

The Secretary
Department of the Environment
Local Government Division
Clarence Court
10 - 18 Adelaide Street
Belfast BT2 8GB

27th June 1994

Dear Sir or Madam,

**Comments on
Proposal for Draft Local Government (Miscellaneous
Provisions) (NI) Order**

The Proposal for Draft Local Government (Miscellaneous Provisions) (NI) Order deals with the question of Irish street signs. Paragraph 11 of the Draft Order will therefore replace that part of the Public Health and Local Government (Miscellaneous Provisions) Act 1949 which currently prohibits street signs except in English. The draft legislation is published for comment by 11 July.

We wish to provide comments on the legislation, specifically addressing the question of Irish street signs. CAJ's comments are as follows:

1. Tone of legislation

This is minimalist legislation. The tone is far removed from any sense of generosity towards minority languages. The **European Charter for Regional or Minority Languages** (see Appendix in enclosed pamphlet) calls on governments to: "allow and/or encourage the use or adoption, if necessary in conjunction with the official language, of traditional and correct forms of place names in regional or minority languages" (Article 10, 2, g.). While the UK has not yet signed the **Charter**, the government still has the matter under consideration. Pending signing and ratification, however, relevant legislation should be drafted with the **Charter** in mind as it indicates current widely-held opinion on what states must do to promote and protect minority languages.

The UK has however signed the **Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE** (hereinafter called the Copenhagen Document, see enclosed copy). This document arose out of the "Helsinki Process", officially called the **Conference on Security and Co-operation in Europe**. Section IV of the Copenhagen Document addresses minority rights issues. Paragraph 32 states: "Persons belonging to national minorities have the right

freely to express, preserve and develop their ... linguistic ... identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will. In particular, they have the right:

- to use freely their mother tongue in private as well as in public;
- ...;
- to disseminate, have access to and exchange information in their mother tongue."

The paragraph goes on to emphasise that such rights will be enjoyed collectively and that no disadvantage must accrue from the exercise of these rights.

However, the next paragraph (33) demonstrates what the approach of states should be in relation to minority languages. States: "will protect the ... linguistic ... identity of national minorities in their territory and create conditions for the **promotion** of that identity. They will take the necessary measures to that effect after due consultations, including contacts with organisations or associations of such minorities...." (emphasis added). Thus states must take active measures to protect and promote the preservation of minority linguistic communities.

By contrast the Draft Order allows but certainly does not encourage the use of the minority language in the Northern Irish context. Furthermore, the draft legislation does not legalise the use of Irish language in addresses or in legal documents and is therefore not complying with the spirit of either the **European Charter** or the **Copenhagen Document**. The legislation should ensure that a local council cannot deny the wishes of residents to have Irish street-nameplates erected.

Finally, we are concerned that adequate consultation take place. To this end we would urge your department to consult Irish language organisations as required by the **Copenhagen Document** in the above reference.

2. No requirement on councils to erect Irish name plates

The draft legislation states at paragraph 11 (1) (b) that councils "may" erect nameplates in "any other language" rather than stipulating an onus to erect Irish signs in certain circumstances. This is unrealistic in the Northern Irish context where local councils have often shown themselves to be less than enthusiastic about the Irish language.

Furthermore the legislation makes no allowance for residents who wish to have only an Irish nameplate for their street. If residents so wish, the legislation should allow for such a possibility:[†]

CAJ recommends, therefore, that paragraph 11 (1) should be redrafted to read:
"A council may erect at or near each end, corner or entrance of any street in its district a nameplate showing the name of the street; and a nameplate erected under this paragraph -
(a) shall express the name of the street in English; and/or
(b) shall express the name of that street in Irish if residents in that street so request; and
(c) may express that name in any other language if residents in that street so request."

This will require consequent amendment of paragraph 11 (2).

3. What process is envisaged to activate the erection of Irish nameplates?

Paragraph 11 (4) states only that the council "shall have regard to any views expressed by occupiers of premises in that street". Does there have to be in the street a certain number, a majority or a few in favour of the sign in order for the council to erect it? If a certain number, a majority or a few are opposed, does this mean that the sign will not be erected? If government wishes to make a meaningful gesture to the Irish language community the circumstances which activate the erection of Irish name plates should be spelt out.

CAJ recommends that paragraph 11 (4) should be amended to specify how the process will be activated and should therefore read:

"In deciding whether and, if so, how to exercise its powers under paragraph (1) or (2), in relation to any street, a council shall, after having been approached in writing by one or more residents:

take all reasonable steps to obtain the views of residents in the street;
and

have regard to the need to:

take active steps to preserve and promote minority languages;
encourage the use in public of minority languages; and
promote parity of esteem among different linguistic groups."

4. Use of Irish addresses and documents remains illegal

The draft legislation fails to authorise the use of Irish in addresses. Indeed it appears to indicate that use of Irish in official addresses and in documents such as title deeds will remain unlawful (see paragraph 11 (3)). By contrast, Article 9, 2, a of the **European Charter** calls on governments: "not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language". Similarly the **Copenhagen Document** calls on states "to endeavour to ensure" that minority languages can be used "before public authorities".

Paragraph 11 (3) of the draft order fails to authorise the use of Irish in addresses or in the "description of any land". It is therefore contrary to the spirit and the letter of the **Copenhagen Document** and the **European Charter** and is discriminatory against Irish language users.

CAJ recommends that paragraph 11 (3) should therefore read:

"If both Irish and English nameplates have been erected, this Article authorises but does not require the use of the name of a street in Irish as, or as part of -

(a) the address of any person; or

(b) the description of any land;

for the purposes of any statutory provision.

