



# Charities Act 2011

## 2011 CHAPTER 25

### PART 9

#### CHARITY TRUSTEES, TRUSTEES AND AUDITORS ETC.

##### *Disqualification of charity trustees and trustees*

#### **178 Persons disqualified from being charity trustees or trustees of a charity**

- (1) A person (“P”) is disqualified from being a charity trustee or trustee for a charity in the following cases—

*Case A*

P has been convicted [<sup>F1</sup>of any offence involving dishonesty or deception.][<sup>F1</sup>of —

- (a) an offence specified in section 178A;
- (b) an offence, not specified in section 178A, that involves dishonesty or deception.]

*Case B*

P has been [<sup>F2</sup>made] bankrupt or sequestration of P's estate has been awarded and (in either case)—

- (a) P has not been discharged, or
- (b) P is the subject of a bankruptcy restrictions order or an interim order.

*Case C*

P has made a composition or arrangement with, or granted a trust deed for, creditors and has not been discharged in respect of it.

*Case D*

P has been removed [<sup>F3</sup>from the office of charity trustee or trustee for a charity][<sup>F3</sup>as a trustee, charity trustee, officer, agent or employee of a charity ] by an order made—

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- (a) by the Commission under section [F<sup>4</sup>79(4)] or by the Commission or the Commissioners under a relevant earlier enactment (as defined by section 179(5)), or
- (b) by the High Court,

on the ground of any misconduct or mismanagement in the administration of the charity for which P was responsible or [F<sup>5</sup>which P knew of and failed to take any reasonable step to oppose,] or which P's conduct contributed to or facilitated.

*Case E*

P has been removed, under section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10) (powers of the Court of Session) or the relevant earlier legislation (as defined by section 179(6)), from being concerned in the management or control of any body.

*Case F*

P is subject to—

- (a) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986 or the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I.4)), or
- (b) an order made under section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order).

[F<sup>6</sup>*Case G*

P is subject to—

- (a) a moratorium period under a debt relief order under Part 7A of the Insolvency Act 1986; or
- (b) a debt relief restrictions order or interim order under Schedule 4ZB to that Act]

[F<sup>7</sup>*Case H*

P has been found to be in contempt of court under Civil Procedure Rules for—

- (a) making a false disclosure statement, or causing one to be made, or
- (b) making a false statement in a document verified by a statement of truth, or causing one to be made.

*Case I*

P has been found guilty of disobedience to an order or direction of the Commission on an application to the High Court under section 336(1).

*Case J*

P is a designated person for the purposes of—

- (a) Part 1 of the Terrorist Asset-Freezing etc Act 2010, or
- (b) the Al-Qaida (Asset-Freezing) Regulations 2011.

*Case K*

P is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003.]

- (2) Subsection (1) is subject to sections 179 to 181.

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- [<sup>F8</sup>(3) While a person is disqualified under this section in relation to a charity, the person is also disqualified from holding an office or employment in the charity with senior management functions.
- (4) A function of an office or employment held by a person “(A)” is a senior management function if—
- (a) it relates to the management of the charity, and A is not responsible for it to another officer or employee (other than a charity trustee or trustee for the charity), or
  - (b) it involves control over money and the only officer or employee (other than a charity trustee or trustee for the charity) to whom A is responsible for it is a person with senior management functions other than ones involving control over money.]

