

CHARITIES (PROTECTION AND SOCIAL INVESTMENT) BILL [HL]

EXPLANATORY NOTES ON COMMONS AMENDMENTS

What these notes do

- 1 These Explanatory Notes relate to the Commons Amendments to the Charities (Protection and Social Investment) Bill [HL] as brought from the House of Commons on 26 January 2016.
- 2 These Explanatory Notes have been prepared by the Cabinet Office in order to assist the reader of the Bill and the Commons amendments, and to help inform debate on the Commons amendments. They do not form part of the Bill and have not been endorsed by Parliament.
- 3 These Explanatory Notes, like the Commons amendments themselves, refer to Bill 69, the Bill as first printed for the Commons.
- 4 These Explanatory Notes need to be read in conjunction with the Commons amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the Commons amendments.
- 5 All the Commons amendments were tabled in the name of the Minister.

Commentary on Commons amendments

Commons Amendment to Clause 1: Official Warnings

Commons Amendment 1

- 6 This Amendment would make supplementary provision to the power to issue official warnings, enabling the Charity Commission to vary or withdraw a warning it had issued. The ability for the Charity Commission to vary a warning would be subject to the same requirements in clause 1 as the issuing of a warning, including the requirement to give notice in advance and to consider any representations made.

Commons Amendment to Clause 9: Conduct of charities: disposal of assets

Commons Amendment 2

- 7 Commons Amendment 2 would remove clause 9 from the Bill.

Commons Amendment to Clause 10: Automatic disqualification from being a trustee

Commons Amendment 3

- 8 In a small charity employees who are not managers may report directly to charity trustees.

Inserted section 178(4)(a) could cover their functions. Commons Amendment 3 would exclude them and limit “senior management functions” to functions involving management.

Commons Amendments to Clause 11: Power to disqualify from being a trustee

Commons Amendment 4

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

Commons Amendment 5

- 10 Commons Amendment 5 adapts the reference to the time when a conviction becomes spent for cases covered by condition B in inserted section 181A(7). It ensures the Commission takes into account the relevant UK rehabilitation period, when determining the length of the disqualification, rather than the rehabilitation period in the overseas jurisdiction in which the individual was convicted.

Commons Amendment New Clause After Clause 14: Reserve powers to control fund-raising

Commons Amendment 6

- 11 Commons Amendment 6 would insert a new clause into the Bill to provide two new reserve powers to control fund-raising.
- 12 New section 64B would enable regulations made under the existing reserve power to regulate fund-raising in section 64A of the Charities Act 1992 to specify a body as a fund-raising regulator. Regulations could also impose a number of requirements on charitable institutions, as set out in subsection (1) of new section 64B, including to comply the regulator’s requirements, have regard to its guidance, pay fees to it in line with regulations, and be registered with it.
- 13 New section 64C would enable regulations made under section 64A to confer functions of fund-raising regulation on the Charity Commission. Subsection (1) of new section 64C would define charity fundraising and enables regulations to make provision modifying and applying provisions of the Charities Act 2011. Subsection (2) of new section 64C would enable regulations to permit the regulation of fund-raising by the Charity Commission to be conducted by a third party appointed by the Charity Commission. Subsection (3) of new section 64C would enable any fee-charging regulations made under section 19 of the Charities Act 2011 for the purposes of fund-raising regulation to extend beyond charities to include other institutions’ fund-raising for charitable purposes.
- 14 Subsection (5) of the new clause would provide that the Minister must consult the Charity Commission before making any regulations under new section 64B or new section 64C.

Commons Amendment to Clause 17: Short title, extent and commencement

Commons Amendment 7

- 15 Commons Amendment 7 would remove the Privilege Amendment.

Financial Effects of Commons Amendments

- 16 Commons Amendment 6 would enable regulations made under section 64A of the Charities Act 1992 to provide for fees to be levied on charities for the purposes of fund-raising regulation by a fund-raising regulator (under new section 64B), and would enable any fee-charging regulations made under section 19 of the Charities Act 2011 for the purposes of fund-raising regulation to extend beyond charities to include other institutions fund-raising for charitable purposes (under new section 64C).
- 17 There would be no financial effect unless the reserve powers to regulate fund-raising under section 64A and section 64B or section 64C of the Charities Act 1992 were to be exercised. Regulations made under section 64A would be subject to affirmative Parliamentary procedure.

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26 January 2016

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