

Written evidence submitted by the League Against Cruel Sports (EB12)

1 The League Against Cruel Sports

- 1.1 The League Against Cruel Sports (the “**League**”) is an established UK registered charity whose aim is to expose and to bring an end to the cruelty inflicted on animals in the name of “sport”.
- 1.2 The charity’s core campaigns are against hunting with dogs, dog fighting, bull fighting, shooting (including trophy hunting), the use of snares, wildlife crime, the badger cull and for the welfare of racing animals.
- 1.3 As part of a coalition with the International Fund for Animal Welfare and the Royal Society for the Prevention of Cruelty to Animals (“**RSPCA**”) on a campaign named ‘The Campaign to Protect Hunted Animals’, the League was instrumental in bringing about the Hunting Act 2004.
- 1.4 The League is also a member of Wildlife and Countryside Link (“**Link**”) – the largest environment and wildlife coalition in England with recognised influence in government. Other members of LINK include the RSPCA, the Woodland Trust, World Wildlife Fund, the National Trust and 57 other organisations.
- 1.5 The League is a “recognised third party”¹ under section 88 of the Political Parties, Elections and Referendums Act 2000 (“**PPERA**”).

2 Purpose of these submissions

- 2.1 The League is highlighting to the Public Bills Committee (the “**Committee**”) the risk that amendments proposed to PPERA by the Elections Bill (the “**Bill**”) have the potential to:
 - (a) pose a real and serious threat to democracy, silencing important independent voices during the regulated period² prior to a parliamentary general election; and
 - (b) strike at the very core of UK registered charities (“**Charities**”), restricting their ability to operate effectively and further their charitable purposes. Inhibiting Charities from furthering their charitable purposes would be to

¹ A third party may become a recognised third party under PPERA if they meet the various conditions set out at section 88 PPERA . Recognised third parties are exempted from certain controls under PPERA giving them greater allowances than non-recognised third parties.

² Schedule 10, Part II, Paragraph 3(3)(a) PPERA: Generally, the “regulated period” in relation to a parliamentary general election is the period of 365 days ending with the date of the poll for the election.

act contrary to the public benefit since all Charities must have charitable purposes which are for the public benefit

- 2.2 The League asks that the Committee review the Bill and consider its suggestions before reporting the Bill to the House of Commons for the next stage in the legislative process.

3 Elections Bill

- 3.1 Unsurprisingly, some Charities' expenditure on campaigns is caught by the definition of "controlled expenditure"³ within PPERA due to the breadth of the definition of "election material"⁴. These Charities may notify the Electoral Commission to become "recognised third parties" for the purposes of PPERA so that whilst their "controlled expenditure" is limited by Schedule 10 of PPERA, it is not limited to the extent that "controlled expenditure" is by a non-recognised third party.

Clause 23

- 3.2 The Bill's long title describes the Bill's purpose as, amongst other things, being *"designed to strengthen the integrity of the electoral process"*.
- 3.3 The League is concerned that in the government's pursuit of greater transparency, Charities and their activities have the potential to be unduly restricted by the powers granted by the current proposed clause 23⁵ of the Bill ("**Clause 23**"). This would be regrettable in circumstances where registered charities are not a threat to political

³ Section 85(2) PPERA: "Controlled expenditure", in relation to a third party, means (subject to section 87) expenses incurred by or on behalf of the third party in connection with the production or publication of election material which is made available to the public at large or any section of the public (in whatever form and by whatever means).

⁴ Section 85(3) PPERA: "Election material" is material which can reasonably be regarded as intended to— (a) promote or procure electoral success at any relevant election for— (i) one or more particular registered parties, (ii) one or more registered parties who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of such parties, or (iii) candidates who hold (or do not hold) particular opinions or who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of candidates, or (b) otherwise enhance the standing— (i) of any such party or parties, or (ii) of any such candidates, with the electorate in connection with future relevant elections (whether imminent or otherwise); and any such material is election material even though it can reasonably be regarded as intended to achieve any other purpose as well.