#### Textual Amendments

- F1** Words in s. 178(1) substituted (1.2.2018 for specified purposes) by [Charities \(Protection and Social Investment\) Act 2016 \(c. 4\), ss. 9\(3\), 17\(4\); S.I. 2018/47, reg. 2](#)
- F2** Word in s. 178(1) substituted (6.4.2016) by [The Enterprise and Regulatory Reform Act 2013 \(Consequential Amendments\) \(Bankruptcy\) and the Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/481\), reg. 1, Sch. 1 para. 17\(3\)](#)
- F3** Words in s. 178(1) substituted (1.2.2018 for specified purposes) by [Charities \(Protection and Social Investment\) Act 2016 \(c. 4\), ss. 9\(4\)\(a\), 17\(4\); S.I. 2018/47, reg. 2](#)
- F4** Word in s. 178(1) substituted (31.7.2016) by [Charities \(Protection and Social Investment\) Act 2016 \(c. 4\), ss. 4\(5\), 17\(4\); S.I. 2016/815, reg. 2\(c\)](#)
- F5** Words in s. 178(1) substituted (31.7.2016) by [Charities \(Protection and Social Investment\) Act 2016 \(c. 4\), ss. 9\(4\)\(b\), 17\(4\); S.I. 2016/815, reg. 2\(h\)](#)
- F6** Words in s. 178(1) inserted (1.10.2012) by [The Tribunals, Courts and Enforcement Act 2007 \(Consequential Amendments\) Order 2012 \(S.I. 2012/2404\), art. 1, Sch. 2 para. 62\(3\) \(with art. 6\)](#)
- F7** Words in s. 178(1) inserted (1.2.2018 for specified purposes) by [Charities \(Protection and Social Investment\) Act 2016 \(c. 4\), ss. 9\(5\), 17\(4\); S.I. 2018/47, reg. 2](#)
- F8** S. 178(3)(4) inserted (1.2.2018 for specified purposes) by [Charities \(Protection and Social Investment\) Act 2016 \(c. 4\), ss. 9\(6\), 17\(4\); S.I. 2018/47, reg. 2](#)

#### [<sup>F9</sup>178A Case A: specified offences

- (1) The following offences are specified for the purposes of Case A—

- |   |   |
|---|---|
| 1 | An offence to which Part 4 of the Counter-Terrorism Act 2008 applies (see sections 41 to 43 of that Act).   |
| 2 | An offence under section 13 or 19 of the Terrorism Act 2000 (wearing of uniform etc, and failure to disclose information).  |
| 3 | A money laundering offence within the meaning of section 415 of the Proceeds of Crime Act 2002.   |
| 4 | An offence under any of the following provisions of the Bribery Act 2010— <ul style="list-style-type: none"><li>(a) section 1 (bribing another person),</li><li>(b) section 2 (offences relating to being bribed),</li><li>(c) section 6 (bribery of foreign public officials),</li></ul> |

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- (d) section 7 (failure of commercial organisations to prevent bribery).
- 5 An offence under section 77 of this Act.
- 6 An offence of—
- (a) misconduct in public office,
  - (b) perjury,
  - (c) perverting the course of justice.
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- (2) An offence which has been superseded (directly or indirectly) by an offence specified in subsection (1) is also specified for the purposes of Case A.
- (3) In relation to an offence specified in subsection (1) or (2), the following offences are also specified for the purposes of Case A—
- (a) an offence of attempt, conspiracy or incitement to commit the offence;
  - (b) an offence of aiding, abetting, counselling or procuring the commission of the offence;
  - (c) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting) in relation to the offence.
- (4) The Secretary of State may amend this section by regulations to add or remove an offence.]

#### Textual Amendments

**F9** S. 178A inserted (1.2.2018 for specified purposes) by [Charities \(Protection and Social Investment\) Act 2016 \(c. 4\), ss. 9\(7\), 17\(4\)](#) (as amended (9.11.2016) by [S.I. 2016/997](#), art. 1(2), Sch. 25(2)(dd) (with art. 12); [S.I. 2018/47](#), reg. 2

