



# Charities (Protection and Social Investment) Act 2016

## 2016 CHAPTER 4

### 4 Power to remove trustees etc following an inquiry

- (1) The Charities Act 2011 is amended as follows.
- (2) For section 79 (Commission's power to remove trustees etc following an inquiry) substitute—

#### **“79 Removal of trustee or officer etc for protective etc purposes**

- (1) Subsection (2) applies where, at any time after it has instituted an inquiry under section 46 with respect to any charity, the Commission is satisfied either as mentioned in section 76(1)(a) (misconduct or mismanagement) or as mentioned in section 76(1)(b) (need to protect property etc).
- (2) The Commission may of its own motion by order establish a scheme for the administration of the charity.
- (3) Subsection (4) applies where, at any time after it has instituted an inquiry under section 46 with respect to any charity, the Commission is satisfied both as mentioned in section 76(1)(a) (misconduct or mismanagement) and as mentioned in section 76(1)(b) (need to protect property etc).
- (4) Whether or not it acts under subsection (2), the Commission may of its own motion by order remove any trustee, charity trustee, officer, agent or employee of the charity—
  - (a) who has been responsible for the misconduct or mismanagement,
  - (b) who knew of the misconduct or mismanagement and failed to take any reasonable step to oppose it, or
  - (c) whose conduct contributed to it or facilitated it.
- (5) Where the Commission has given notice under section 82 of its intention to make an order under subsection (4) removing a person from an office or

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**Changes to legislation:** There are currently no known outstanding effects for the Charities (Protection and Social Investment) Act 2016, Section 4. (See end of Document for details)

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employment, the Commission may proceed to make the order even though the person has ceased to hold the office or employment.

- (6) Where an order is made relying on subsection (5)—
- (a) section 81(1) (power to make supplementary provision) and Case D in section 178(1) (disqualification) apply as if the person was removed by the order, but
  - (b) the order does not affect the time when the person ceased to hold the office or employment.”
- (3) In section 83(3) (power to suspend or remove trustees etc from membership of charity) —
- (a) for “79(2)” substitute “ 79(4) ”;
  - (b) for “an officer,” substitute “ a trustee, charity trustee, officer, ”.
- (4) In section 87(1) (supervision by Commission of certain Scottish charities), for “79(2) (b)” substitute “ 79(1) and (2) ”.
- (5) In section 178(1) (automatic disqualification of charity trustees), in Case D for “79(2) (a)” substitute “ 79(4) ”.
- (6) In Schedule 6 (appeals to tribunals), in the entry relating to an order made by the Commission under section 79(2) in relation to a charity—
- (a) in column 1, after “79(2)” insert “ or (4) ”;
  - (b) in column 2, for “79(2)(a)” substitute “ 79(4) ”.

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**Commencement Information**

**II** S. 4 in force at 31.7.2016 by S.I. 2016/815, reg. 2(c)

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