⁵ Clause 23 of the Bill would add the following new sections 88(9) and 88(10) to the PPERA:

"(9) The Secretary of State may by order amend subsection (2) by –

- a) adding a description of third party to the list in that subsection,
- b) removing a description of third party from that list, or
- c) varying the description of a third party in that list.

(10) An order under subsection (9) may make such amendments of this Part as the Secretary of State considers appropriate in consequence of the amendments to subsection (2) made by the order."

independence and transparency in the way that other non-charity third party campaigners may be⁶. Furthermore, the integrity of the electoral process may be weakened as opposed to strengthened as a result.

- 3.4 The simplified consequence of Clause 23 in its current form is that the Minister for the Cabinet Office will have the unqualified power to amend the list of third party organisations eligible for recognition under section 88(2) PPERA⁷ and so could prevent Charities or those campaigning on particular issues from achieving “recognised third party” status. If Charities were unable to register as “recognised third parties”, they would be unable to spend “controlled expenditure”⁸ over £10,000 on campaigns within the 365 days preceding the date of the poll for the general election. Accordingly, their ability to further their charitable purposes for the public benefit, would be significantly limited and Charities’ independent and educational voices would be silenced, hindering freedom of speech and a fair and democratic election.
- 3.5 The government’s response to the Committee on Standards in Public Life’s report *Regulating Election Finance* clearly stated that:
- (a) the Bill seeks to *“increase the transparency of joint campaigns between political parties and third-party campaigners and protect the integrity of spending limits by ensuring groups cannot appear on both the third-party and political party registers at the same time and therefore potentially access multiple spending limits”*; and
 - (b) the government *“agrees with the principles that third-party campaigning should be transparent, and that campaigners should participate on equal terms to each other and be accountable”*.
- 3.6 Charities do not donate to political parties and do not campaign on behalf of political parties or to further political parties’ agendas. They campaign to further their charitable purposes and in support of policies and agendas that help further those purposes. Charity spending during the “regulated period” is not a threat to the

⁶ Campaigning and political activity guidance for charities (CC9): The Charity Commission regulates all UK registered charities. There are rules against charities making political donations or giving other kinds of support to a political party and rules to ensure that charities maintain independence and political neutrality, although they may express support for particular policies. There are also rules to ensure that charities are able to engage with political parties but only to the extent that the engagement furthers their charitable purposes and that trustees are as open and transparent as possible about any engagement their charity has with a political party.

⁷ Section 88(2) PPERA: A third party may only give a notification under subsection (1) if the third party is – (a) an individual resident in the United Kingdom or registered in an electoral register (as defined by section 54(8)) (b) a registered party, or 9(c) a body falling within any of paragraphs (b) and (d) to (h) of section 54(2).

⁸ Section 85(2) PPERA: “Controlled expenditure”, in relation to a third party, means (subject to section 87) expenses incurred by or on behalf of the third party in connection with the production or publication of election material which is made available to the public at large or any section of the public (in whatever form and by whatever means).

integrity of elections and is already appropriately regulated by the Charity Commission. For this reason, Charities ought to be treated as a class of their own in the context of “controlled expenditure” during “regulated periods”. It would be unjust to stifle Charities’ voices if the powers awarded under Clause 23 were exercised in an irresponsible manner so as to exclude them, or any subset of them, from “recognised third party” status. This would go beyond the true purpose of the Bill and would be contrary to the public benefit.

Clause 22

- 3.7 If it were the case that Charities were not eligible to register as “recognised third parties” due to the incorporation into the PPERA of amendments proposed by Clause 23, the new section 89A(2) proposed by Clause 22 of the Bill (“**Clause 22**”) would further devastatingly restrict Charities’ abilities to advance their charitable purposes. Further, it would threaten the integrity of elections, stifling the independent voices of Charities by significantly further restricting their “controlled expenditure” within the “regulated period” to £700. This would be catastrophic to the Charities’ operations and entirely undemocratic. Clauses 22 and 23 combined could mean that UK registered charities with a charitable company or charitable incorporated organisation structure would be treated differently to those with an unincorporated charitable association structure.

