Charities Act 2011

2011 CHAPTER 25

PART 9 E+W

CHARITY TRUSTEES, TRUSTEES AND AUDITORS ETC.

Meaning of "charity trustees"

177 Meaning of "charity trustees" E+W

In this Act, except in so far as the context otherwise requires, "charity trustees" means the persons having the general control and management of the administration of a charity.

Disqualification of charity trustees and trustees

178 Persons disqualified from being charity trustees or trustees of a charity E+W

(1) A person ("P") is disqualified from being a charity trustee or trustee for a charity in the following cases—

Case A

P has been convicted **[**[F1]of—

(a) an offence specified in section 178A;

(b) an offence, not specified in section 178A, that involves dishonesty or deception.**]**

Case B

P has been **[**[F2]made**]** bankrupt or sequestration of P's estate has been awarded and (in either case)—

(a) P has not been discharged, or

(b) P is the subject of a bankruptcy restrictions order or an interim order.

Case C

Changes to legislation: *Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

P has made a composition or arrangement with, or granted a trust deed for, creditors and has not been discharged in respect of it.

Case D

P has been removed **[**[F3] as a trustee, charity trustee, officer, agent or employee of a charity **]** by an order made—

(a) by the Commission under section **[**[F4]79(4)**]** or by the Commission or the Commissioners under a relevant earlier enactment (as defined by section 179(5)), or

(b) by the High Court,

on the ground of any misconduct or mismanagement in the administration of the charity for which P was responsible or **[**[F5]which P knew of and failed to take any reasonable step to oppose,**]** or which P's conduct contributed to or facilitated.

Case E

P has been removed, under section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10) (powers of the Court of Session) or the relevant earlier legislation (as defined by section 179(6)), from being concerned in the management or control of any body.

Case F

P is subject to—

(a) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986 or the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I.4)), or

(b) an order made under section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order).

[[F6]*Case G*

P is subject to—

(a) a moratorium period under a debt relief order under Part 7A of the Insolvency Act 1986; or

(b) a debt relief restrictions order or interim order under Schedule 4ZB to that Act**]**

[[F7]*Case H*

P has been found to be in contempt of court under Civil Procedure Rules for—

(a) making a false disclosure statement, or causing one to be made, or

(b) making a false statement in a document verified by a statement of truth, or causing one to be made.

Case I

P has been found guilty of disobedience to an order or direction of the Commission on an application to the High Court under section 336(1).

Case J

P is a designated person for the purposes of—

(a) [F8] . . . . . .

(aa) **[**[F9]regulations 8 to 12 of the ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/466), **]**

Changes to legislation: *Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(c) **[**[F10]regulations 11 to 15 of the Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/573), or**]**

(d) **[**[F11]regulations 11 to 15 of the Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/577).**]**

Case K

P is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003.**]**

(2) Subsection (1) is subject to sections 179 to 181.

[[F12](3) While a person is disqualified under this section in relation to a charity, the person is also disqualified from holding an office or employment in the charity with senior management functions.

(4) A function of an office or employment held by a person "(A)" is a senior management function if—

(a) it relates to the management of the charity, and A is not responsible for it to another officer or employee (other than a charity trustee or trustee for the charity), or

(b) it involves control over money and the only officer or employee (other than a charity trustee or trustee for the charity) to whom A is responsible for it is a person with senior management functions other than ones involving control over money.**]**

Textual Amendments

F1 Words in s. 178(1) substituted (1.2.2018 for specified purposes, 1.8.2018 in so far as not already in force) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(3)**, 17(4); S.I. 2018/47, regs. 2, 3(a) (with reg. 4)

F2 Word in s. 178(1) substituted (6.4.2016) by The Enterprise and Regulatory Reform Act 2013 (Consequential Amendments) (Bankruptcy) and the Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) Regulations 2016 (S.I. 2016/481), reg. 1, **Sch. 1 para. 17(3)**

F3 Words in s. 178(1) substituted (1.2.2018 for specified purposes, 1.8.2018 in so far as not already in force) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(4)(a)**, 17(4); S.I. 2018/47, regs. 2, 3(a) (with reg. 4)

F4 Word in s. 178(1) substituted (31.7.2016) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 4(5)**, 17(4); S.I. 2016/815, reg. 2(c)

F5 Words in s. 178(1) substituted (31.7.2016) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(4)(b)**, 17(4); S.I. 2016/815, reg. 2(h)

F6 Words in s. 178(1) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, **Sch. 2 para. 62(3)** (with art. 6)

F7 Words in s. 178(1) inserted (1.2.2018 for specified purposes, 1.8.2018 in so far as not already in force) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(5)**, 17(4); S.I. 2018/47, regs. 2, 3(a) (with reg. 4)

F8 Words in s. 178(1) repealed (31.12.2020) by Sanctions and Anti-Money Laundering Act 2018 (c. 13), s. 64(2), **Sch. 3 para. 9** (with ss. 52(3), 53, 58); S.I. 2020/1535, reg. 3(e)

F9 Words in s. 178(1) inserted (31.12.2020) by S.I. 2019/466, **reg. 58A(2)** (as inserted by The Sanctions (EU Exit) (Consequential Provisions) (Amendment) Regulations 2020 (S.I. 2020/1289), regs. 1(2), **2(2)**; S.I. 2020/1514, **reg. 21**)