### 179 Disqualification: pre-commencement events etc.

- (1) Case A—
- (a) applies whether the conviction occurred before or after the commencement of section 178(1) [<sup>F10</sup> or section 178A or any amendment of that section ], but
  - (b) does not apply in relation to any conviction which is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974.
- (2) Case B applies whether the [<sup>F11</sup>making bankrupt] or the sequestration or the making of a bankruptcy restrictions order or an interim order occurred before or after the commencement of section 178(1).
- (3) Case C applies whether the composition or arrangement was made, or the trust deed was granted, before or after the commencement of section 178(1).
- (4) Cases D to F apply in relation to orders made and removals effected before or after the commencement of section 178(1).
- (5) In Case D—
- (a) “the Commissioners” means the Charity Commissioners for England and Wales, and
  - (b) “relevant earlier enactment” means—
    - (i) section 18(2)(i) of the Charities Act 1993 (power to act for protection of charities),

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- (ii) section 20(1A)(i) of the Charities Act 1960, or  
(iii) section 20(1)(i) of the 1960 Act (as in force before the commencement of section 8 of the Charities Act 1992).
- (6) In Case E, “the relevant earlier legislation” means section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (powers of Court of Session to deal with management of charities).

[<sup>F12</sup>(7) Case H does not apply in relation to a finding of contempt which, if it had been a conviction for which P was dealt with in the same way, would be a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974.]

#### Textual Amendments

- F10** Words in s. 179(1) inserted (1.2.2018 for specified purposes) by Charities (Protection and Social Investment) Act 2016 (c. 4), ss. 9(9), 17(4); S.I. 2018/47, reg. 2
- F11** Words in s. 179(2) substituted (6.4.2016) by The Enterprise and Regulatory Reform Act 2013 (Consequential Amendments) (Bankruptcy) and the Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) Regulations 2016 (S.I. 2016/481), reg. 1, Sch. 1 para. 17(4)
- F12** S. 179(7) added (1.2.2018 for specified purposes) by Charities (Protection and Social Investment) Act 2016 (c. 4), ss. 9(10), 17(4); S.I. 2018/47, reg. 2

## 180 Disqualification: exceptions in relation to charitable companies

- (1) Where (apart from this subsection) a person (“P”) is disqualified under Case B [<sup>F13</sup>or G] from being a charity trustee or trustee for a charitable company [<sup>F14</sup>or a CIO], P is not so disqualified if leave has been granted under section 11 of the Company Directors Disqualification Act 1986 (undischarged bankrupts) for P to act as director of the company [<sup>F15</sup>or charity trustee of the CIO (as the case may be)].
- (2) Similarly, a person (“P”) is not disqualified under Case F from being a charity trustee or trustee for a charitable company [<sup>F16</sup>or a CIO] if, in a case set out in the first column of the table, leave has been granted as mentioned in the second column for P to act as director of the company [<sup>F17</sup>or charity trustee of the CIO (as the case may be)]—

P is subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986.	Leave has been granted for the purposes of section 1(1)(a) or 1A(1)(a) of the 1986 Act.
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P is subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I.4)).	Leave has been granted by the High Court in Northern Ireland.
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P is subject to an order under section 429(2) of the Insolvency Act 1986.	Leave has been granted by the court which made the order.
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#### Textual Amendments

- F13** Words in s. 180(1) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, Sch. 2 para. 62(4) (with art. 5)
- F14** Words in s. 180(1) inserted (2.1.2013) by The Charitable Incorporated Organisations (Consequential Amendments) Order 2012 (S.I. 2012/3014), arts. 1, 5(a)(i)

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- F15** Words in s. 180(1) inserted (2.1.2013) by [The Charitable Incorporated Organisations \(Consequential Amendments\) Order 2012 \(S.I. 2012/3014\)](#), arts. 1, **5(a)(ii)**
- F16** Words in s. 180(2) inserted (2.1.2013) by [The Charitable Incorporated Organisations \(Consequential Amendments\) Order 2012 \(S.I. 2012/3014\)](#), arts. 1, **5(b)(i)**
- F17** Words in s. 180(2) inserted (2.1.2013) by [The Charitable Incorporated Organisations \(Consequential Amendments\) Order 2012 \(S.I. 2012/3014\)](#), arts. 1, **5(b)(ii)**

## 181 Power to waive disqualification

- (1) This section applies where a person (“P”) is disqualified under section 178(1).
- (2) The Commission may, if P makes an application under this subsection, waive P's disqualification—
  - (a) generally, or
  - (b) in relation to a particular charity or a particular class of charities.

