



Charities Act 2011

2011 CHAPTER 25

PART 9

CHARITY TRUSTEES, TRUSTEES AND AUDITORS ETC.

Remuneration of charity trustees and trustees etc.

185 Remuneration of charity trustees or trustees etc. providing services to charity

- (1) This section applies to remuneration for 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 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 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 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

Status: This is the original version (as it was originally enacted).

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.

- (3) Nothing in this section applies to—
 - (a) 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, 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—
 - (i) any provision contained in the trusts of the charity;
 - (ii) any order of the court or the Commission;
 - (iii) any statutory provision contained in or having effect under an Act other than this section.
- (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.