F10 Words in s. 178(1) substituted (31.12.2020) by S.I. 2019/573, **reg. 60A(2)** (as inserted by The Sanctions (EU Exit) (Consequential Provisions) (Amendment) Regulations 2020 (S.I. 2020/1289), regs. 1(2), **3(2)**; S.I. 2020/1514, **reg. 21**)

Changes to legislation: *Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

F11 Words in s. 178(1) inserted (31.12.2020) by S.I. 2019/577, **reg. 34A(2)** (as inserted by The Sanctions (EU Exit) (Consequential Provisions) (Amendment) Regulations 2020 (S.I. 2020/1289), regs. 1(2), **4(2)**; S.I. 2020/1514, **reg. 21**)

F12 S. 178(3)(4) inserted (1.2.2018 for specified purposes, 1.8.2018 in so far as not already in force) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(6)**, 17(4); S.I. 2018/47, regs. 2, 3(a) (with reg. 4)

[F13 178A Case A: specified offences E+W

(1) The following offences are specified for the purposes of Case A—

1	An offence to which Part 4 of the Counter-Terrorism Act 2008 applies (see sections 41 to 43 of that Act).
2	An offence under section 13 or 19 of the Terrorism Act 2000 (wearing of uniform etc, and failure to disclose information).
3	A money laundering offence within the meaning of section 415 of the Proceeds of Crime Act 2002.
4	An offence under any of the following provisions of the Bribery Act 2010— (a) section 1 (bribing another person), (b) section 2 (offences relating to being bribed), (c) section 6 (bribery of foreign public officials), (d) section 7 (failure of commercial organisations to prevent bribery).
5	An offence under section 77 of this Act.
6	An offence of— (a) misconduct in public office, (b) perjury, (c) perverting the course of justice.

(2) An offence which has been superseded (directly or indirectly) by an offence specified in subsection (1) is also specified for the purposes of Case A.

(3) In relation to an offence specified in subsection (1) or (2), the following offences are also specified for the purposes of Case A—

(a) an offence of attempt, conspiracy or incitement to commit the offence;

(b) an offence of aiding, abetting, counselling or procuring the commission of the offence;

(c) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting) in relation to the offence.

(4) The Secretary of State may amend this section by regulations to add or remove an offence.]

Textual Amendments

F13 S. 178A inserted (1.2.2018 for specified purposes, 1.8.2018 in so far as not already in force) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(7)**, 17(4) (as amended (9.11.2016) by S.I. 2016/997, art. 1(2), Sch. 25(2)(dd) (with art. 12); S.I. 2018/47, regs. 2, 3(a) (with reg. 4)

Changes to legislation: *Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

179 Disqualification: pre-commencement events etc. E+W

(1) Case A—

(a) applies whether the conviction occurred before or after the commencement of section 178(1) **[**[F14] or section 178A or any amendment of that section **]** , but

(b) does not apply in relation to any conviction which is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974.

(2) Case B applies whether the **[**[F15]making bankrupt**]** or the sequestration or the making of a bankruptcy restrictions order or an interim order occurred before or after the commencement of section 178(1).

(3) Case C applies whether the composition or arrangement was made, or the trust deed was granted, before or after the commencement of section 178(1).

(4) Cases D to F apply in relation to orders made and removals effected before or after the commencement of section 178(1).

(5) In Case D—

(a) "the Commissioners" means the Charity Commissioners for England and Wales, and

(b) "relevant earlier enactment" means—

(i) section 18(2)(i) of the Charities Act 1993 (power to act for protection of charities),

(ii) section 20(1A)(i) of the Charities Act 1960, or

(iii) section 20(1)(i) of the 1960 Act (as in force before the commencement of section 8 of the Charities Act 1992).

(6) In Case E, "the relevant earlier legislation" means section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (powers of Court of Session to deal with management of charities).

[[F16](7) Case H does not apply in relation to a finding of contempt which, if it had been a conviction for which P was dealt with in the same way, would be a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974.**]**

Textual Amendments

F14 Words in s. 179(1) inserted (1.2.2018 for specified purposes, 1.8.2018 in so far as not already in force) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(9)**, 17(4); S.I. 2018/47, regs. 2, 3(a) (with reg. 4)

F15 Words in s. 179(2) substituted (6.4.2016) by The Enterprise and Regulatory Reform Act 2013 (Consequential Amendments) (Bankruptcy) and the Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) Regulations 2016 (S.I. 2016/481), reg. 1, **Sch. 1 para. 17(4)**

F16 S. 179(7) added (1.2.2018 for specified purposes, 1.8.2018 in so far as not already in force) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(10)**, 17(4); S.I. 2018/47, regs. 2, 3(a) (with reg. 4)

180 Disqualification: exceptions in relation to charitable companies E+W

(1) Where (apart from this subsection) a person ("P") is disqualified under Case B **[**[F17]or G**]** from being a charity trustee or trustee for a charitable company **[**[F18]or a CIO**]**, P is not so disqualified if leave has been granted under section 11 of the Company Directors

Changes to legislation: *Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Disqualification Act 1986 (undischarged bankrupts) for P to act as director of the company **[**[F19]or charity trustee of the CIO (as the case may be)**]**.

(2) Similarly, a person ("P") is not disqualified under Case F from being a charity trustee or trustee for a charitable company **[**[F20]or a CIO**]** if, in a case set out in the first column of the table, leave has been granted as mentioned in the second column for P to act as director of the company **[**[F21]or charity trustee of the CIO (as the case may be)**]**—

P is subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986.	Leave has been granted for the purposes of section 1(1)(a) or 1A(1)(a) of the 1986 Act.
P is subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I.4)).	Leave has been granted by the High Court in Northern Ireland.
P is subject to an order under section 429(2) of the Insolvency Act 1986.	Leave has been granted by the court which made the order.