[<sup>F18</sup>(2A) A waiver under subsection (2)—

- (a) may relate to the whole of P's disqualification or only to disqualification under section 178(3);
- (b) in relation to disqualification under section 178(3) may relate to a particular office or employment or to any office or employment of a particular description.]

(3) If—

- (a) P is disqualified under Case D [<sup>F19</sup>or E][<sup>F19</sup>, E or I ] and makes an application under subsection (2) 5 years or more after the date on which the disqualification took effect, and
- (b) the Commission is not prevented from granting the application by subsection (5),

the Commission must grant the application unless satisfied that, because of any special circumstances, it should be refused.

- (4) Any waiver under subsection (2) must be notified in writing to P.
- (5) No waiver may be granted under subsection (2) in relation to any charitable company [<sup>F20</sup>or CIO] if—
  - (a) P is for the time being prohibited from acting as director of the company [<sup>F21</sup>or charity trustee of the CIO (as the case may be)], by virtue of—
    - (i) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986, or
    - (ii) a provision of the 1986 Act mentioned in subsection (6), and
  - (b) leave has not been granted for P to act as [<sup>F22</sup>director of any company or charity trustee of any CIO].
- (6) The provisions of the 1986 Act are—
  - section 11(1) (undischarged bankrupts);
  - section 12(2) (failure to pay under county court administration order);
  - section 12A (Northern Irish disqualification orders);
  - section 12B (Northern Irish disqualification undertakings).

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### Textual Amendments

- F18** S. 181(2A) inserted (1.2.2018 for specified purposes, 1.8.2018 in so far as not already in force) by Charities (Protection and Social Investment) Act 2016 (c. 4), ss. 9(12), 17(4); S.I. 2018/47, regs. 2, 3(a) (with reg. 4)
- F19** Words in s. 181(3) substituted (1.2.2018 for specified purposes, 1.8.2018 in so far as not already in force) by Charities (Protection and Social Investment) Act 2016 (c. 4), ss. 9(13), 17(4); S.I. 2018/47, regs. 2, 3(a) (with reg. 4)
- F20** Words in s. 181(5) inserted (2.1.2013) by The Charitable Incorporated Organisations (Consequential Amendments) Order 2012 (S.I. 2012/3014), arts. 1, 6(a)
- F21** Words in s. 181(5)(a) inserted (2.1.2013) by The Charitable Incorporated Organisations (Consequential Amendments) Order 2012 (S.I. 2012/3014), arts. 1, 6(b)
- F22** Words in s. 181(5)(b) substituted (2.1.2013) by The Charitable Incorporated Organisations (Consequential Amendments) Order 2012 (S.I. 2012/3014), arts. 1, 6(c)

### [<sup>F23</sup>181A Disqualification orders

- (1) The Commission may by order disqualify a person from being a charity trustee or trustee for a charity.
- (2) The order may disqualify a person—
  - (a) in relation to all charities, or
  - (b) in relation to such charities or classes of charity as may be specified or described in the order.
- (3) While a person is disqualified by virtue of an order under this section in relation to a charity, the person is also disqualified, subject to subsection (5), from holding an office or employment in the charity with senior management functions.
- (4) A function of an office or employment held by a person (“A”) is a senior management function if—
  - (a) it relates to the management of the charity, and A is not responsible for it to another officer or employee (other than a charity trustee or trustee for the charity), or
  - (b) it involves control over money and the only officer or employee (other than a charity trustee or trustee for the charity) to whom A is responsible for it is a person with senior management functions other than ones involving control over money.
- (5) An order under this section may provide for subsection (3) not to apply—
  - (a) generally, or
  - (b) in relation to a particular office or employment or to any office or employment of a particular description.
- (6) The Commission may make an order disqualifying a person under this section only if it is satisfied that—
  - (a) one or more of the conditions listed in subsection (7) are met in relation to the person,
  - (b) the person is unfit to be a charity trustee or trustee for a charity (either generally or in relation to the charities or classes of charity specified or described in the order), and

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- (c) making the order is desirable in the public interest in order to protect public trust and confidence in charities generally or in the charities or classes of charity specified or described in the order.

