

THE CHARITIES (RECEIVER AND MANAGER) REGULATIONS 1992

S.20(A)(6) and (7) and 43 of the Charities Act 1960 as amended by the Charities Act 1992 empowered the Secretary of State to make regulations regarding receivers and managers appointed by the Commissioners over charities. These regulations are now contained in SI 1992 No 2355 made on 1st October 1992 laid before Parliament on 9th October 1992 and which came into force on 1st November 1992.

Appointed Person

A receiver and manager appointed by order under s.20 (1)(vii) of the 1960 Act (as amended) to be receiver and manager in respect of the property and affairs of a charity is referred to throughout the Regulations as an "appointed person".

Security by Appointed Person

The Commissioners are authorised to require the appointed person to give security to them for the due discharge of his functions within such time and in such form as they may specify: reg 2.

Remuneration of Appointed Person

Authority is conferred on the Commissioners to determine the amount of an appointed person's remuneration: reg 3(1). The remuneration of an appointed person is payable out of the income of the relevant charity: reg 3(2). But the Commissioners may disallow any amount of remuneration of an appointed person where, on the expiry of the time specified in the notice referred to in reg 4(2) below and after consideration of such representations, if any, as are duly made in response to such a notice, they are satisfied that he has failed in such manner as is set out in para (a) or (b) or reg 4(1) below and specified in such a notice: reg 3(3).

Notice of Failure to, and Removal of, Appointed Person

Where it appears to the Commissioners that an appointed person has failed:

- (a) to give security within such time or in such form as they have specified, or
- (b) satisfactorily to discharge any function imposed on him by or by virtue of the relevant order or by reg 5 below,

and they wish to consider exercising their powers either under reg 3(3) above or reg 4(3) below, they must give him, whether in person or by post, a written notice complying with para (2) below: reg 4(1).

Para (2) specifies that a notice given to an appointed person under para (1) above shall inform him of -

- (a) any failure under para (1) (a) or (b) above in respect of which the notice is issued;
- (b) the Commissioners' power under reg 3(3) above to authorise the disallowance of any amount;
- (c) their power under para (3) below to remove him if satisfied as to any such failure; and
- (d) his right to make representations to them in respect of any such alleged failure within such reasonable time as is specified in the notice: reg 4(2).

On the expiry of the time specified in the notice and after consideration of such representations, if any, as are duly made in response to such a notice, the Commissioners may remove an appointed person where they are satisfied that he has failed in such manner as is set out in para (1)(a) or (b) above: reg 4(3).

Reports by Appointed Person

Reg 5 makes provision in respect of the reports which are to be made by an appointed person to the Commissioners (and which, in addition to the matters which are required to be included by virtue of other matters set out in reg 5 may also include particulars of any matter which, in his opinion, should be brought to their attention.

The appointed person must make a report to the Commissioners not later than three months after the date of his appointment setting out -

- (a) an estimate by him of the total value of the property of the relevant charity on, or shortly after, the date of his appointment;
- (b) such information about the property and affairs of the relevant charity immediately prior to his appointment as he believes should be included in the report, notwithstanding that it may also be

eventually included in a report under s.6 of the 1960 Act; and

- (c) his strategy for discharging the functions conferred on him by or by virtue of the relevant order: reg 5(2).

For as long as an appointed person holds office, as such, he must make a report to the Commissioners not later than one month after each anniversary of his appointment setting out -

- (a) an estimate by him of the total value of the property of the relevant charity on that anniversary of his appointment in respect of which the report is required to be made;
- (b) a summary of the discharge by him of the functions conferred on him;
- (c) where there are changes to his strategy as last set out in a report in accordance with para (2)(c) above or, as the case may be, this sub-paragraph, those changes: reg 5(3).

Subject to one further matter, an appointed person must make a report to the Commissioners not later than three months after the date when he ceased to hold office as such setting out -

- (a) an estimate by him of the total value of the property of the relevant charity on that date; and

- (b) a summary of the discharge by him of the functions conferred on him by or by virtue of the relevant order during the period ending with that date and beginning with either -
 - (i) the date of his appointment; or
 - (ii) if that date is more than twelve months before the date when he ceased to hold office as an appointed person, the day immediately after the last anniversary of his appointment: reg 5(4).

Para (4) does not apply where an appointed person ceased to hold office one month or less after an anniversary of his appointment and a report had been made to the Commissioners in accordance with reg 5(3) in respect of that anniversary.

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