Textual Amendments

F17 Words in s. 180(1) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, **Sch. 2 para. 62(4)** (with art. 5)

F18 Words in s. 180(1) inserted (2.1.2013) by The Charitable Incorporated Organisations (Consequential Amendments) Order 2012 (S.I. 2012/3014), arts. 1, **5(a)(i)**

F19 Words in s. 180(1) inserted (2.1.2013) by The Charitable Incorporated Organisations (Consequential Amendments) Order 2012 (S.I. 2012/3014), arts. 1, **5(a)(ii)**

F20 Words in s. 180(2) inserted (2.1.2013) by The Charitable Incorporated Organisations (Consequential Amendments) Order 2012 (S.I. 2012/3014), arts. 1, **5(b)(i)**

F21 Words in s. 180(2) inserted (2.1.2013) by The Charitable Incorporated Organisations (Consequential Amendments) Order 2012 (S.I. 2012/3014), arts. 1, **5(b)(ii)**

181 Power to waive disqualification E+W

(1) This section applies where a person ("P') is disqualified under section 178(1).

(2) The Commission may, if P makes an application under this subsection, waive P's disqualification—

(a) generally, or

(b) in relation to a particular charity or a particular class of charities.

[[F22](2A) A waiver under subsection (2)—

(a) may relate to the whole of P's disqualification or only to disqualification under section 178(3);

(b) in relation to disqualification under section 178(3) may relate to a particular office or employment or to any office or employment of a particular description.**]**

(3) If—

(a) P is disqualified under Case D **[**[F23], E or I **]** and makes an application under subsection (2) 5 years or more after the date on which the disqualification took effect, and

Changes to legislation: *Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(b) the Commission is not prevented from granting the application by subsection (5),

the Commission must grant the application unless satisfied that, because of any special circumstances, it should be refused.

(4) Any waiver under subsection (2) must be notified in writing to P.

(5) No waiver may be granted under subsection (2) in relation to any charitable company **[**[F24]or CIO**]** if—

(a) P is for the time being prohibited from acting as director of the company **[**[F25]or charity trustee of the CIO (as the case may be)**]**, by virtue of—

(i) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986, or

(ii) a provision of the 1986 Act mentioned in subsection (6), and

(b) leave has not been granted for P to act as **[**[F26]director of any company or charity trustee of any CIO**]**.

(6) The provisions of the 1986 Act are—

section 11(1) (undischarged bankrupts);

section 12(2) (failure to pay under county court administration order);

section 12A (Northern Irish disqualification orders);

section 12B (Northern Irish disqualification undertakings).

Textual Amendments

F22 S. 181(2A) inserted (1.2.2018 for specified purposes, 1.8.2018 in so far as not already in force) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(12)**, 17(4); S.I. 2018/47, regs. 2, 3(a) (with reg. 4)

F23 Words in s. 181(3) substituted (1.2.2018 for specified purposes, 1.8.2018 in so far as not already in force) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(13)**, 17(4); S.I. 2018/47, regs. 2, 3(a) (with reg. 4)

F24 Words in s. 181(5) inserted (2.1.2013) by The Charitable Incorporated Organisations (Consequential Amendments) Order 2012 (S.I. 2012/3014), arts. 1, **6(a)**

F25 Words in s. 181(5)(a) inserted (2.1.2013) by The Charitable Incorporated Organisations (Consequential Amendments) Order 2012 (S.I. 2012/3014), arts. 1, **6(b)**

F26 Words in s. 181(5)(b) substituted (2.1.2013) by The Charitable Incorporated Organisations (Consequential Amendments) Order 2012 (S.I. 2012/3014), arts. 1, **6(c)**

[[F27]**181A Disqualification orders** E+W

(1) The Commission may by order disqualify a person from being a charity trustee or trustee for a charity.

(2) The order may disqualify a person—

(a) in relation to all charities, or

(b) in relation to such charities or classes of charity as may be specified or described in the order.

(3) While a person is disqualified by virtue of an order under this section in relation to a charity, the person is also disqualified, subject to subsection (5), from holding an office or employment in the charity with senior management functions.

Changes to legislation: *Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(4) A function of an office or employment held by a person ("A") is a senior management function if—

(a) it relates to the management of the charity, and A is not responsible for it to another officer or employee (other than a charity trustee or trustee for the charity), or

(b) it involves control over money and the only officer or employee (other than a charity trustee or trustee for the charity) to whom A is responsible for it is a person with senior management functions other than ones involving control over money.

(5) An order under this section may provide for subsection (3) not to apply—

(a) generally, or

(b) in relation to a particular office or employment or to any office or employment of a particular description.

(6) The Commission may make an order disqualifying a person under this section only if it is satisfied that—

(a) one or more of the conditions listed in subsection (7) are met in relation to the person,

(b) the person is unfit to be a charity trustee or trustee for a charity (either generally or in relation to the charities or classes of charity specified or described in the order), and

(c) making the order is desirable in the public interest in order to protect public trust and confidence in charities generally or in the charities or classes of charity specified or described in the order.