(7) These are the conditions—

- |   |  |
|---|--|
| A | that the person has been cautioned for a disqualifying offence against a charity or involving the administration of a charity.   |
| B | that— <ul style="list-style-type: none"> <li>(a) under the law of a country or territory outside the United Kingdom the person has been convicted in respect of an offence against a charity or involving the administration of a charity, and</li> <li>(b) the act which constituted the offence would have constituted a disqualifying offence if it had been done in any part of the United Kingdom.</li> </ul>   |
| C | that the person has been found by Her Majesty's Revenue and Customs not to be a fit and proper person to be a manager of a body or trust, for the purposes of paragraph 4 of Schedule 6 to the Finance Act 2010 (definition of charity for tax purposes), and the finding has not been overturned.   |
| D | that the person was a trustee, charity trustee, officer, agent or employee of a charity at a time when there was misconduct or mismanagement in the administration of the charity, and— <ul style="list-style-type: none"> <li>(a) the person was responsible for the misconduct or mismanagement,</li> <li>(b) the person knew of the misconduct or mismanagement and failed to take any reasonable step to oppose it, or</li> <li>(c) the person's conduct contributed to or facilitated the misconduct or mismanagement.</li> </ul>   |
| E | that the person was an officer or employee of a body corporate at a time when the body was a trustee or charity trustee for a charity and when there was misconduct or mismanagement by it in the administration of the charity, and— <ul style="list-style-type: none"> <li>(a) the person was responsible for the misconduct or mismanagement,</li> <li>(b) the person knew of the misconduct or mismanagement and failed to take any reasonable step to oppose it, or</li> <li>(c) the person's conduct contributed to or facilitated the misconduct or mismanagement.</li> </ul> |
| F | that any other past or continuing conduct by the person, whether or not in relation to a charity, is damaging or likely to be damaging to public trust and confidence in charities generally or in the charities or classes of charity specified or described in the order.  |

(8) The [<sup>F24</sup>Secretary of State] may amend this section by regulations to add or remove a condition.

(9) In this section “ disqualifying offence ” means an offence within Case A in section 178(1).



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- (10) Conditions A and B apply whether the caution or conviction occurred before or after the commencement of this section.
- (11) Condition B does not apply in relation to a conviction which is spent under the law of the country or territory concerned.
- (12) For the purposes of condition B—
  - (a) an act punishable under the law of a country or territory outside the United Kingdom constitutes an offence under that law, however it is described in that law, and
  - (b) “charity” means an institution that is a charity under the law of any part of the United Kingdom or that is established under the law of another country or territory principally for charitable, benevolent or philanthropic purposes.

#### Textual Amendments

- F23** Ss. 181A-181D inserted (1.10.2016) by [Charities \(Protection and Social Investment\) Act 2016 \(c. 4\), ss. 10\(2\), 17\(4\); S.I. 2016/815, reg. 3\(a\)](#)
- F24** Words in s. 181A(8) substituted (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\), art. 1\(2\), Sch. 2 para. 25\(2\)\(ee\)](#) (with art. 12)