If the provisions of paragraph 11 (1) (b) have been applied, the name of the street for the purposes of (a) and (b) shall be the Irish form of the nameplate."

It may be argued that such a change would have implications for other legislation and procedures relating to the admissibility or statutory basis for the use of Irish documents in legal proceedings and the use of Irish in dealings with public authorities. However, on the contrary, CAJ believes that this is merely an argument for ensuring that such other legislation and procedures as may be affected be amended to take account of this.

5. Other matters

It is important to remember that the question of street nameplates is not the only one for which councils have responsibility. There are many other signs such as council boundary signs and other directional signs which need to be taken into account. The current legislation should be used as a model for establishing the basis upon which the decisions can be made concerning the erection of other signs.

6. Conclusion

Any drafting of legislation relating to issues affecting the Irish language community should have regard to the **Copenhagen Document**, which the UK government has signed, and the **European Charter for Regional or Minority Languages**, which is the most advanced thinking applied to the question of protecting and promoting minority linguistic rights.

The government indicated its intention to change the legislation prohibiting Irish street signs as a gesture to the minority community. This draft legislation is hardly a generous gesture. It is also important to recognise that Irish is not the preserve of the minority community and such legislation is not likely to satisfy Irish language users whatever their religious or political background.

Furthermore, the **European Charter** and the **Copenhagen Document** indicate that governments should adopt a more positive approach to regional or minority languages. In this context, CAJ believes that the legislation should endeavour to ensure:

- that Irish street names will be legally erected;
- that the Irish form of the address may be used; and
- that Irish documents become properly recognised.

I hope that these comments are helpful. Please do not hesitate to contact me if you require further clarification.

Yours faithfully,

Michael Ritchie

Draft Local Government (Miscellaneous Provisions) (NI) Order

- (2)(b) of paragraph 1 and to which that paragraph applies; or
 - (ii) entertainment to which paragraph 2 applies; and
 - (b) any offence under sub-paragraph (2) where the entertainment for which the place is used is—
 - (i) entertainment referred to in sub-paragraph (2)(b) of paragraph 1 and to which that paragraph applies; or
 - (ii) entertainment to which paragraph 2 applies.
- and the terms, conditions or restrictions which are contravened or not complied with include one which imposes a limit on the number of persons who may be present at the entertainment.”

(2) Nothing in this Article shall have effect in relation to offences committed before the coming into operation of this Article.

Street names and numbering of buildings

Powers of councils in relation to street names and numbering of buildings

11.—(1) A council may erect at or near each end, corner or entrance of any street in its district a nameplate showing the name of the street: and a nameplate erected under this paragraph—

- (a) shall express the name of the street in English; and
- (b) may express that name in any other language.

(2) A council may, immediately adjacent to a nameplate erected under paragraph (1) which expresses the name of a street in English only, erect a second nameplate expressing the name of the street in a language other than English.

(3) Neither this Article nor anything done by a council thereunder authorises or requires the use of the name of a street expressed in a language other than English as, or as part of—

- (a) the address of any person; or
- (b) the description of any land;

for the purposes of any statutory provision.

(4) In deciding whether and, if so, how to exercise its powers under paragraph (1)(b) or (2) in relation to any street, a council shall have regard to any views on the matter expressed by the occupiers of premises in that street.

(5) Any person who—

- (a) obscures, pulls down or defaces any nameplate erected under paragraph (1) or (2);
- (b) erects in any street any nameplate showing as the name of the street a name different from that in any nameplate

- erected in the street under paragraph (1) or (2); or
- (c) erects in any street any nameplate purporting to show the name of the street, without the authorisation of the council for the district in which the street is situated,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) Where a council has exercised its powers under paragraph (1) in relation to any street, the occupier of each house or other building in that street shall ensure that that house or building is at all times marked with such number as the council may approve for the purposes of this Article.

(7) Where a person fails to comply with paragraph (6) the council may serve on him a notice requiring him to comply with that paragraph within 7 days from the date of service of the notice.

(8) A person who fails to comply with a notice served on him under paragraph (7) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(9) Where a person fails to comply with a notice served on him under paragraph (7) in respect of any house or other building, the council may itself do anything which he has failed to do and may recover from that person summarily as a civil debt any expenses thereby reasonably incurred by it.

(10) In this Article—

“nameplate” includes any means of signifying a name in writing;

“street” includes any road, square, court, alley, passage or lane.

(11) The power of a council to erect a nameplate under paragraph (1) or (2) includes power—

(a) to erect it on any building or in such other manner as the council thinks fit; and

(b) to cause it to be erected by any person authorised in that behalf by the council.

(12) The following statutory provisions shall cease to have effect, namely—

(a) sections 64 and 65 of the Towns Improvement Clauses Act 1847;

1847 c. 34

(b) in section 38 of the Towns Improvement (Ireland) Act 1854 the words “naming the streets and numbering the houses and also so much thereof as relates to”;

1854 c. 103

(c) section 21 of the Public Health Acts Amendment Act 1907;

1907 c. 53

(d) section 19 of the Public Health and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1949; and

1949 c. 21 (N.I.)

(e) so much of any local Act as relates to the naming of streets or the numbering of houses or buildings;

and the Prosecution looks at us as if we are crazy when we speak of the severe ill-treatment we received in Castlereagh. This seems strange considering the police doctor confirmed that Damien Austin, who was arrested with us, was severely physically abused in Castlereagh.

(The Crown dropped its charges against two of the people who were arrested for this bombing because their confessions were shown to be clearly unreliable. No decision on the admissibility of the confessions of the other defendants has been reached.)