(7) These are the conditions—

A	that the person has been cautioned for a disqualifying offence against a charity or involving the administration of a charity.
B	that— (a) under the law of a country or territory outside the United Kingdom the person has been convicted in respect of an offence against a charity or involving the administration of a charity, and (b) the act which constituted the offence would have constituted a disqualifying offence if it had been done in any part of the United Kingdom.
C	that the person has been found by Her Majesty's Revenue and Customs not to be a fit and proper person to be a manager of a body or trust, for the purposes of paragraph 4 of Schedule 6 to the Finance Act 2010 (definition of charity for tax purposes), and the finding has not been overturned.
D	that the person was a trustee, charity trustee, officer, agent or employee of a charity at a time when there was misconduct or mismanagement in the administration of the charity, and— (a) the person was responsible for the misconduct or mismanagement, (b) the person knew of the misconduct or mismanagement and failed to take any reasonable step to oppose it, or

Changes to legislation: *Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(c) the person's conduct contributed to or facilitated the misconduct or mismanagement.

E that the person was an officer or employee of a body corporate at a time when the body was a trustee or charity trustee for a charity and when there was misconduct or mismanagement by it in the administration of the charity, and—
(a) the person was responsible for the misconduct or mismanagement,
(b) the person knew of the misconduct or mismanagement and failed to take any reasonable step to oppose it, or
(c) the person's conduct contributed to or facilitated the misconduct or mismanagement.

F that any other past or continuing conduct by the person, whether or not in relation to a charity, is damaging or likely to be damaging to public trust and confidence in charities generally or in the charities or classes of charity specified or described in the order.

(8) The **[**[F28]Secretary of State**]** may amend this section by regulations to add or remove a condition.

(9) In this section " disqualifying offence " means an offence within Case A in section 178(1).

(10) Conditions A and B apply whether the caution or conviction occurred before or after the commencement of this section.

(11) Condition B does not apply in relation to a conviction which is spent under the law of the country or territory concerned.

(12) For the purposes of condition B—
(a) an act punishable under the law of a country or territory outside the United Kingdom constitutes an offence under that law, however it is described in that law, and
(b) " charity " means an institution that is a charity under the law of any part of the United Kingdom or that is established under the law of another country or territory principally for charitable, benevolent or philanthropic purposes.

Textual Amendments

F27 Ss. 181A-181D inserted (1.10.2016) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 10(2)**, 17(4); S.I. 2016/815, reg. 3(a)

F28 Words in s. 181A(8) substituted (9.11.2016) by The Transfer of Functions (Elections, Referendums, Third Sector and Information) Order 2016 (S.I. 2016/997), art. 1(2), **Sch. 2 para. 25(2)(ee)** (with art. 12)

181B Duration of disqualification, and suspension pending disqualification E+W

(1) An order under section 181A must specify the period for which the person is disqualified.

(2) The period—

Changes to legislation: *Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(a) must be not more than 15 years beginning with the day on which the order takes effect, and

(b) must be proportionate, having regard in particular to the time when a conviction becomes spent or, where condition B applies, would become spent if it were a conviction for the relevant disqualifying offence, and to circumstances in which the Commission may or must grant a waiver under section 181 where a person is disqualified under section 178.

(3) An order takes effect—

(a) at the end of the time specified by Tribunal Procedure Rules for starting proceedings for an appeal against the order, if no proceedings are started within that time, or

(b) (subject to the decision on the appeal) when any proceedings started within that time are withdrawn or finally determined.

(4) The Commission may by order suspend a person from being a charity trustee or trustee for a charity if it has given notice under section 181C(1)(a) of its proposal to make an order under section 181A in respect of the person.

(5) The Commission may not make an order under subsection (4) so as to suspend a person for a period of more than 12 months, but at any time before the expiry of an order the Commission may extend or further extend the suspension by a further order under that subsection, provided that—

(a) the order does not extend the suspension for a period of more than 12 months, and

(b) the total period of suspension is not more than 2 years.

(6) An order under subsection (4) ceases to have effect—

(a) if the Commission notifies the person that it will not proceed with its proposal, on the notification being given;

(b) if the Commission makes the order under section 181A, on the order taking effect;

or, if earlier, at the end of the period specified in accordance with subsection (5).

(7) The Commission must review any order under subsection (4), at such intervals as it thinks fit.

(8) If on a review it appears to the Commission that it would be appropriate to discharge an order under subsection (4) in whole or in part, the Commission must do so (whether subject to any savings or other transitional provisions or not).

(9) An order under subsection (4) made in the case of any person ("P") may make provision, as respects the period of P's suspension, for matters arising out of it, and in particular—

(a) for enabling any person to execute any instrument in P's name or otherwise act for P, and

(b) in the case of a charity trustee, for adjusting any rules governing the proceedings of the charity trustees to take account of the reduction in the number capable of acting.

This does not affect the generality of section 337(1) and (2).

(10) While an order under subsection (4) is in force suspending a person from being a charity trustee or trustee for a charity, the person must not take up any appointment

Changes to legislation: *Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

as a charity trustee or trustee for any other charity without the written approval of the Commission.

Textual Amendments

F27 Ss. 181A-181D inserted (1.10.2016) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 10(2)**, 17(4); S.I. 2016/815, reg. 3(a)

181C Disqualification orders: procedure E+W

(1) Before making an order in respect of a person under section 181A without the person's consent the Commission must—

(a) give the person not less than one month's notice of its proposals, and

(b) invite representations to be made to it within a period specified in the notice.

(2) Before making an order under section 181A in respect of a person who the Commission knows or believes to be a charity trustee or trustee for a charity, the Commission must also—

(a) give notice of its proposals to each of the charity trustees of the charity in question;

(b) comply with the publicity requirement, unless the Commission is satisfied that for any reason compliance with the requirement is unnecessary.