### **181B Duration of disqualification, and suspension pending disqualification**

- (1) An order under section 181A must specify the period for which the person is disqualified.
- (2) The period—
  - (a) must be not more than 15 years beginning with the day on which the order takes effect, and
  - (b) must be proportionate, having regard in particular to the time when a conviction becomes spent or, where condition B applies, would become spent if it were a conviction for the relevant disqualifying offence, and to circumstances in which the Commission may or must grant a waiver under section 181 where a person is disqualified under section 178.
- (3) An order takes effect—
  - (a) at the end of the time specified by Tribunal Procedure Rules for starting proceedings for an appeal against the order, if no proceedings are started within that time, or
  - (b) (subject to the decision on the appeal) when any proceedings started within that time are withdrawn or finally determined.
- (4) The Commission may by order suspend a person from being a charity trustee or trustee for a charity if it has given notice under section 181C(1)(a) of its proposal to make an order under section 181A in respect of the person.
- (5) The Commission may not make an order under subsection (4) so as to suspend a person for a period of more than 12 months, but at any time before the expiry of an order the Commission may extend or further extend the suspension by a further order under that subsection, provided that—

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- (a) the order does not extend the suspension for a period of more than 12 months, and
  - (b) the total period of suspension is not more than 2 years.
- (6) An order under subsection (4) ceases to have effect—
- (a) if the Commission notifies the person that it will not proceed with its proposal, on the notification being given;
  - (b) if the Commission makes the order under section 181A, on the order taking effect;
- or, if earlier, at the end of the period specified in accordance with subsection (5).
- (7) The Commission must review any order under subsection (4), at such intervals as it thinks fit.
- (8) If on a review it appears to the Commission that it would be appropriate to discharge an order under subsection (4) in whole or in part, the Commission must do so (whether subject to any savings or other transitional provisions or not).
- (9) An order under subsection (4) made in the case of any person (“P”) may make provision, as respects the period of P's suspension, for matters arising out of it, and in particular—
- (a) for enabling any person to execute any instrument in P's name or otherwise act for P, and
  - (b) in the case of a charity trustee, for adjusting any rules governing the proceedings of the charity trustees to take account of the reduction in the number capable of acting.
- This does not affect the generality of section 337(1) and (2).
- (10) While an order under subsection (4) is in force suspending a person from being a charity trustee or trustee for a charity, the person must not take up any appointment as a charity trustee or trustee for any other charity without the written approval of the Commission.

#### Textual Amendments

**F23** Ss. 181A-181D inserted (1.10.2016) by [Charities \(Protection and Social Investment\) Act 2016 \(c. 4\)](#), [ss. 10\(2\)](#), [17\(4\)](#); [S.I. 2016/815](#), [reg. 3\(a\)](#)

### 181C Disqualification orders: procedure

- (1) Before making an order in respect of a person under section 181A without the person's consent the Commission must—
- (a) give the person not less than one month's notice of its proposals, and
  - (b) invite representations to be made to it within a period specified in the notice.
- (2) Before making an order under section 181A in respect of a person who the Commission knows or believes to be a charity trustee or trustee for a charity, the Commission must also—
- (a) give notice of its proposals to each of the charity trustees of the charity in question;

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- (b) comply with the publicity requirement, unless the Commission is satisfied that for any reason compliance with the requirement is unnecessary.
- (3) The publicity requirement is that the Commission must give public notice of its proposals, inviting representations to be made to it within a period specified in the notice.
- (4) The time when any such notice is given is to be decided by the Commission.
- (5) Any notice of any proposals which is to be given under this section is to contain such particulars of the proposals, or such directions for obtaining information about them, as the Commission thinks sufficient and appropriate.
- (6) Where the Commission gives notice of any proposals under this section—
  - (a) it must take into account any representations made to it within the period specified in the notice, and
  - (b) it may (without further notice) proceed with the proposals either without modifications or with such modifications as it thinks desirable;but a notice under subsection (2)(a) need not specify a period for the purposes of paragraph (a) if the charity came to the Commission's knowledge or belief after the expiry of the period specified for the purposes of subsection (1)(b).
- (7) A notice under subsection (1) or (2)(a)—
  - (a) may be given by post, and
  - (b) if given by post, may be addressed to the recipient's last known address in the United Kingdom.
- (8) A notice under subsection (2)(b) is to be given in such manner as the Commission thinks sufficient and appropriate.
- (9) Where the Commission makes an order under section 181A in respect of a person it knows or believes to be a charity trustee or trustee for a charity it must (as well as serving it on that person) send a copy of the order and a statement of the Commission's reasons for making it—
  - (a) to the charity in question (if a body corporate), or
  - (b) (if not) to each of the charity trustees of the charity in question.
- (10) Nothing in this section requires the Commission to give notice, or send a document, to a person who cannot be found or has no known address in the United Kingdom.
- (11) Any documents required to be sent to a person under this section may be sent to, or otherwise served on, the person in the same way as an order made by the Commission under this Act could be served on the person in accordance with section 339.

