



2008 CHAPTER 12

PART 9

CHARITY TRUSTEES

CHAPTER 2

OTHER PROVISIONS RELATING TO CHARITY TRUSTEES

Supplementary provisions for purposes of section 88

89.—(1) Before entering into an agreement within section 88(3) the charity trustees must have regard to any guidance given by the Commission concerning the making of such agreements.

(2) The duty of care in section 1(1) of the Trustee Act (Northern Ireland) 2001 (c. 14) applies to a charity trustee when making such a decision as is mentioned in section 88(4).

(3) For the purposes of section 88(5) an agreement within section 88(3) is in force so long as any obligations under the agreement have not been fully discharged by a party to it.

(4) In section 88—

“benefit” means a direct or indirect benefit of any nature;

“maximum amount”, in relation to remuneration, means the maximum amount of the remuneration whether specified in or ascertainable under the terms of the agreement in question;

“remuneration” includes any benefit in kind (and “amount” accordingly includes monetary value);

“services”, in the context of remuneration for services, includes goods that are supplied in connection with the provision of services.

- (5) For the purposes of section 88 the following persons are “connected” with a charity trustee or trustee for a charity—
- (a) a child, parent, grandchild, grandparent, brother or sister of the trustee;
 - (b) the spouse or civil partner of the trustee or of any person falling within paragraph (a);
 - (c) a person carrying on business in partnership with the trustee or with any person falling within paragraph (a) or (b);
 - (d) an institution which is controlled—
 - (i) by the trustee or by any person falling within paragraph (a), (b) or (c), or
 - (ii) by two or more persons falling within sub-paragraph (i) when taken together;
 - (e) a body corporate in which—
 - (i) the trustee or any connected person falling within any of paragraphs (a) to (c) has a substantial interest, or
 - (ii) two or more persons falling within sub-paragraph (i), when taken together, have a substantial interest.
- (6) Paragraphs 2 to 4 of Schedule 5 apply for the purposes of subsection (5) as they apply for the purposes of provisions of that Schedule.