(3) The publicity requirement is that the Commission must give public notice of its proposals, inviting representations to be made to it within a period specified in the notice.

(4) The time when any such notice is given is to be decided by the Commission.

(5) Any notice of any proposals which is to be given under this section is to contain such particulars of the proposals, or such directions for obtaining information about them, as the Commission thinks sufficient and appropriate.

(6) Where the Commission gives notice of any proposals under this section—

(a) it must take into account any representations made to it within the period specified in the notice, and

(b) it may (without further notice) proceed with the proposals either without modifications or with such modifications as it thinks desirable;

but a notice under subsection (2)(a) need not specify a period for the purposes of paragraph (a) if the charity came to the Commission's knowledge or belief after the expiry of the period specified for the purposes of subsection (1)(b).

(7) A notice under subsection (1) or (2)(a)—

(a) may be given by post, and

(b) if given by post, may be addressed to the recipient's last known address in the United Kingdom.

(8) A notice under subsection (2)(b) is to be given in such manner as the Commission thinks sufficient and appropriate.

(9) Where the Commission makes an order under section 181A in respect of a person it knows or believes to be a charity trustee or trustee for a charity it must (as well as

Changes to legislation: *Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

serving it on that person) send a copy of the order and a statement of the Commission's reasons for making it—

(a) to the charity in question (if a body corporate), or

(b) (if not) to each of the charity trustees of the charity in question.

(10) Nothing in this section requires the Commission to give notice, or send a document, to a person who cannot be found or has no known address in the United Kingdom.

(11) Any documents required to be sent to a person under this section may be sent to, or otherwise served on, the person in the same way as an order made by the Commission under this Act could be served on the person in accordance with section 339.

Textual Amendments

F27 Ss. 181A-181D inserted (1.10.2016) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 10(2)**, 17(4); S.I. 2016/815, reg. 3(a)

181D Disqualification orders: variation and revocation E+W

A person in respect of whom an order under section 181A is in force may at any time apply to the Commission for an order varying or discharging that order.**]**

Textual Amendments

F27 Ss. 181A-181D inserted (1.10.2016) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 10(2)**, 17(4); S.I. 2016/815, reg. 3(a)

182 Records of persons removed from office E+W

(1) For the purposes of sections 178 to **[**[F29]181A**]** the Commission must keep, in such manner as it thinks fit, a register of **[**[F30]the following.**]**

[[F31](1A) The register must include**][**[F32]all persons who have been removed from office as mentioned in Case D—

(a) by an order of the Commission or the Commissioners made before or after the commencement of section 178(1), or

(b) by an order of the High Court made after the commencement of section 45(1) of the Charities Act 1992;

and, where any person is so removed from office by an order of the High Court, the court must notify the Commission of the person's removal.**]**

[[F33](1B) The register must include all persons who have been disqualified by an order of the Commission under section 181A.

(1C) The register must include all persons who have been removed from office by an order of the Commission under section 79A (removal of disqualified trustee).**]**

(2) The entries in the register kept under subsection (1) must be available for public inspection in legible form at all reasonable times.

(3) In this section "the Commissioners" means the Charity Commissioners for England and Wales.

***Changes to legislation:** Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F29 Word in s. 182(1) substituted (1.8.2018) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 11(2)(a)**, 17(4); S.I. 2018/47, reg. 3(b)

F30 Words in s. 182(1) inserted (1.8.2018) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 11(2)(b)**, 17(4); S.I. 2018/47, reg. 3(b)

F31 Words in s. 182(1A) inserted (1.8.2018) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 11(4)**, 17(4); S.I. 2018/47, reg. 3(b)

F32 Words in s. 182(1A): words in s. 182(1) renumbered as s. 182(1A) (1.8.2018) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 11(3)**, 17(4); S.I. 2018/47, reg. 3(b)

F33 S. 182(1B)(1C) inserted (31.7.2016 for the insertion of s. 182(1C), 1.10.2016 in so far as not already in force) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 11(5)**, 17(4); S.I. 2016/815, regs. 2(i), 3(b)

183 Criminal consequences of acting while disqualified E+W

(1) Subject to subsection (2), it is an offence for any person to act as a charity trustee or trustee for a charity **[**[F34] or to hold an office or employment **]** while disqualified from being such a trustee **[**[F35] or from holding that office or employment **]** by virtue of section 178 **[**[F36]or an order under section 181A**]**.

(2) Subsection (1) does not apply if—

(a) the charity concerned is a company **[**[F37]or a CIO**]**, and

(b) the disqualified person is disqualified by virtue only of Case B **[**[F38], F or G**][**[F39] in section 178**]**.

