

Charities (Amendment) Bill, 2023
Committee Stage Opening Remarks
Minister of State Joe O'Brien TD

I want to thank the Chairman and members of the Committee.

I am delighted to be here today, alongside officials from my Department, as we commence Committee Stage for the Charities (Amendment) Bill, 2023.

The purpose of this Bill is to strengthen the charities sector, ensuring greater transparency, clarity and fairness, which will serve to enhance public confidence in the sector, and will consolidate the existing legal framework for the Charities Regulator to conduct its statutory functions.

The Bill delivers on a *Programme for Government* commitment to ensure that the Charities Regulator has the necessary powers to carry out its duties and to increase trust and confidence in the management and administration of charities.

Throughout this legislative process, my officials and I have actively engaged with the charities sector, to listen and take on board the observations of a wide number of stakeholders.

During Pre-legislative scrutiny, deputies raised a number of issues which I have sought to address in the published Bill, where feasible.

In this context, you will note the changes around removing the statutory requirement to report significant events, moving instead to non-statutory guidelines and the inclusion of a definition of 'significant event'.

I have also introduced amendments in the Bill regarding removal procedures, procedures that adhere to the principles of natural justice and due process, and which include recourse and appeal to the Charities Appeals Tribunal and a High Court determination.

I want to also highlight that the published Bill proposes to introduce a new charitable purpose of ‘the advancement of human rights’.

A key part of this process will be the introduction of guidelines in relation to this proposed charitable purpose. These guidelines will be developed in consultation with experts in this area, including representatives from the sector.

In view of observations raised post-publication of the Bill, I am seeking to introduce certain amendments to provide greater clarity and ensure operational efficiency in practice.

A number of these amendments are technical and of a drafting nature.

In addition, there are proposals to clarify and strengthen existing provisions.

Amendments 3 to 10, seek to update the definition of “charity trustee”. The reference to ‘officer’ and ‘office’, as contained in the definition of charity trustee in the published Bill, may lead to unintended consequences in practice.

If the current wording is not changed, then there is a real possibility that certain people, who the definition is not intended to cover, may inadvertently be recognised as trustees, due to the application of company law. One such example would be statutory auditors.

In addition, it is also proposed to include a reference to a ‘de facto’ director under the definition of “charity trustee”, to reflect this recognised position under company law, and to ensure that all persons with the requisite control and management over a charity are correctly covered in this important definition.

Amendment 11 proposes the insertion of an additional, general charitable purpose.

This amendment recognizes that there may be instances where a charitable purpose proposed by an applicant does not exactly match the description of one of the 13 purposes established under the Bill, but is nonetheless, of benefit to the community.

It is essential for both the Regulator and potential applicants that our legislation provides flexibility in these instances.

Amendment 12 deals with annual audit of accounts. It is proposed to increase the financial limit that can be set out in regulations, in respect of the requirement for charities to carry out an audit, from five hundred thousand, to one million euro.

Further to consideration of observations received from stakeholders, it is my intention to set the threshold for audit in the regulations at five hundred thousand euro, which I note is more in line with neighbouring jurisdictions.

This proposed amendment will future-proof the legislation, allowing for any increase as considered appropriate in the years ahead in line with industry practice.

Amendments 13 to 25 respectively concern section 34 of the published Bill, and refer to charities entering into agreements and appointments with relevant persons.

Revised wording in this section includes clarification on the responsibilities of trustees in respect of entering agreements and appointments.

Amendment 20 will allow for regulations under section 34 to include those instances in which an employee can become a trustee of the same organisation.

However, the general principle that trustees are not paid remains, and that payments to board members can only be made in very limited circumstances, and would not become or be considered standard practice.

Amendment 26 includes provision to allow for the appointment of an interim chairperson of the Charities Regulator. This amendment will ensure full functionality of the Regulator until such time that a permanent chairperson is appointed.

I want to advise members that there are certain matters still under consideration, in relation to declarations from the High Court in respect of certain removals from the Register; in regard to the entering of agreements and appointments with relevant persons, and of bankruptcy and insolvency provisions contained in the published Bill.

It is likely that amendments may need to be introduced at Report stage, which may include consequential amendments.

I welcome the opportunity to discuss the Bill with the Committee and look forward to hearing from Committee members.

Go raibh maith agaibh.