



House of Commons

Tuesday 26 January 2016

CONSIDERATION OF BILL (REPORT STAGE)

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

CHARITIES (PROTECTION AND SOCIAL INVESTMENT) BILL [*LORDS*], AS AMENDED

NOTE

This document includes all amendments tabled to date and includes any withdrawn amendments at the end. The amendments have been arranged in the order in which they relate to the Bill.

NEW CLAUSES

Anna Turley

NC1

To move the following Clause—

“Appeals and applications to the Tribunal

- (1) In Schedule 6 of the Charities Act 2011 (appeals and applications to Tribunal), insert in the appropriate place—

“Decision of the Commission to issue a warning under section 75A to a charity trustee, trustee for a charity or a charity.

The persons are—
any of the charity trustees of the charity;
and
(if a body corporate) the charity itself.

Power to quash the decision and (if appropriate) remit the matter to the Commission.”

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Charities (Protection and Social Investment) Bill [*Lords*], *continued*

- (2) If the charity decides to appeal against a warning, under Schedule 6 of the Charities Act 2011, the Commission will not publish the warning for at least 28 days from the date of the submission of the appeal.”
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Anna Turley

NC2

To move the following Clause—

“Disposal of assets

The Charity Commission shall ensure that independent charities are not compelled to use or dispose of their assets in a way which is inconsistent with their charitable purposes.”

Anna Turley

NC3

To move the following Clause—

“Power to make representations

- (1) A charity may undertake political campaigning or political activity in the context of supporting the delivery of its charitable purposes.
 - (2) A charity may campaign to ensure support for, or to oppose, a change in the law, policy or decisions of central government, local authorities or other public bodies.”
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Mr Bernard Jenkin

NC4

To move the following Clause—

“Power to hold hearings on fundraising regulation and charity activity

- (1) The Commission has the power to hold public hearings with representatives from charities, charity trusts and other relevant bodies on fundraising regulation and charity fundraising activities.
- (2) Representatives appearing at the public hearings specified in subsection (1) are protected by legal professional privilege.”

Member’s explanatory statement

This amendment requires the Charity Commission to hold annual hearings on fundraising regulation and the workings of charities and provides participants with the protection of legal professional privilege.

Charities (Protection and Social Investment) Bill [*Lords*], *continued*

Mr Bernard Jenkin

NC5

To move the following Clause—

“The Charity Commission as primary guarantor of the regulatory system for fundraising

- (1) Section 69 of the Charities Act 2006 (Reserve power to control fund-raising by charitable institutions), which inserts section 64A into the Charities 1992 Act (Reserve power to control fund-raising by charitable institutions) is amended as follows.
- (2) In subsection (1) for “Minister” substitute “Charity Commission”.
- (3) After subsection (8) insert—
 - “(9) The Charity Commission shall report annually to the Minister on the exercise of its powers under this section.
 - (10) On reviewing the annual report or if the Secretary of State considers the Commission is not effectively exercising its function as guarantor of the regulatory system the Minister may himself exercise the powers under this section.””

Member’s explanatory statement

This amendment makes the Charity Commission the primary regulator of charities fundraising activities, requires the Charity Commission to report annually to the Cabinet Office on its regulation of charitable fundraising, and allows the Government to intervene in this regulation as a last resort.

Anna Turley

9

Clause 1, page 1, line 12, at beginning insert “Subject to subsection (3)”

Anna Turley

8

Clause 1, page 1, line 12, leave subsection (2) and insert—

- “(2) The Commission may issue a warning to a charity trustee, a trustee for a charity or a charity in any way it considers appropriate but may not publish a warning to a wider audience.”

Anna Turley

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Clause 1, page 1, line 15, at end insert—

- “(2A) If the Commission decides to publish a warning under subsection (2) it must do so in a manner which does not identify the charity, or charity trustee, in relation to which the warning is issued.”

Anna Turley

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Clause 1, page 1, line 16, after “give” insert “at least 14 days”

Charities (Protection and Social Investment) Bill [Lords], continued

Anna Turley

12

Clause 1, page 2, line 6, leave out subsection (b) and insert—

“(b) such advice or guidance that the Commission considers may assist the charity to remedy the conduct which gave rise to the warning, as referred to in (a) above.”

Matthew Hancock

2

Clause 1, page 2, line 18, at end insert—

“() The Commission may vary or withdraw a warning under this section.

() Subsection (2) applies to the variation or withdrawal of a warning as it applies to a warning.

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() Subsections (3) to (6) apply to the variation of a warning as they apply to a warning, except that—

(a) in subsection (5)(a) references to the warning are to be read as references to the warning as varied, and

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(b) the matter to be specified under subsection (5)(b) is any change as a result of the variation in the action previously proposed by the Commission.”

Member’s explanatory statement

The amendment makes provision for the variation or withdrawal of official warnings issued under section 75A inserted by clause 1.

As an Amendment to Matthew Hancock’s proposed Amendment (No. 2):—

Anna Turley

(a)

Line 10, at end add—

“() If the Commission publishes notice that a warning has been withdrawn under subsection (2), the notice must state the reasons for the withdrawal.

() No record of a warning withdrawn by the Commission should be held on the Register of Charities.”

Matthew Hancock

3

Clause 9, page 8, line 7, at beginning insert “it relates to the management of the charity, and”

Member’s explanatory statement

In a small charity employees who are not managers may report directly to charity trustees. Inserted section 178(4)(a) could cover their functions. This amendment would exclude them and limit “senior management functions” to functions involving management.