(3) A person guilty of an offence under subsection (1) is liable—

(a) on summary conviction, to imprisonment for a term not exceeding **[**[F40]the general limit in a magistrates' court**]** or to a fine not exceeding the statutory maximum, or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

Textual Amendments

F34 Words in s. 183(1) inserted (1.2.2018 for specified purposes, 1.8.2018 in so far as not already in force) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(14)(a)**, 17(4); S.I. 2018/47, regs. 2, 3(a) (with reg. 4)

F35 Words in s. 183(1) inserted (1.2.2018 for specified purposes, 1.8.2018 in so far as not already in force) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(14)(b)**, 17(4); S.I. 2018/47, regs. 2, 3(a) (with reg. 4)

F36 Words in s. 183(1) inserted (1.10.2016) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 10(3)(a)**, 17(4); S.I. 2016/815, reg. 3(a)

F37 Words in s. 183(2)(a) inserted (2.1.2013) by The Charitable Incorporated Organisations (Consequential Amendments) Order 2012 (S.I. 2012/3014), arts. 1, **7**

F38 Words in s. 183(2)(b) substituted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, **Sch. 2 para. 62(5)** (with art. 5)

F39 Words in s. 183(2)(b) inserted (1.10.2016) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 10(3)(b)**, 17(4); S.I. 2016/815, reg. 3(a)

F40 Words in s. 183(3)(a) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), **Sch. Pt. 1**

Changes to legislation: *Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

184 Civil consequences of acting while disqualified E+W

(1) Any acts done as charity trustee or trustee for a charity **[**[F41] or as officer or employee of a charity **]** by a person disqualified from being such a trustee **[**[F42] or from holding that office or employment **]** by virtue of section 178 **[**[F43]or an order under section 181A**]** are not invalid merely because of that disqualification.

(2) Subsection (3) applies if the Commission is satisfied that any person—

(a) has acted as charity trustee or trustee for a charity **[**[F44] or as officer or employee of a charity **]** while disqualified from being such a trustee **[**[F45] or from holding that office or employment **]** by virtue of section 178 **[**[F46]or an order under section 181A**]**, and

(b) while so acting, has received from the charity any sums by way of remuneration or expenses, or any benefit in kind, in connection with acting as charity trustee or trustee for the charity **[**[F47] or holding the office or employment **]** .

(3) The Commission may by order direct the person—

(a) to repay to the charity the whole or part of any such sums, or

(b) (as the case may be) to pay to the charity the whole or part of the monetary value (as determined by the Commission) of any such benefit.

(4) Subsection (3) does not apply to any sums received by way of remuneration or expenses in respect of any time when the person concerned was not disqualified from being a charity trustee or trustee for the charity.

Textual Amendments

F41 Words in s. 184(1) inserted (1.2.2018 for specified purposes, 1.8.2018 in so far as not already in force) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(16)(a)**, 17(4); S.I. 2018/47, regs. 2, 3(a) (with reg. 4)

F42 Words in s. 184(1) inserted (1.2.2018 for specified purposes, 1.8.2018 in so far as not already in force) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(16)(b)**, 17(4); S.I. 2018/47, regs. 2, 3(a) (with reg. 4)

F43 Words in s. 184(1) inserted (1.10.2016) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 10(4)(a)**, 17(4); S.I. 2016/815, reg. 3(a)

F44 Words in s. 184(2)(a) inserted (1.2.2018 for specified purposes, 1.8.2018 in so far as not already in force) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(16)(a)**, 17(4); S.I. 2018/47, regs. 2, 3(a) (with reg. 4)

F45 Words in s. 184(2)(a) inserted (1.2.2018 for specified purposes, 1.8.2018 in so far as not already in force) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(16)(b)**, 17(4); S.I. 2018/47, regs. 2, 3(a) (with reg. 4)

F46 Words in s. 184(2)(a) inserted (1.10.2016) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 10(4)(b)**, 17(4); S.I. 2016/815, reg. 3(a)

F47 Words in s. 184(2)(b) inserted (1.2.2018 for specified purposes, 1.8.2018 in so far as not already in force) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(17)**, 17(4); S.I. 2018/47, regs. 2, 3(a) (with reg. 4)

[[F48]184A Sections 183 and 184: participation in corporate decisions E+W

(1) For the purposes of sections 183 and 184, a person who is not a charity trustee or trustee for a charity is treated as acting as one if that person—

Changes to legislation: *Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(a) is an officer of a body corporate which is a charity trustee or trustee for a charity, and

(b) takes part in that capacity in any decision relating to the administration of the charity.

(2) In subsection (1) "officer" includes any of the persons having general control and management of the administration of the body.**]**

Textual Amendments

F48 S. 184A inserted (1.8.2018) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 12**, 17(4); S.I. 2018/47, reg. 3(c)

[F49 Invalid appointment of charity trustee

Textual Amendments

F49 S. 184B and cross-heading inserted (7.3.2024) by Charities Act 2022 (c. 6), **ss. 29**, 41(4); S.I. 2024/265, reg. 3, Sch. 1 para. 6

184B Power to confirm trustee appointments etc E+W

(1) Subsection (2) applies if—

(a) a person acts, or intends to act, as a charity trustee in relation to a charity, but

(b) there is not, or might not be, a valid appointment or election of that person to a qualifying position in relation to that charity.

(2) The Commission may, with the consent of the person concerned, by order provide that for the purposes of anything done (or not done) on or after the date of the order—

(a) any defect in the person's appointment or election to a qualifying position (including any absence of appointment or election) is to be ignored in relation to the charity, and

(b) so far as is necessary for those purposes, a valid appointment or election to that qualifying position is to be treated as having been made in respect of the person.

(3) For the purposes of this section a position is a "qualifying position" in relation to a charity if, as a result of a person holding that position, the person is a charity trustee of the charity.

(4) The fact that a position is not a position in a charity does not prevent it from being a qualifying position in relation to the charity.

(5) An order under subsection (2) may include—

(a) provision with respect to the vesting in or transfer of property that the Commission could make on the removal or appointment of a charity trustee by it under section 69 (Commission's concurrent jurisdiction with High Court for certain purposes);

(b) provision that an act of a person who is the subject of the order is valid notwithstanding that there was not at the time the act was carried out a valid appointment or election to a qualifying position in respect of that person.

