

Friends of the Earth
Call for fairness in Charities Bill provisions

January 2008

SUMMARY

Friends of the Earth is concerned that organizations such as ours will not qualify for charitable status under the new Charities Bill, currently passing through the Oireachtas, due to the proposed definition of excluded bodies. We welcome the regulatory framework the Bill provides for the work of NGOs and believe we belong under its umbrella. Moreover, while we have doubled our income from public donations in each of the last three years, the absence of tax relief on donations to Friends of the Earth is a real inhibitor for many prospective supporters, an inhibition charitable status would remove. Therefore we are deeply concerned that we may be regarded as an excluded body under Section 2 on the Bill. We share the position of the Wheel, [in their analysis of the bill](#), that line 25 on page 9 should be amended to remove the word ‘cause’ so that organizations that promote “political causes” are not automatically excluded.

Current law is arbitrary and anachronistic

Under the existing law organizations such as An Taisce, Barnardos, Focus Ireland, Goal, Oxfam and Trócaire have all been granted CHY numbers by the Revenue Commissioners despite the fact they each take strong political stances and campaign actively to advance their charitable purpose.

The Irish Section of Amnesty International has not been granted a CHY number but qualifies for tax relief on donations thanks to a provision in a Finance Bill 30 years ago to grant tax relief to organizations which promote human rights.

However, Friends of the Earth has been denied a CHY number by Revenue on the grounds that to qualify organizations must be set up “*exclusively* for charitable purposes” [emphasis in original letter] and that

“ a purpose which is political cannot be regarded as being legally charitable. Charities, whether they operate in this country or overseas, must avoid: -

- a) Seeking to influence or remedy those causes of poverty which lie in the social, economic and political structures of countries and communities.
- b) Bringing pressure to bear on government to procure a change in policies or administrative practices.
- c) Seeking to eliminate social, economic, political or other injustice.”

The new Charities Bill may exclude Friends of the Earth

Friends of the Earth welcomes the move to provide a clear, legal framework for the registration and regulation of charities.

Under the new Bill organizations seeking charitable status will have to demonstrate:

1. they have been established for a charitable purpose
([Section 3, subsections 1 and 8, pages 11-12](#))

2. they have been established for the public benefit
(not that of private individuals) ([Section 3, subsections 2 and 3, page 11](#))
3. they are not an excluded body
([Section 2, page 9, line 25](#))

Friends of the Earth is clearly established for a charitable purpose under the Bill. Section 3, subsection 8(g) lists “the protection of the natural environment” as a purpose regarded as charitable. Friends of the Earth is clearly established for the public benefit, rather than the benefit of one or more private individuals. Indeed, as a company limited by guarantee and not having a share capital none of the members of the Board of Friends of the Earth can receive payment, other than out-of-pocket expenses, for their work as company directors.

It is the very broad definition of excluded bodies in Section 2 that is deeply concerning.

The wording currently in the bill is “a political party, or a body, the principal object of which, is to promote a political party, candidate or cause” (page 9, lines 24 and 25).

Much of our work in furtherance of our charitable purpose is done by way of raising public awareness and mobilizing public opinion in favour of more effective governmental action to ensure environmental sustainability. Given our experience of the application of the existing law we are very concerned that the new law will construe our work as a “political cause”.

Again, [we support the position of The Wheel](#), that

“The Bill must ensure that charities remain entitled to engage in all types of campaigning and advocacy activity related to furthering their charitable purposes. To ensure this the reference to “political causes” should be deleted from the sentence at Section 2, Page 9, line 24 that defines an excluded body, so that the sentence reads “a political party, or a body, the principal object of which is to promote a political party or a political candidate”

Moreover, we would question The Wheel’s use of the words “remain entitled” as our application for CHY status was rejected on the basis we carry out campaigning and advocacy, and we were given to understand by Revenue that the current law expressly prohibits any such activity.

Therefore we are not at all re-assured by the statement of Minister Pat Carey during the recent committee stage when he rejected any change to the definition of excluded bodies. In trying to re-assure the house that named organizations such as the Vincent de Paul and Barnardos would not lose their charitable status despite their advocacy activities he said:

The wording of this section of the Bill maintains the *status quo* and should not affect any organisation that is currently eligible for charitable tax relief on foot of decisions taken by the Revenue Commissioners

This is of no comfort to organizations such as our own which have been arbitrarily denied a CHY number under the status quo. Before the Bill is passed it is essential therefore to ensure that it provides for the fair and consistent treatment of all organizations that exist to further charitable purposes in the public benefit.