



2008 CHAPTER 12

PART 9

CHARITY TRUSTEES

CHAPTER 2

OTHER PROVISIONS RELATING TO CHARITY TRUSTEES

**Trustees' indemnity insurance**

**93.**—(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 the charity (if it is a body corporate) or of any body corporate carrying on any activities on behalf of the charity.

(2) The terms of such insurance must, however, be so framed as to exclude the provision of any indemnity for a person in respect of—

- (a) any liability incurred by that person to pay—
  - (i) a fine imposed in criminal proceedings, or
  - (ii) a sum payable to a regulator 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 that person in defending any criminal proceedings in which that person is convicted of an offence arising out of any fraud or dishonesty, or wilful or reckless misconduct, by that person; or
  - (c) any liability incurred by that person to the charity that arises out of any conduct which that person knew (or must reasonably be assumed to have known) was not in the interest of the charity or in the case of which that person 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 (Northern Ireland) 2001 (c. 14) applies to a charity trustee when making such a decision.
- (6) The Department may by order make such amendments of subsections (2) and (3) as it considers appropriate.
- (7) No order may be made under subsection (6) unless a draft of the order has been laid before and approved by a resolution of the Assembly.
- (8) 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.