



# Charities (Regulation and Administration) (Scotland) Act 2023

## 2023 asp 5

*Disqualification from being charity trustee etc.*

PROSPECTIVE

### 6 Disqualification: senior management functions

- (1) The 2005 Act is modified as follows.
- (2) After section 69A (inserted by [section 4\(3\)](#)), insert—

#### **“69B Disqualification from holding office with senior management functions**

- (1) While a person is disqualified by virtue of section 69 from acting as a charity trustee in relation to a charity, the person is also disqualified from holding an office or employment with senior management functions in the charity.
- (2) But where a person is disqualified by virtue of section 69 from acting as a charity trustee in relation to a charity by reason of an order made by the Charity Commission for England and Wales under section 181A of the Charities Act 2011, the person is not disqualified under subsection (1) to the extent that the order does not apply—
  - (a) in relation to holding an office or employment with senior management functions in a charity, or
  - (b) in relation to a particular office or employment or to any office or employment of a particular description.
- (3) 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.
- (4) A waiver under subsection (3) may relate to a particular office or employment or to any office or employment of a particular description.

*Status: This version of this provision is prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Charities (Regulation and Administration) (Scotland) Act 2023, Section 6. (See end of Document for details)*

- (5) OSCR must notify a waiver under subsection (3) to the person concerned.
- (6) A function of an office or employment held by a person (“P”) is a senior management function if—
- (a) it relates to the management of the charity, and P is not responsible for it to another officer or employee (other than a charity trustee), or
  - (b) it involves control over money and the only officer or employee (other than a charity trustee) to whom P is responsible for it is a person holding an office or employment with senior management functions other than ones involving control over money.”.
- (3) In section 70 (disqualification: supplementary)—
- (a) in subsection (1), in the opening words after “69” insert “, or (as the case may be) holds an office or employment with senior management functions in the charity while disqualified by virtue of section 69B,”,
  - (b) for subsection (2) substitute—
    - “(2) Any acts done—
    - (a) as a charity trustee by a person disqualified by virtue of section 69 from being a charity trustee, or
    - (b) by a person holding an office or employment with senior management functions in a charity while disqualified by virtue of section 69B from holding such an office or employment in the charity,
 are not invalid by reason only of the disqualification.”.
- (4) The title of Chapter 9 becomes “Charity trustees and senior managers”.
- (5) In section 71 (decisions), after paragraph (p) insert—
- “(pa) refuse to grant a waiver under section 69B(3),”.
- (6) In section 72(2)(a) (notice of decisions), for “or (p)” substitute “, (p), (pa)”.

#### **Commencement Information**

**II** S. 6 not in force at Royal Assent, see [s. 21\(2\)](#)

**Status:**

This version of this provision is prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Charities (Regulation and Administration) (Scotland) Act 2023, Section 6.