



# Partnerships (Prosecution) (Scotland) Act 2013

## 2013 CHAPTER 21

### *Prosecution after dissolution*

#### **1 Prosecution of dissolved partnership**

- (1) This section and sections 2 and 3 apply where—
  - (a) a partnership is dissolved, and
  - (b) an offence is alleged to have been committed by the partnership before dissolution.
- (2) The partnership may be prosecuted, or continue to be prosecuted, for the offence as if it had not been dissolved.
- (3) But it is not competent to commence proceedings against the partnership by virtue of subsection (2) if a period of more than 5 years has elapsed since the partnership was dissolved.
- (4) For the purposes of subsection (3), proceedings are commenced on the date on which an indictment or, as the case may be, a complaint is served on the partnership.
- (5) Subsection (3) is without prejudice to section 136 of the Criminal Procedure (Scotland) Act 1995 (time limit for certain offences).
- (6) Where a partnership is convicted of an offence by virtue of subsection (2), any enactment or rule of law relating to the liability of partners on the conviction of a partnership applies as if the partnership had not been dissolved.
- (7) But subsection (6) is subject to section 3 (which disapplies provisions restricting payment of fines to partnership assets).

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**Changes to legislation:** There are currently no known outstanding effects for the Partnerships (Prosecution) (Scotland) Act 2013, Cross Heading: Prosecution after dissolution. (See end of Document for details)

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## **2 Dissolution of partnership: proceedings against former partner or other person**

- (1) A person, who could have been prosecuted for the offence committed by the partnership had it not been dissolved, may be prosecuted, or may continue to be prosecuted, despite the dissolution.
- (2) Subsection (1) applies irrespective of whether the partnership has been or is prosecuted for the offence but not where the partnership has been so prosecuted and acquitted.
- (3) In proceedings against a person by virtue of subsection (1), evidence led may include evidence as to the commission of the offence by the partnership.

## **3 Payment of fine where dissolved partnership convicted**

An enactment, in so far as it restricts to payment out of a partnership's assets the payment of a fine imposed on the partnership on its conviction of an offence, does not apply in the case of a partnership which has been dissolved.

**Changes to legislation:**

There are currently no known outstanding effects for the Partnerships (Prosecution) (Scotland) Act 2013, Cross Heading: Prosecution after dissolution.