



Law Reform (Miscellaneous Provisions) (Scotland) Act 1990

1990 CHAPTER 40

PART I

CHARITIES

Supervision of charities

8 Disqualification of persons concerned in the management or control of recognised bodies.

- (1) A person who—
- has been convicted of an offence involving dishonesty;
 - is an undischarged bankrupt;
 - has been removed, under section 7 of this Act, from being concerned in the management or control of any body; or
 - is subject to a disqualification order [^{F1}or disqualification undertaking] under the ^{M1}Company Directors Disqualification Act 1986 [^{F1}or to a disqualification order under Part II of the ^{M2}Companies (Northern Ireland) Order 1989],
- shall, subject to the provisions of this section, be disqualified from being concerned with the management or control of a recognised body.
- (2) A person shall not be disqualified under subsection (1) above if—
- the conviction mentioned in that subsection is spent by virtue of the ^{M3}Rehabilitation of Offenders Act 1974; or
 - the Lord Advocate has thought fit to grant in writing a waiver of that disqualification in respect of that person,
- but the Lord Advocate shall not grant a waiver where to do so would prejudice the operation of the ^{M4}Company Directors Disqualification Act 1986.

Status: Point in time view as at 02/04/2001. This version of this provision has been superseded.

Changes to legislation: Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, Section 8 is up to date with all changes known to be in force on or before 11 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) A person who is concerned with the management or control of a recognised body whilst disqualified by virtue of this section shall be guilty of an offence and liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or to both; and
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or to both.
- (4) The acts, in relation to the management or control of such a body, of such a person as is mentioned in subsection (1) above shall not be invalid only by reason of his disqualification under that subsection.
- (5) Proceedings for an offence under subsection (3) above shall not be commenced after the end of the period of 3 years beginning with the day on which the offence was committed but, subject to that, may be commenced at any time within 6 months from the date on which evidence sufficient in the opinion of the procurator fiscal to warrant proceedings came to his knowledge; and a certificate of the procurator fiscal as to the date on which such evidence came to his knowledge shall be conclusive evidence of that fact.
- (6) In this section, “undischarged bankrupt” means a person who has had his estate sequestrated, been adjudged bankrupt or has granted a trust deed for or entered into an arrangement with his creditors and has not been discharged under or by virtue of—
- (a) section 54 or section 75(4) of the ^{M5}Bankruptcy (Scotland) Act 1985;
 - (b) an order under paragraph 11 of Schedule 4 to that Act of 1985;
 - (c) section 279 or section 280 of the ^{M6}Insolvency Act 1986; or
 - (d) any other enactment or rule of law subsisting at the time of his discharge

Textual Amendments

- F1** Words in s. 8(1)(d) inserted (2.4.2001) by 2000 c. 39, s. 8, **Sch. 4 Pt. II para. 17(a)(b)**; S.I. 2001/766, **art. 2(1)(a)** (subject to **art. 3**)

Commencement Information

- II** S. 8 wholly in force at 27.7.1992 see s. 75(2) and S.I. 1992/1599, **art. 5, Sch. 3.**

Marginal Citations

- M1** 1986 c. 46.
M2 S.I. 1989/2404 (N.I. 18).
M3 1974 c. 53.
M4 1986 c. 46.
M5 1985 c. 66.
M6 1986 c. 45.

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