Overall

- 3.8 Generally, whilst the Bill’s long title⁹ gives some insight into the purpose of the Bill, the motivations behind these amendments and the proposal to incorporate a new, lower tier third party expenditure limit¹⁰ in the Bill are unclear. The League is unaware of any reasons for which such greater regulation is necessary. The PPERA in its current form is a strong deterrent of corruption in the electoral process and due to the complicated nature of the “controlled expenditure” regulation and the burdens and risks it imposes, already deters some Charities from legitimately campaigning to further their charitable purposes during general election campaign periods.
- 3.9 These amendments proposed by the Bill combined with the repeal of the Fixed-term Parliaments Act 2011 (“**FTPA**”) have the potential to be lethal for some Charities.

⁹ “A Bill to make provision about the administration and conduct of elections, including provision designed to strengthen the integrity of the electoral process; about overseas electors; about voting and candidacy rights of EU citizens; about the designation of a strategy and policy statement for the Electoral Commission; about the membership of the Speaker’s Committee; about the Electoral Commission’s functions in relation to criminal proceedings; about financial information to be provided by a political party on applying for registration; for preventing a person being registered as a political party and being a recognised non-party campaigner at the same time; about regulation of expenditure for political purposes; about disqualification of offenders for holding elective offices; about information to be included in electronic campaigning material; and for connected purposes”.

¹⁰ Clause 24 of the Bill

Amongst their wider purposes, many Charities campaign for causes which will only be achieved via policy and legislative change and so campaigning in the run up to general elections is a vital element in furthering their charitable purposes. Charities are now facing a legislative framework under which they are prevented from effectively furthering their charitable purposes due to significantly lower limits on “controlled expenditure” during the 365 days preceding the date of the poll for a general election and it being possible for a general election to be called at any time, broadening the scope of spending regulated under PPERA. The stakes are very high for Charities.

- 3.10 Consequently, the League is concerned that the risks that the Bill poses to democracy by further increasing the risks of falling foul of the law even in circumstances where expenditure is incurred legitimately, particularly in conjunction with the repeal of the FTPA, are unjustified.

4 Suggestions

Clause 23

- 4.1 The League calls for the removal of Clause 23, for the reasons set out above.
- 4.2 Alternatively, the League calls for a new subsection of section 88 of PPERA which either:
- 4.2.1 guarantees Charities’ eligibility to register as “recognised third parties” and so acts as a caveat to the new subsection 88(9) of PPERA proposed by Clause 23; or
 - 4.2.2 guarantees that the power granted by the new subsection 88(9) of PPERA cannot be exercised to exclude Charities from the “recognised third party” eligibility list.

Clause 22

- 4.3 In the event that the Committee does not agree with the League’s suggestion for the removal of or amendment to Clause 23, the League calls for the amendment of Clause 22 as follows:

“89A Restriction on which third parties may incur controlled expenditure

- (1) No amount of controlled expenditure may be incurred by or on behalf of a third party during a regulated period unless the third party—*
- (a) falls within any paragraph of section 88(2) (third parties eligible to give notification), ~~or~~*
 - (b) is an unincorporated association with the requisite UK connection, or*
 - (c) is a charity registered with the Charity Commission.*

(2) Subsection (1) does not apply to any expenses incurred by or on behalf of a third party during a regulated period which do not in total exceed £700.

[...]"

4.4 This would ensure that in the event that the Minister for the Cabinet Office was to exercise their powers under Clause 23 to exclude Charities from being eligible to register as “recognised third parties”, those organisations would not be caught by the £700 “controlled expenditure” cap in the new section 89A(2) of PPERA as proposed by Clause 22.

4.5 The League’s suggestion of amendments to be made to Clause 22 would be redundant if the government was minded to agree to the League’s suggestion to remove Clause 23.

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