



# Charities Act 2011

## 2011 CHAPTER 25

### PART 9

#### CHARITY TRUSTEES, TRUSTEES AND AUDITORS ETC.

##### *Indemnity insurance for charity trustees and trustees*

#### **189 Indemnity insurance for charity trustees and trustees**

- (1) The charity trustees of a charity may arrange for the purchase, out of the funds of the charity, of insurance designed to indemnify the charity trustees or any trustees for the charity against any personal liability in respect of—
- (a) any breach of trust or breach of duty committed by them in their capacity as charity trustees or trustees for the charity, or
  - (b) any negligence, default, breach of duty or breach of trust committed by them in their capacity as directors or officers of—
    - (i) the charity (if it is a body corporate), or
    - (ii) any body corporate carrying on any activities on behalf of the charity.
- (2) But the terms of such insurance must be so framed as to exclude the provision of any indemnity for a person (“P”) in respect of—
- (a) any liability incurred by P to pay—
    - (i) a fine imposed in criminal proceedings, or
    - (ii) a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature (however arising),
  - (b) any liability incurred by P in defending any criminal proceedings in which P is convicted of an offence arising out of any fraud or dishonesty, or wilful or reckless misconduct, by P, or
  - (c) any liability incurred by P to the charity that arises out of any conduct—
    - (i) which P knew (or must reasonably be assumed to have known) was not in the interests of the charity, or

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*Status: This is the original version (as it was originally enacted).*

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- (ii) in the case of which P did not care whether it was in the best interests of the charity or not.
- (3) For the purposes of subsection (2)(b)—
  - (a) the reference to any such conviction is a reference to one that has become final,
  - (b) a conviction becomes final—
    - (i) if not appealed against, at the end of the period for bringing an appeal, or
    - (ii) if appealed against, at the time when the appeal (or any further appeal) is disposed of, and
  - (c) an appeal is disposed of—
    - (i) if it is determined and the period for bringing any further appeal has ended, or
    - (ii) if it is abandoned or otherwise ceases to have effect.
- (4) The charity trustees of a charity may not purchase insurance under this section unless they decide that they are satisfied that it is in the best interests of the charity for them to do so.
- (5) The duty of care in section 1(1) of the Trustee Act 2000 applies to a charity trustee when making such a decision.
- (6) This section—
  - (a) does not authorise the purchase of any insurance whose purchase is expressly prohibited by the trusts of the charity, but
  - (b) has effect despite any provision prohibiting the charity trustees or trustees for the charity receiving any personal benefit out of the funds of the charity.

## **190 Power to amend s.189**

The Minister may by order make such amendments of section 189(2) and (3) as the Minister considers appropriate.