



Charities Act 2006

2006 CHAPTER 50

PART 2

REGULATION OF CHARITIES

CHAPTER 9

CHARITY TRUSTEES ETC.

Remuneration of trustees etc.

36 Remuneration of trustees etc. providing services to charity

After section 73 of the 1993 Act insert—

“73A Remuneration of trustees etc. providing services to charity

- (1) This section applies to remuneration for services provided by a person to or on behalf of a charity where—
- (a) he is a charity trustee or trustee for the charity, or
 - (b) he is connected with a charity trustee or trustee for the charity and the remuneration might result in that trustee obtaining any benefit.

This is subject to subsection (7) below.

- (2) If conditions A to D are met in relation to remuneration within subsection (1), the person providing the services (“the relevant person”) is entitled to receive the remuneration out of the funds of the charity.
- (3) Condition A is that the amount or maximum amount of the remuneration—
- (a) is set out in an agreement in writing between—
 - (i) the charity or its charity trustees (as the case may be), and
 - (ii) the relevant person,

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- under which the relevant person is to provide the services in question to or on behalf of the charity, and
- (b) does not exceed what is reasonable in the circumstances for the provision by that person of the services in question.
- (4) Condition B is that, before entering into that agreement, the charity trustees decided that they were satisfied that it would be in the best interests of the charity for the services to be provided by the relevant person to or on behalf of the charity for the amount or maximum amount of remuneration set out in the agreement.
- (5) Condition C is that if immediately after the agreement is entered into there is, in the case of the charity, more than one person who is a charity trustee and is—
- (a) a person in respect of whom an agreement within subsection (3) above is in force, or
- (b) a person who is entitled to receive remuneration out of the funds of the charity otherwise than by virtue of such an agreement, or
- (c) a person connected with a person falling within paragraph (a) or (b) above,
- the total number of them constitute a minority of the persons for the time being holding office as charity trustees of the charity.
- (6) Condition D is that the trusts of the charity do not contain any express provision that prohibits the relevant person from receiving the remuneration.
- (7) Nothing in this section applies to—
- (a) any remuneration for services provided by a person in his capacity as a charity trustee or trustee for a charity or under a contract of employment, or
- (b) any remuneration not within paragraph (a) which a person is entitled to receive out of the funds of a charity by virtue of any provision or order within subsection (8).
- (8) The provisions or orders within this subsection are—
- (a) any provision contained in the trusts of the charity,
- (b) any order of the court or the Commission,
- (c) any statutory provision contained in or having effect under an Act of Parliament other than this section.
- (9) Section 73B below applies for the purposes of this section.

73B Supplementary provisions for purposes of section 73A

- (1) Before entering into an agreement within section 73A(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 2000 applies to a charity trustee when making such a decision as is mentioned in section 73A(4).
- (3) For the purposes of section 73A(5) an agreement within section 73A(3) is in force so long as any obligations under the agreement have not been fully discharged by a party to it.

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- (4) In section 73A—
- “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 73A 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 to this Act apply for the purposes of subsection (5) above as they apply for the purposes of provisions of that Schedule.”