

Charities (Protection and Social Investment) Bill [HL]

THIRD
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

[Amendments marked ★ are new or have been altered]

Amendment
No.

After Clause 12

BARONESS HAYTER OF KENTISH TOWN
LORD WATSON OF INVERGOWRIE
LORD LEA OF CRONDALL

- 14 Insert the following new 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.”

LORD LEA OF CRONDALL

- 15 Insert the following new Clause –
- “Charity Commission annual report to refer to principles of best regulatory practice**
- (1) Schedule 1 to the Charities Act 2011 is amended as follows.
 - (2) In paragraph 11(c), after “16)” insert “including the extent to which, in its opinion, it acted in a proportionate, accountable, consistent, transparent and targeted manner (see section 16(4))”.”

Amendment
No.

After Clause 12—continued

LORD BEW
BARONESS DEECH

15A Insert the following new Clause—

“Damages for torts by trustees or their employees

Damages for torts by trustees of unincorporated charities or their employees

- (1) The Charities Act 2011 is amended as follows.
- (2) After section 284 (when and how section 282 resolution takes effect) insert—

“284A Damages for torts by trustees or their employees

- (1) This section applies where—
 - (a) a trustee of an unincorporated charity is liable in tort by reason of his conduct in his capacity as a trustee of that charity; or
 - (b) a person employed by a trustee or trustees of an unincorporated charity is liable in tort by reason of his conduct in the course of that employment.
- (2) Where this section applies, a person entitled to damages for the tort shall be entitled to recover those damages from the assets of the charity.
- (3) Subsection (2) shall not affect the liability of any trustee, employee, or any other person.
- (4) Where a claim is made under subsection (2), the provisions of the Civil Liability (Contribution) Act 1978 shall apply as if the charity had legal personality.
- (5) Where a claim is made under subsection (2), or a contribution is claimed from the assets of a charity under subsection (4), the charity may be named as a party and may be represented by its trustees or such other person as may be appointed by the court in any legal proceedings.””

BARONESS PITKEATHLEY

15B Insert the following new Clause—

“Review of Charity Commission’s funding arrangements

The Secretary of State must order a review of the Charity Commission’s funding arrangements and look into different options for funding.”

Clause 13

BARONESS BARKER
LORD WALLACE OF SALTAIRE

16 Page 16, line 10, leave out “both” and insert “primarily”

- Amendment No.** **Clause 13** – *continued*
- LORD HODGSON OF ASTLEY ABBOTTS
- 16A** Page 16, leave out line 11 and insert –
“(a) furthering one or more of the charity’s purposes in whole or in part; and”
- LORD BORWICK
LORD HODGSON OF ASTLEY ABBOTTS
- 17** Page 16, line 11, leave out “directly”
- BARONESS BARKER
LORD WALLACE OF SALTAIRE
- 18** Page 16, line 11, leave out “and” and insert “while also”
- 18A** [Re-tabled as Amendment 16A]
- LORD HODGSON OF ASTLEY ABBOTTS
- 18B** Page 16, line 27, at end insert –
“() A relevant act of a charity may be carried out with a view to furthering one or more of the charity’s purposes in whole or in part for the purposes of this section even where the relevant act may not exclusively further one or more of the charity’s purposes.”
- LORD LEA OF CRONDALL
- 18C** Page 17, line 8, at end insert –
“() privately funded educational institutions, except universities;”
- BARONESS BARKER
LORD WALLACE OF SALTAIRE
- 19** Page 17, line 18, at end insert “including, where it is reasonable, from beneficiaries and other stakeholders”
- LORD CROMWELL
LORD HOPE OF CRAIGHEAD
- 20** Page 17, line 18, at end insert –
“() consider whether the social investment concerned is subject to the same regulation as commercial investments that are undertaken in regulated financial markets and, if not, whether it would nevertheless be appropriate to proceed with it;
() consider whether there is a conflict between the investment vehicles that are on offer and, if so, how it should be resolved in the interests of best furthering the charity’s purposes;”

Amendment
No.

Clause 13 – *continued*

LORD HODGSON OF ASTLEY ABBOTTS

- 20A** Page 17, line 22, at end insert “having had regard to the degree to which the relevant act is expected to further one or more of the charity’s purposes in whole or in part, and the expected financial return”

BARONESS BARKER
LORD WALLACE OF SALTAIRE

- 21** Page 17, line 24, leave out “social”
- 22** Page 17, line 24, at end insert “and make this review publicly available, including an assessment of how this use of funds furthers the charity’s purpose”