Charities (Protection and Social Investment) Bill [*Lords*], *continued*

Sir Edward Garnier [R]

1

Clause 9, page 10, line 2, at end insert—

- “(22) Before this section comes into force, the Secretary of State shall lay a report before Parliament on the impact of the extension of the disqualification framework on—
- (a) people with criminal records who are trustees of, or employed by, charities, and
 - (b) charities which work with, or employ, ex-offenders.
- (23) The report shall include, but not be limited to—
- (a) an assessment of the number of people employed by charities who will be affected by the extension of the disqualification framework to cover senior management positions,
 - (b) an assessment of the number of people who are trustees of, or employed by, charities who will be affected by the extension of the list of specified offences for which people will be automatically disqualified from being a trustee of, or a senior manager in, a charity,
 - (c) an assessment of the impact of the new disqualification framework on former offenders who are seeking, or intend to seek, employment in the charitable sector, including on their recruitment, retention, career prospects and long-term rehabilitation and resettlement,
 - (d) an assessment of the impact of the new disqualification framework on former offenders who are currently employed in the charitable sector, including on their retention, career prospects and long-term rehabilitation and resettlement,
 - (e) an assessment of the impact of the new disqualification framework on people with criminal records who are trustees or employees of charities which are partners in, or are contracted by, community rehabilitation companies (CRCs) and its impact on the successful running of those organisations,
 - (f) an assessment of the effectiveness of the existing waiver process provided for under section 181 of the Charities Act 2011,
 - (g) an assessment of the impact of the new disqualification framework on the number of applications for waivers to the Charity Commission,
 - (h) a description of how the working group set up by the Charity Commission on the waiver process will be constituted, how it will be resourced, what timelines it will be working to, its working method and intended outputs, and how it will work in consultation with people with criminal records and charities that work with, or employ, ex-offenders,
 - (i) a description of the criteria the Charity Commission will adopt in considering applications for waivers, and the weight it will attach to the views of the trustees of the charity or charities concerned,
 - (j) a description of how the waiver process will operate in relation to prospective candidates for senior management positions in charities, including the timescales for decisions and mechanisms to ensure that ex-offenders do not suffer indirect discrimination as a consequence of delays in assessing applications for waivers while a competitive recruitment process is underway,

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Charities (Protection and Social Investment) Bill [*Lords*], *continued*

- (k) an assessment of the impact of the new disqualification framework on the resources provided by the Charity Commission to administer the waiver application process.”

Member’s explanatory statement

This amendment would require the Secretary of State to lay before parliament a report on the impact of the extension of the disqualification framework on people with criminal records who are trustees of, or employed by, charities, and on charities which work with, or employ, ex-offenders before the section came into force.

Anna Turley

Clause 10, page 10, line 7, after “person” insert “or persons”

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Matthew Hancock

Clause 10, page 10, line 19, at beginning insert “it relates to the management of the charity, and”

4

Member’s explanatory statement

In a small charity employees who are not managers may report directly to charity trustees. Inserted section 181A(4)(a) could cover their functions. This amendment would exclude them and limit “senior management functions” to functions involving management.

Anna Turley

Clause 10, page 10, line 35, leave out “(either generally or in relation to the charities or classes of charity specified or described in the order)” and insert “, as defined by the Commission in a specific document to be published after consultation and renewed”

14

Anna Turley

Clause 10, page 11, line 33, after “conduct” insert “both relevant and serious”

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Matthew Hancock

Clause 10, page 12, line 16, after “spent” insert “or, where condition B applies, would become spent if it were a conviction for the relevant disqualifying offence”

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Member’s explanatory statement

The amendment adapts the reference to the time when a conviction becomes spent for cases covered by condition B in inserted section 181A(7).

Charities (Protection and Social Investment) Bill [*Lords*], *continued*

Matthew Hancock

6

Clause 14, page 18, line 6, at end insert—

“() to pay fees to a regulator of an amount determined by the regulations or determined by the regulator in accordance with the regulations;”

Member’s explanatory statement

The amendment would enable regulations to require charitable institutions to pay fees to a regulator specified in the regulations for the purpose of regulating charity fund-raising.

Matthew Hancock

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Clause 14, page 18, line 31, at end insert—

“() Where regulations by virtue of this section apply in relation to charity fund-raising by institutions that are not charities, section 19 of the Charities Act 2011 (fees and other amounts payable to Commission) applies in relation to the regulations as it applies in relation to the enactments relating to charities (but that is without prejudice to the application of other provisions by virtue of this section or section 77(3)).”

Member’s explanatory statement

Regulations under the Charities Act 2011 may require fees to be paid to the Charity Commission in respect of functions relating to charities. The amendment extends this to functions given to the Commission under inserted section 64C in relation to the regulation of fund-raising by charitable institutions that are not charities.

ORDER OF THE HOUSE [3 DECEMBER 2015]

That the following provisions shall apply to the Charities (Protection and Social Investment) Bill [*Lords*]:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Thursday 7 January 2016.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Proceedings on Consideration and up to and including Third Reading

4. Proceedings on Consideration and proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which proceedings on Consideration are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings in Consideration and up to and including Third Reading.

Charities (Protection and Social Investment) Bill [Lords], *continued**Other proceedings*

7. Any other proceedings on the Bill (including any proceedings on consideration of any message from the Lords) may be programmed.
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**CHARITIES (PROTECTION AND SOCIAL INVESTMENT) BILL [LORDS]:
(PROGRAMME (NO. 2))**

Matthew Hancock

That the Order of 3 December 2015 (Charities (Protection and Social Investment) Bill [Lords] (Programme)) be varied as follows:

1. Paragraphs (4) and (5) of the Order shall be omitted.
 2. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion two hours before the moment of interruption on the day on which those proceedings are commenced.
 3. Proceedings in Legislative Grand Committee shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on that day.
 4. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
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