Changes to legislation: *Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(6) An order containing provision made by virtue of subsection (5)(a) has the same effect as an order made under section 69.**]**

Remuneration of charity trustees and trustees etc.

185 Remuneration of charity trustees or trustees etc. providing [[F50]goods or] services to charity **E+W**

(1) This section applies to remuneration for **[**[F51]goods or**]** services provided by a person ("P") to or on behalf of a charity where—

(a) P is a charity trustee or trustee for the charity, or

(b) P 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 (3).

(2) If Conditions A to D are met in relation to remuneration within subsection (1), P is entitled to receive the remuneration out of the funds of the charity.

Condition A

Condition A is that the amount or maximum amount of the remuneration—

(a) is set out in an agreement in writing between the charity or its charity trustees (as the case may be) and P under which P is to provide the **[**[F52]goods or services, or goods and 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 P of the **[**[F53]goods or services, or goods and services,**]** in question.

Condition B

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 **[**[F54]goods or services, or goods and services,**]** to be provided by P to or on behalf of the charity for the amount or maximum amount of remuneration set out in the agreement.

Condition C

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 Condition A is in force,

(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),

the total number of them constitute a minority of the persons for the time being holding office as charity trustees of the charity.

Condition D

Condition D is that the trusts of the charity do not contain any express provision that prohibits P from receiving the remuneration.

[[F55](3) This section does not apply to any remuneration for services provided by a person in the person's capacity as a charity trustee or trustee for a charity or under a contract of employment.

(3A) Any entitlement to receive remuneration under subsection (2) is in addition to and does not affect any entitlement to receive the remuneration by virtue of—

(a) any provision contained in the trusts of the charity;

(b) any order of the court or the Commission;

(c) any other statutory provision contained in or having effect under any Act.**]**

(4) Before entering into an agreement within Condition A the charity trustees must have regard to any guidance given by the Commission concerning the making of such agreements.

(5) 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 Condition B.

(6) For the purposes of Condition C an agreement within Condition A is in force so long as any obligations under the agreement have not been fully discharged by a party to it.

(7) Sections 187 and 188 (interpretation) apply for the purposes of this section.

Textual Amendments

F50 Words in s. 185 heading inserted (31.10.2022) by Charities Act 2022 (c. 6), **ss. 30(a)**, 41(4); S.I. 2022/1109, Sch. para. 6

F51 Words in s. 185(1) inserted (31.10.2022) by Charities Act 2022 (c. 6), **ss. 30(b)**, 41(4); S.I. 2022/1109, Sch. para. 6

F52 Words in s. 185(2) substituted (31.10.2022) by Charities Act 2022 (c. 6), **ss. 30(c)(i)**, 41(4); S.I. 2022/1109, Sch. para. 6

F53 Words in s. 185(2) substituted (31.10.2022) by Charities Act 2022 (c. 6), **ss. 30(c)(ii)**, 41(4); S.I. 2022/1109, Sch. para. 6

F54 Words in s. 185(2) substituted (31.10.2022) by Charities Act 2022 (c. 6), **ss. 30(c)(iii)**, 41(4); S.I. 2022/1109, Sch. para. 6

F55 S. 185(3)(3A) substituted for s. 185(3) (31.10.2022) by Charities Act 2022 (c. 6), **ss. 30(d)**, 41(4); S.I. 2022/1109, Sch. para. 6

Modifications etc. (not altering text)

C1 S. 185 modified by 1956 No. 3, s. 7A (as inserted) (E.) (1.3.2019) by Church of England (Miscellaneous Provisions) Measure 2018 (No. 7), **ss. 14(1)**, 17(3); S.I. 2019/67, art. 2(1)(m))

C2 S. 185 excluded (coming into force in accordance with s. 53(6)(7) of the amending Measure) by Cathedrals Measure 2021 (No. 2), **Sch. 1 para. 4(6)** (with ss. 42(4), 48, 52(1))

186 Disqualification of charity trustee or trustee receiving remuneration under s.185 E+W

(1) This section applies to any charity trustee or trustee for a charity—

(a) who is or would be entitled to remuneration under an agreement or proposed agreement within Condition A, or

(b) who is connected with a person who is or would be so entitled.

(2) The charity trustee or trustee for a charity is disqualified from acting as such in relation to any decision or other matter connected with the agreement.

(3) But if an act is done by a person who is disqualified from doing it by virtue of subsection (2), the act is not invalid merely because of that disqualification.

Changes to legislation: *Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(4) If the Commission is satisfied—

(a) that a person ("P") has done any act which P was disqualified from doing by virtue of subsection (2), and

(b) that P or a person connected with P has received or is to receive from the charity any remuneration under the agreement in question,

it may make an order under subsection (5) or (6) (as appropriate).

(5) An order under this subsection is one requiring P—

(a) to reimburse to the charity the whole or part of the remuneration received as mentioned in subsection (4)(b);

(b) to the extent that the remuneration consists of a benefit in kind, to reimburse to the charity the whole or part of the monetary value (as determined by the Commission) of the benefit in kind.

(6) An order under this subsection is one directing that P or (as the case may be) the connected person is not to be paid the whole or part of the remuneration mentioned in subsection (4)(b).

(7) If the Commission makes an order under subsection (5) or (6), P or (as the case may be) the connected person accordingly ceases to have any entitlement under the agreement to so much of the remuneration (or its monetary value) as the order requires P to reimburse to the charity or (as the case may be) as it directs is not to be paid to P.

