable to a relevant person under an agreement shall not exceed what is reasonable and proportionate having regard to the service provided by the relevant person pursuant to the agreement.

(4) Subject to *subsection (5)*, a charitable organisation shall not enter into an agreement unless the charity trustees of the charitable organisation, other than any charity trustee who—

(a) will provide a service under the agreement,

(b) provides a service under an agreement other than the agreement referred to in *paragraph (a)*,

(c) is in receipt of remuneration out of the property of the charitable organisation other than in accordance with an agreement, or

(d) has a personal connection with a person who—

(i) will provide a service under the agreement,

(ii) provides a service under an agreement other than an agreement referred to in *paragraph (a)* or *subparagraph (i)*, or

(iii) is in receipt of remuneration out of the property of the charitable organisation other than in accordance with an agreement,

are satisfied that the agreement would be in the best interests of the charitable organisation.

(5) Where, in relation to a charitable organisation, there is only one charity trustee, the charitable organisation shall not enter into an agreement unless—

(a) the charity trustee is satisfied that the agreement would be in the best interests of the charitable organisation, and

(b) the Authority gives its approval to the charitable organisation entering into the agreement.

(6) A charitable organisation shall not enter into an agreement in contravention of the provisions of the constitution of the charitable organisation.

(7) The Authority may give directions or issue guidelines in relation to the making of agreements to which this section applies.

(8) A person to whom a direction under this section applies shall comply with that direction.

(9) A charitable organisation shall, before entering into an agreement, have regard to any guidelines issued by the Authority under this section.

(10) This section shall not apply in relation to—

(a) any remuneration paid to a person in his or her capacity as a charity trustee or under a contract of employment, or

(b) any remuneration to which a person is entitled in accordance with law or a provision of the constitution of a charitable organisation.

(11) Where, in relation to an agreement, there has been a contravention of this section, the agreement shall be null and void.

(12) *Subsection (11)* shall not operate to prevent a charitable organisation from recovering damages in respect of any loss incurred by it by virtue of an agreement to which that subsection applies.

(13) In this section—

“relevant person” means, in relation to a charitable organisation—

(a) a charity trustee of the charitable organisation, or

(b) a person with whom a charity trustee of the charitable organisation has a personal connection;

“remuneration” includes any benefit in kind;

“services” includes goods;

“sum” includes benefit in kind.”

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

85. In page 58, between lines 13 and 14, to insert the following:

“Indemnity insurance in respect of charity trustee.

83.—A charitable organisation may enter into an agreement with a charity trustee of the charitable organisation for the payment by the charitable organisation to the insurer under a contract of insurance of such sums as the charity trustee undertakes, in accordance with that contract, to pay to the insurer in consideration of the insurer agreeing to indemnify the charity trustee in respect of any liability of the charity trustee to pay any damages or other sum to a person in respect of any act done or omitted to be done by the charity trustee in good faith and in the performance of his or her functions as charity trustee.”

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

86. In page 58, line 30, to delete “ “ ‘exempt’ ” and substitute the following:

“ ‘charitable organisation’ means a charitable organisation—

(a) registered in the register established and maintained under *section 38* of the *Charities Act 2008*, or

(b) deemed to be registered in the register in accordance with *section 39** of that Act;

‘exempt’.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

[* *This is the appropriate reference if amendment 44 is accepted.*]

87. In page 59, line 20, to delete “sections 5 and 6” and substitute the following:

“sections 5, 6 and 6A (inserted by *section 82(e)* of the *Charities Act 2008*)”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

88. In page 59, to delete lines 31 to 41.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

89. In page 60, line 13, to delete “6 months” and substitute “12 months”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

90. In page 60, line 29, to delete “shall” and substitute “may”.

—Jack Wall.

91. In page 60, between lines 32 and 33, 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.

92. In page 61, to delete lines 6 to 15 and substitute the following:

“(4) Where, before the receipt of a notification under subsection (3), a collection permit has been granted to a person authorising him to hold a collection in the same locality or place and on the same date as the locality or place and date to which that notification relates, the Chief Superintendent concerned may, if he considers it necessary or desirable in order to ensure the maintenance of public order or the prevention of annoyance to the public, direct that the proposed non-cash collection shall not take place at that locality or place on that date.”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

93. In page 62, to delete lines 1 to 44.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

94. In page 63, to delete lines 6 and 7 and substitute the following:

“83.—(1) Section 18 of the Act of 1962 is amended by—

(a) the substitution of the following subsection for subsection (1):”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

95. In page 63, between lines 9 and 10, 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.

96. In page 63, line 11, to delete “a number” and substitute the following:

“the number assigned in respect of the collection and specified in the collection permit concerned”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

97. In page 63, line 26, to delete “manner.” and substitute the following:

“manner.”, and

(b) the insertion of the following subsection:

“(1A) The following provisions shall apply to all non-cash collections:

(a) the collector shall wear a garment that is visible at all times to members of the public and that—

(i) in the case of a non-cash collection on behalf of a charitable organisation, bears—

(I) the name and registered number of the charitable organisation, and

(II) the object for the benefit of which the non-cash collection is being made,

in a prominent and clearly legible manner, and

(ii) in the case of a non-cash collection on behalf of a body other than a charitable organisation, bears—

(I) the name of the body, and

(II) the object for the benefit of which the non-cash collection is being made,

in a prominent and clearly legible manner;

(b) any form completed by a member of the public for the purposes of making a contribution to a non-cash collection shall be received from the member by the holder of the non-cash collection permit or a person authorised by him in writing for that purpose but by no other person; and

(c) all forms used for the purposes of the non-cash collection intended for completion by members of the public shall—

(i) in the case of a non-cash collection on behalf of a charitable organisation, bear—

(I) the name of the charitable organisation and its registered number,

- (II) the number assigned in respect of the non-cash collection and specified in the non-cash collection permit concerned, and
 - (III) the name of the bank and bank account name and number to which contributions are to be made,
- in a prominent and clearly legible manner, and
- (ii) in the case of a non-cash collection on behalf of a body other than a charitable organisation, bear—
 - (I) the name of the body,
 - (II) the number assigned in respect of the non-cash collection and specified in the non-cash collection permit concerned, and
 - (III) the name of the bank and bank account name and number to which contributions are to be made,

in a prominent and clearly legible manner.”.”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

98. In page 64, between lines 27 and 28, to insert the following:

“Offence under valid permit system. 86.—(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.

99. In page 64, line 28, to delete “may” and substitute “shall”.

—Jack Wall.

100. In page 65, between lines 5 and 6, to insert the following:

“Amendment of Central Bank Act 1997. 87.—Section 28 of the Central Bank Act 1997 is amended by the insertion of the following paragraph in the definition of “retail credit firm” (inserted by section 19 of the Markets in Financial Instruments and Miscellaneous Provisions Act 2007):

“(dd) a charitable organisation within the meaning of the *Charities Act 2008*, or”.”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

101. In page 65, to delete lines 24 and 25 and substitute the following:

“2. (1) The Authority shall consist of not less than 9 and not greater than 15 members, of whom not less than 3 shall be persons, each of whom —”.

—An tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

102. In page 65, between lines 31 and 32, 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.