



Charities and Trustee Investment (Scotland) Act 2005

2005 asp 10

PART 1

CHARITIES

CHAPTER 9

CHARITY TRUSTEES

Disqualification

69 Disqualification from being charity trustee

- (1) The persons specified in subsection (2) are disqualified from being charity trustees.
- (2) Those persons are any person who—
 - (a) has been convicted of—
 - (i) an offence involving dishonesty,
 - (ii) an offence under this Act,
 - (b) is an undischarged bankrupt,
 - (c) has been removed, under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40) or section 34 of this Act, from being concerned in the management or control of any body,
 - (d) has been removed from the office of charity trustee or trustee for a charity by an order made—
 - (i) by the Charity Commissioners for England and Wales under section 18(2)(i) of the Charities Act 1993 (c. 10), section 20(1A)(i) of the Charities Act 1960 (c. 58) or section 20(1) of that Act (as in force before the commencement of section 8 of the Charities Act 1992 (c. 41)), or
 - (ii) by Her Majesty's High Court of Justice in England,

Status: This is the original version (as it was originally enacted).

on the grounds of any misconduct in the administration of the charity for which the person was responsible or to which the person was privy, or which the person's conduct contributed to or facilitated,

- (e) is subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986 (c. 46) or the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I.2002/3150).
- (3) A person referred to in subsection (2)(a) is not disqualified under subsection (1) if the conviction is spent by virtue of the Rehabilitation of Offenders Act 1974 (c. 53).
 - (4) OSCR may, on the application of a person disqualified under subsection (1), waive the disqualification either generally or in relation to a particular charity or type of charity.
 - (5) OSCR must notify a waiver under subsection (4) to the person concerned.
 - (6) OSCR must not grant a waiver under subsection (4) if to do so would prejudice the operation of the Company Directors Disqualification Act 1986 (c. 46) or the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I.2002/3150).

70 Disqualification: supplementary

- (1) A person who acts as a charity trustee while disqualified by virtue of section 69 is guilty of an offence and liable—
 - (a) on summary conviction, to imprisonment for a period not exceeding 6 months or a fine not exceeding level 5 on the standard scale or both,
 - (b) on conviction on indictment, to imprisonment for a period not exceeding 2 years or a fine or both.
- (2) Any acts done as a charity trustee by a person disqualified by virtue of section 69 from being a charity trustee are not invalid by reason only of the disqualification.
- (3) In section 69(2)(b), “undischarged bankrupt” means a person—
 - (a) whose estate has been sequestrated, who has been adjudged bankrupt or who has granted a trust deed for or entered into an arrangement with creditors, and
 - (b) who has not been discharged under or by virtue of—
 - (i) section 54 or 75(4) of the Bankruptcy (Scotland) Act 1985 (c. 66),
 - (ii) an order under paragraph 11 of Schedule 4 to that Act,
 - (iii) section 279 or 280 of the Insolvency Act 1986 (c. 45), or
 - (iv) any other enactment or rule of law subsisting at the time of the person's discharge.