(8) Sections 187 and 188 (interpretation) apply for the purposes of this section.

[[F56]186A Remuneration etc for work already carried out E+W

(1) This section applies to a person who—

(a) has carried out work for or on behalf of a charity, and

(b) is a charity trustee or trustee for the charity (or was one when the work was carried out).

(2) If the condition in subsection (3) is met, the Commission may by order—

(a) require the charity trustees of the charity to pay the person such remuneration for the work as must be specified in the order;

(b) authorise, to such extent as must be specified in the order, any benefit already received in connection with the work to be retained.

(3) The condition in this subsection is that the Commission considers that it would be inequitable for the person not to be paid the remuneration or not to retain the benefit.

(4) In determining whether to make an order under this section, the Commission must in particular have regard to—

(a) whether, if the person had not carried out the work, the charity would have paid someone else to carry it out,

(b) the level of skill with which the work was carried out,

(c) any express provision in the trusts of the charity prohibiting the person from receiving the remuneration or retaining the benefit, and

(d) whether remunerating the person or allowing the person to retain the benefit would encourage breaches of trust or breaches of duty by persons in their capacity as charity trustees or trustees for charities.**]**

Changes to legislation: *Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F56 S. 186A inserted (7.3.2024) by Charities Act 2022 (c. 6), **ss. 31**, 41(4); S.I. 2024/265, reg. 3, Sch. 1 para. 7

187 Meaning of "benefit", "remuneration"[F57]...etc. E+W

In sections 185 **[**[F58]to 186A**]** —

"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);

[F59]…

Textual Amendments

F57 Words in s. 187 heading omitted (31.10.2022) by virtue of Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 39(a)**; S.I. 2022/1109, Sch. para. 11(h)

F58 Words in s. 187 substituted (7.3.2024) by Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 42**; S.I. 2024/265, reg. 3, Sch. 1 para. 13(m)

F59 Word in s. 187 omitted (31.10.2022) by virtue of Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 39(b)**; S.I. 2022/1109, Sch. para. 11(h)

188 Meaning of "connected person" E+W

(1) For the purposes of sections 185 and 186, 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.

(2) Sections 350 to 352 (meaning of child, spouse and civil partner, controlled institution and substantial interest) apply for the purposes of subsection (1).

Changes to legislation: *Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Indemnity insurance for charity trustees and trustees

189 Indemnity insurance for charity trustees and trustees E+W

(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

(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—

Changes to legislation: *Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(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 E+W

The **[**[F60]Secretary of State**]** may by order make such amendments of section 189(2) and (3) as the **[**[F60]Secretary of State**]** considers appropriate.

Textual Amendments

F60 Words in s. 190 substituted (9.11.2016) by The Transfer of Functions (Elections, Referendums, Third Sector and Information) Order 2016 (S.I. 2016/997), art. 1(2), **Sch. 2 para. 25(2)(ff)** (with art. 12)

Powers to relieve trustees and auditors etc. from liability

191 Commission's power to relieve trustees and auditors etc. from liability E+W

(1) This section applies to a person ("P") who is or has been—

(a) a charity trustee or trustee for a charity,

(b) a person appointed to audit a charity's accounts (whether appointed under an enactment or otherwise), or

(c) an independent examiner or other person appointed to examine or report on a charity's accounts (whether appointed under an enactment or otherwise).

(2) If the Commission considers—

(a) that P is or may be personally liable for a breach of trust or breach of duty committed in P's capacity as a person within subsection (1)(a), (b) or (c), but

(b) that P has acted honestly and reasonably and ought fairly to be excused for the breach of trust or duty,

the Commission may make an order relieving P wholly or partly from any such liability.

(3) An order under subsection (2) may grant the relief on such terms as the Commission thinks fit.

(4) Subsection (2) does not apply in relation to any personal contractual liability of a charity trustee or trustee for a charity.

(5) For the purposes of this section and section 192—

(a) subsection (1)(b) is to be read as including a reference to the Auditor General for Wales acting as auditor under Part 8, and

(b) subsection (1)(c) is to be read as including a reference to the Auditor General for Wales acting as examiner under Part 8;

and in subsection (1)(b) and (c) any reference to a charity's accounts is to be read as including any group accounts prepared by the charity trustees of a charity.

(6) This section does not affect the operation of—

(a) section 61 of the Trustee Act 1925 (power of court to grant relief to trustees),

Changes to legislation: *Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(b) section 1157 of the Companies Act 2006 (power of court to grant relief to officers or auditors of companies), or

(c) section 192 (which extends section 1157 to auditors etc. of charities which are not companies).

192 Court's power to grant relief to apply to all auditors etc. of charities which are not companies E+W

(1) Section 1157 of the Companies Act 2006 (power of court to grant relief to officers or auditors of companies) has effect in relation to a person to whom this section applies as it has effect in relation to a person employed as an auditor by a company.

(2) This section applies to—

(a) a person acting in a capacity within section 191(1)(b) or (c) in a case where, apart from this section, section 1157 of the 2006 Act would not apply in relation to that person as a person so acting, and

(b) a charity trustee of a CIO.

Changes to legislation:
Charities Act 2011, Part 9 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 106(1)-(1B) substituted for s. 106(1) by 2022 c. 6 s. 16(a)
- s. 322(2)(ea) inserted by 2022 c. 6 Sch. 2 para. 26
- s. 331A331B and cross-heading inserted by 2022 c. 6 s. 15