



Charities Act 2022

2022 CHAPTER 6

PART 4

CHARITY TRUSTEES

29 Powers relating to appointments of trustees

After section 184A of the Charities Act 2011 insert—

“Invalid appointment of charity trustee

184B Power to confirm trustee appointments etc

- (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.

Status: This is the original version (as it was originally enacted).

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

30 Remuneration of charity trustees etc providing goods or services to charity

In section 185 of the Charities Act 2011 (remuneration of charity trustees etc providing services to charity)—

- (a) in the heading, before “services” insert “goods or”;
- (b) in subsection (1), in the words before paragraph (a), before “services” insert “goods or”;
- (c) in subsection (2)—
 - (i) in Condition A, in paragraph (a), for “services” substitute “goods or services, or goods and services,”;
 - (ii) in Condition A, in paragraph (b), for “services” substitute “goods or services, or goods and services,”;
 - (iii) in condition B, for “services” substitute “goods or services, or goods and services,”;
- (d) for subsection (3) substitute—

“(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.”

31 Remuneration etc of charity trustees etc

After section 186 of the Charities Act 2011 insert—

“186A Remuneration etc for work already carried out

- (1) This section applies to a person who—

Status: This is the original version (as it was originally enacted).

- (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.”

32 Trustee of charitable trust: status as trust corporation

- (1) After section 334 of the Charities Act 2011 insert—

“Trustee of charitable trust: status as trust corporation

334A Status of certain trustees of charitable trusts

- (1) For the purposes of the provisions listed in subsection (2), “trust corporation”, in relation to a charitable trust, includes a trustee of or for the charitable trust if that trustee is a body corporate and itself a charity.
- (2) The provisions are—
- (a) section 117(1)(xxx) of the Settled Land Act 1925,
 - (b) paragraph (18) of section 68(1) of the Trustee Act 1925,
 - (c) section 205(1)(xxviii) of the Law of Property Act 1925,
 - (d) section 55(1)(xxvi) of the Administration of Estates Act 1925, and
 - (e) section 128 of the Senior Courts Act 1981.”
- (2) The amendment made by subsection (1) has effect in relation to any trustee of or for a charitable trust, even if the trustee became the trustee of or for the charitable trust before the amendment comes into force.