

# Charities Bill [HL]

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AMENDMENTS  
TO BE MOVED  
IN SPECIAL PUBLIC BILL COMMITTEE

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**Clause 12**

LORD ETHERTON

Page 13, line 37, at end insert—

- “(4) No regulations under subsection (3) may be made unless a draft of the regulation has been laid before and approved by a resolution of each House of Parliament.”

***Member’s explanatory statement***

*This amendment, recommended by the Delegated Powers and Regulatory Reform Committee, would require the regulations under subsection (3) of section 285 of the Charities Act 2011 (inserted by Clause 12 (amount permitted to be borrowed from permanent endowment and time limit for re-payment)) to be made pursuant to the affirmative resolution procedure.*

**Before Clause 36**

LORD ETHERTON

Insert the following new Clause—

**“Consent for the taking of charity proceedings**

- (1) In section 115 of the Charities Act 2011, after subsection 4(b) insert the following—
- “or,
- (c) if, within 60 days of the receipt by the Commission of a request for consent, the Commission has neither granted nor refused consent, in which case consent will be deemed to have been given.””

***Member’s explanatory statement***

*This amendment specifies an exception to the prohibition in Section 115 of the 2011 Act on taking charity proceedings without authorisation by the Charity Commission. The exception is where the Commission has failed to respond within 60 days to a request for consent, in which case consent will be deemed to have been given.*

### After Clause 36

LORD ETHERTON

Insert the following new Clause –

#### “References to Tribunal by the Commission

In section 325 of the Charities Act 2011, after subsection (2) insert –

“(2A) If, within 60 days of receipt by the Attorney General of a request to consent to make such a reference, the Attorney General has neither given nor refused consent authorisation will be deemed to have been given.

(2B) If the Attorney General refuses consent within such period of 60 days the Attorney General must publish the reasons for the refusal.”

#### *Member’s explanatory statement*

*The proposed new subsection 325(2A) of the 2011 Act provides an exception to the prohibition on the Charity Commission making a reference to the Tribunal without the consent of the Attorney General. It provides that where the Attorney General has neither refused nor granted consent within 60 days consent will be deemed to have been given.*

*The proposed new subsection 325(2B) stipulates that the reasons for any refusal of consent must be published.*

Insert the following new Clause –

#### “Right of appeal

In Schedule 6 to the Charities Act 2011 (appeals and applications to Tribunal), insert in the table the following new entries –

“Decision by the Commission under section 67A(4)(b) not to grant written consent.	The persons are – (a) the charity trustees; (b) any other person who is or may be affected by the decision.	Power to quash the decision and (if appropriate) remit the matter to the Commission.
Decision by the Commission under section 280A(7)(a) to give or refuse written consent.	The persons are – (a) the charity trustees; (b) any other person who is or may be affected by the decision.	Power to quash the decision and (if appropriate) remit the matter to the Commission.”

***Member's explanatory statement***

*These amendments are consequential on (1) Clause 7 of the Bill (cy-près application of proceeds of fund-raising), which requires under the new section 67A(4)(b) the Commission's written consent if the money or property exceeds £1,000, and (2) Clause 3 of the Bill (amendment of trusts of an unincorporated charity) which requires under the new section 280A(7)(a) the written consent of the Commission to amendments to which section 280A(8) applies.*

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*2 November 2021*

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