



# HUMANIST SOCIETY OF VICTORIA Inc.

(Reg. No. A0020272M)

Affiliated with the Council of Australian Humanist Societies (CAHS)  
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Consultation on the Definition of a Charity,  
Board of Taxation,  
The Treasury,  
Langton Crescent,  
Parkes, A.C.T. 2600.

## CONSULTATION ON THE DEFINITION OF A CHARITY

SUBMISSION from the HUMANIST SOCIETY OF VICTORIA Inc. (HSV)

### 1. GENERAL INTRODUCTION

HSV is an association that supports the secular Humanist life-stance and ethical, rational, responsible choices of action. Its main purposes are

- to help build a civil society in which all persons can lead fulfilling lives untrammelled by supernatural beliefs;
- to stimulate debate on subjects of current interest and social importance by organizing public lectures;
- to publish Humanist viewpoints on ethical questions.

Its current areas of interest cover human rights, education, law, biotechnology and environment. Its activities meet a growing need in the community for informal continuing education and participation in affairs of public concern. The Society is run by an honorary committee and has no employees.

The considerations that follow were formulated at specially convened group discussions, which all members were eligible to attend. Supportive information was obtained from print publications, the Internet, public lectures and individuals with relevant expertise. The undersigned committee member has been authorized to present these views.

## 2. OUR INTEREST IN DEFINITION

We recognize that not-for-profit non-government organizations collectively play a vital social role in mediating between the individual and the state. The official definition of a charity will be important in identifying those not-for-profit bodies that are worthy of public support.

HSV is a not-for-profit organization, currently recognized by ATO as an income-tax-exempt charitable entity but not a deductible gift recipient. It satisfies the requirements of a charity that are proposed in the Charities Bill 2003. HSV was a contributor to the Inquiry into the Definition of Charities and Related Organisations with a submission dated 16 January 2001.

## 3. WORKABILITY OF THE DEFINITION, CHARITIES BILL 2003

### 3.1. General comments

HSV is in broad agreement with the recommendations of the *Report of the Inquiry into the Definition of Charities and Related Organisations (Sheppard Report, June 2001)*. It is a very thorough, well reasoned document. We note that not all the recommendations of the *Sheppard Report (2001)* have been adopted in the Charities Bill 2003.

The Government is to be congratulated on its move, with this Bill, to give recognition to certain child-care organizations and self-help bodies; their functions are undoubtedly for public benefit and an enrichment of the community. We disagree, however, that closed or contemplative religious orders are worthy of charitable status.

The Bill does not deal with tax concessions, which are presumably the province of ATO.

The Bill is not expected to impose an additional administrative burden on the Society.

The effect of the Bill in our view is dominated by two observations, which are discussed below:

- the political purpose provisions are good in that they allow reasonable public advocacy as a secondary purpose, but too lax in allowing vested interests to enter the charity sector;
- the encouragement of religious organizations is quite inappropriate for secular government.

### 3.2. Political and public benefit purposes

§ 8(2). This clause allows a political purpose if it is ancillary or incidental to the charity's dominant purpose; we assume the consequent activity would not contravene § 4(1)(c).

This latitude is more generous than Recommendations 4, 5 and 17 of the *Sheppard Report*, which would prohibit partisan political campaigning. We agree with the *Report*, that having a narrow political platform is incompatible with the inclusive altruism that is generally expected of a charity.

At the same time charities must be allowed roles of reasonable public advocacy and commenting on policy development, which are useful to government also. (This submission is an example of charities' response to a government invitation for feedback.) On this point the clause is workable.

HSV believes in distinguishing between advocacy and lobbying (which is discussed in the *Sheppard Report*, pp. 217-8). The term 'lobbying' derives from the practice whereby a sectional interest employs agents at the seat of government to persuade members of government to favour that interest, usually aiming at some competitive advantage. This practice has nothing to do with keeping parliamentarians informed of the general debate in the community addressing the public good. Public advocacy is essential to democracy, while lobbying is parasitic upon it.

The word 'cause' in § 8(2)(a) is too broad and could disqualify other dominant purposes such as prevention of domestic violence or cruelty to animals; we propose the term 'political program' instead.

§ 7(1)(b). The practical utility of a public benefit purpose should be taken to include the benefit accruing from services that provide opportunities for constructive community involvement, which create 'social capital', enrich the civil society and enhance its adaptability in the face of social and economic change.

### 3.3. Religious institutions

§ 4(2)(b). Humanists contest this clause. We agree with the House of Lords in *Gilmour v Coats* (1949; *Sheppard Report*, p. 113) that the notion of public benefit should be based on proof and not belief and that 'the value of intercessory prayer was manifestly incapable of proof.' It is a retrograde step to confer charitable status on closed or contemplative religious orders. It opens the door to fortune tellers, soothsayers and other charlatans. In today's secular society any commitment to religion is a personal matter and should not be funded, directly or indirectly, by the state.

§ 10(1)(d) & 10(2). 'Protection of religion' is unspecific. Being freethinkers, Humanists would defend the freedom of personal religious belief. But the state should where possible protect its citizens and their children from having religion pressed upon them, especially under the guise of catering to them.

§ 12(1)(e). This clause is unnecessary (*Sheppard Report*, Recommendation 14). It could invite the artificial formation of a self-styled religion as a device to get state benefit.

#### 4. ALTRUISM

§ 4(1). The stated definition of charity does not require an altruistic purpose and so disagrees with the *Sheppard Report* Recommendation 7. We consider that altruistic purpose underpins the very concept of charity. Unless altruistic charities are recognized as a category, they will be confused with entities whose charity stops with their own members. There is a need for encouragement of charities that dispense their benefits widely and without unjust discrimination. The guidelines should be in accordance with the UN Universal Declaration of Human Rights.

§8(2)(c). If the requirement of altruism were restored, charities could be held to idealistic purposes rather than one of material gain, they would be less susceptible to compromise by their sources of funding, and their public advocacy would command general respect.

This concludes the submission.

Yours faithfully,

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[HSV Submission]