



# Illawarra Legal Centre inc

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30 September 2003

Consultation on the Definition of a Charity  
The Board of Taxation  
C/- The Treasury  
Langton Crescent  
PARKES ACT 2600

Dear Sir/Madam

## **RE: SUBMISSION ON CHARITIES BILL 2003**

### **Background**

The Illawarra Legal Centre Inc is a charitable, not-for-profit community organisation with PBI and DGR status, which provides free legal advice, information and referrals in all areas of law to the public at large. We are managed by an unpaid volunteer management committee.

Our client base extends north to the Sutherland shire in Sydney, west to the Southern Highlands (Bowral) and south to Gerringong/Gerroa and in some circumstances all the way to the Victorian border.

Our main client base is located in the Warrawong/Wollongong area, consisting of a large number of working-class people, people with disabilities and a large migrant population (Macedonian, Greek, Italian, Spanish, Portuguese, Filipino and Chinese).

The Legal Centre is funded by a variety of government grants from both the State and Federal levels. These grants are usually reviewed on a three-yearly basis with respect to the level and type of services provided. The Legal Centre offers several different types of services to clients, including:

- general law (solicitors);
- welfare rights (Centrelink problems);
- financial counselling; and
- tenancy advice (for tenants only).

The Legal Centre was created over ten years ago, by the local community, for the local community. The aim of the community legal centres is to increase access to justice for those people who have traditionally had difficulties using the legal system such as:

- people with both intellectual and/or physical disabilities;
- people in poverty;
- women;
- children;
- people from non-English speaking background (NESB);
- the aged and infirm; and
- the Aboriginal community.

We provide our services by using strategic services delivery, which is a combination of casework, community legal education and law reform.

### **Submission**

We support the submissions made by the peak bodies of Australian Council of Social Services (ACOSS), the Federation of Community Legal Centres (Victoria) Inc, and the Combined Community Legal Centres Group (NSW).

We note our particular concerns with the Charities Bill 2003 as follows:

<b>1. The definition of charity as it relates to ‘disqualifying purposes’ in s 8</b>
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Under a plain reading of s 8(2)(c), much of the law reform and lobbying work in which the Legal Centre engages on behalf of our disadvantaged clients would be ‘more than ancillary or incidental’ to our provision of charitable services. We use law reform and lobbying at local, state and federal government levels on a regular basis to further our work in assisting the greatest number possible of disadvantaged clients. Our strategic services delivery is a holistic approach to attempt to resolve legal problems on a broad scale. The alternative to this strategy is to try and help every person on an individual basis, which is impossible due to our limited resources. Law reform and lobbying allows the Legal Centre to attempt to identify and redress the **cause** of legal problems, which adds value to the service we provide to the public.

***We support the above-mentioned submissions, which propose that law reform is acceptable if it furthers an organisation’s charitable purpose.***

## 2. The definition of charity as it relates to 'government body' in s 4(1)(f)

We note from the definition in s 3 that a 'government body' includes 'a body controlled by the Commonwealth, a State or a Territory'. The current definition is unclear as to the level of government control required before an organisation will lose its charitable status. Our current funding guidelines from State and Federal governments require that we comply with certain service standards, including statistical data collection. For some of our grants, the Legal Centre is required to provide a set amount of face-to-face hours giving advice to clients and representing them at Tribunals. Given the appreciable level of accountability and control that already exists between the Legal Centre and government, we make the following request –

***We request that the definition of 'government body' be clarified so that government-funded community organisations do not lose their charitable status.***

### Conclusion

We submit that the Bill in its current form endangers charitable community organisations, such as the Legal Centre, by defining charities in such a way that pre-existing, altruistic organisations that aim to help the poor, marginalised and oppressed in fact lose their charitable status.

The loss of charitable status would have serious ramifications for legal centres, including loss of PBI status, GST implications, loss of income tax exemptions and DGR status, and inability to offer fringe benefits to employees due to loss of RBT exemption. The significant wage disparity between legal centres and Legal Aid/ private practice means that if we were unable to offer fringe benefits to employees as part of their salary packages, rural and regional legal centres like the Illawarra Legal Centre would have even more problems recruiting trained and competent staff than is currently the case.

We humbly commend this submission to you.

Yours faithfully

per

Jane Cipants  
Co-ordinator  
on behalf of the Management Committee