LORD HODGSON OF ASTLEY ABBOTTS

- 22A** Page 17, line 38, at end insert –

“292D Marketing of social investments

- (1) Any financial promotion which is communicated by a charity shall not be subject to the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005.
- (2) The Treasury may by regulations set out rules for the communication of financial promotions by charities.
- (3) In making any such regulations, the Treasury shall have regard to –
 - (a) the desirability of creating rules which are proportionate to the nature, scale and capacity of different charities and which are easy to understand and follow;
 - (b) the desirability of creating rules which support the growth, development and financing of charities and which are enabling and facilitative;
 - (c) the desirability of facilitating, where appropriate, direct investment on the part of consumers into charities, including charities which operate locally to the consumer;
 - (d) the desirability of consistency of approach in the regulatory treatment of communications made by different forms of charities;
 - (e) the differing expectations that consumers may have in relation to different kinds of investment or other transaction and, in particular, the fact that many when investing in charities do so for a variety of non-financial reasons; and
 - (f) the desirability, where appropriate, of the Financial Conduct Authority exercising its functions in a way that recognises differences in the nature of, and objectives of, charities as compared to other organisations which are subject to the requirements of the Financial Services and Markets Act 2000.”

Amendment
No.

After Clause 13

LORD HODGSON OF ASTLEY ABBOTTS
[In substitution for Amendment 23]

22B

Insert the following new Clause—

“Appeals and applications to Charity Appeal Tribunal

- (1) The Charities Act 2011 is amended as follows.
- (2) For section 319 (appeals: general) substitute—

“319 Appeals: general

- (1) Except in the case of a reviewable matter (see section 322) an appeal may be brought to the Tribunal against any decision, order or direction made by the Commission or any decision on the part of the Commission not to make any decision, order or direction.
- (2) Such an appeal may be brought by the following—
 - (a) the Attorney General;
 - (b) the charity trustees of the charity subject to the relevant decision, order or direction;
 - (c) (if a body corporate) the charity subject to the relevant decision, order or direction;
 - (d) any other person who is the subject of the relevant decision, order or direction or who is significantly interested in and affected by the relevant decision, order or direction.
- (3) The Commission is to be the respondent to such an appeal.
- (4) In determining such an appeal the Tribunal—
 - (a) must consider afresh the legal decision, order, direction or decision not to act (as the case may be), and
 - (b) may take into account evidence which is not available to the Commission.
- (5) The Tribunal may—
 - (a) dismiss the appeal; or
 - (b) if it allows the appeal, exercise any of the following powers—
 - (i) to quash (in whole or in part) the decision, order, direction and (if appropriate) remit the matter to the Commission;
 - (ii) to substitute for the decision, order or direction any other decision, order or direction which could have been made or given by the Commission;
 - (iii) to add to the decision, order or direction anything which could have been contained in a decision, order or direction of the Commission;
 - (iv) to give such direction to the Commission as it considers appropriate; and
 - (v) where appropriate, to make any decision, order or direction which the Commission could have made.”
- (3) For section 321(2) substitute—

Amendment
No.

After Clause 13—*continued*

- “(2) Such an application may be brought by –
- (a) the Attorney General;
 - (b) the charity trustees of the charity subject to the relevant reviewable matter;
 - (c) (if a body corporate) the charity subject to the relevant reviewable matter;
 - (d) any other person who is the subject of the relevant reviewable matter or who is significantly interested in and affected by the relevant reviewable matter.”
- (4) For section 323 (remission of matters to Commission) substitute –
- “323 Remission of matters to Commission**
- The reference in section 319(5)(i) to “remit a matter to the Commission” means the power to remit the matter –
- (a) generally, or
 - (b) for determination in accordance with a finding made or direction given by the Tribunal.”
- (5) Omit section 324 (power to amend provisions relating to appeals and applications to Tribunal).
- (6) Omit Schedule 6 (appeals and applications to Tribunal).”

23 [Withdrawn]

24 [Withdrawn]

25 [Withdrawn]

Clause 14

BARONESS BARKER
LORD WALLACE OF SALTAIRE

26 Page 18, line 6, at end insert –

- “() The Chancellor of the Exchequer and the Minister for the Cabinet Office must carry out a review into the operation of this Act as it relates to social investment, including –
- (a) the effectiveness of the social investment market;
 - (b) public understanding of how funds are used by charities for the purposes of investment;
 - (c) the interaction between grant-making and social investment.”

27 Page 18, line 11, at end insert –

- “() any other areas deemed relevant by the Minister”

LORD WATSON OF INVERGOWRIE
BARONESS HAYTER OF KENTISH TOWN

28 Page 18, line 14, leave out “5” and insert “3”

29 Page 18, line 15, leave out “5” and insert “3”

**Amendment
No.**

Clause 15

LORD BRIDGES OF HEADLEY

30

Page 18, line 20, leave out “This Act comes” and insert –

- “() This section and section 14 come into force on the day on which this Act is passed.
- () The other provisions of this Act come”

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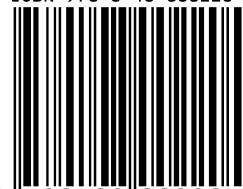
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