#### Textual Amendments

**F23** Ss. 181A-181D inserted (1.10.2016) by [Charities \(Protection and Social Investment\) Act 2016 \(c. 4\)](#), [ss. 10\(2\), 17\(4\)](#); S.I. 2016/815, reg. 3(a)

### 181D Disqualification orders: variation and revocation

A person in respect of whom an order under section 181A is in force may at any time apply to the Commission for an order varying or discharging that order.]

*Status: Point in time view as at 27/06/2018.*

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#### Textual Amendments

**F23** Ss. 181A-181D inserted (1.10.2016) by [Charities \(Protection and Social Investment\) Act 2016 \(c. 4\)](#), [ss. 10\(2\)](#), 17(4); S.I. 2016/815, reg. 3(a)

### 182 Records of persons removed from office

(1) For the purposes of sections 178 to 181 the Commission must keep, in such manner as it thinks fit, a register of all persons who have been removed from office as mentioned in Case D—

- (a) by an order of the Commission or the Commissioners made before or after the commencement of section 178(1), or
- (b) by an order of the High Court made after the commencement of section 45(1) of the Charities Act 1992;

and, where any person is so removed from office by an order of the High Court, the court must notify the Commission of the person's removal.

[<sup>F25</sup>(1B) The register must include all persons who have been disqualified by an order of the Commission under section 181A.

(1C) The register must include all persons who have been removed from office by an order of the Commission under section 79A (removal of disqualified trustee).]

(2) The entries in the register kept under subsection (1) must be available for public inspection in legible form at all reasonable times.

(3) In this section “the Commissioners” means the Charity Commissioners for England and Wales.

#### Textual Amendments

**F25** S. 182(1B)(1C) inserted (31.7.2016 for the insertion of s. 182(1C), 1.10.2016 in so far as not already in force) by [Charities \(Protection and Social Investment\) Act 2016 \(c. 4\)](#), [ss. 11\(5\)](#), 17(4); S.I. 2016/815, [regs. 2\(i\)](#), 3(b)

### 183 Criminal consequences of acting while disqualified

(1) Subject to subsection (2), it is an offence for any person to act as a charity trustee or trustee for a charity [<sup>F26</sup> or to hold an office or employment ] while disqualified from being such a trustee [<sup>F27</sup> or from holding that office or employment ] by virtue of section 178 [<sup>F28</sup> or an order under section 181A].

(2) Subsection (1) does not apply if—

- (a) the charity concerned is a company [<sup>F29</sup> or a CIO], and
- (b) the disqualified person is disqualified by virtue only of Case B [<sup>F30</sup>, F or G][<sup>F31</sup> in section 178].

(3) A person guilty of an offence under subsection (1) is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or both;

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- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

#### Textual Amendments

- F26** Words in s. 183(1) inserted (1.2.2018 for specified purposes) by Charities (Protection and Social Investment) Act 2016 (c. 4), ss. 9(14)(a), 17(4); S.I. 2018/47, reg. 2
- F27** Words in s. 183(1) inserted (1.2.2018 for specified purposes) by Charities (Protection and Social Investment) Act 2016 (c. 4), ss. 9(14)(b), 17(4); S.I. 2018/47, reg. 2
- F28** Words in s. 183(1) inserted (1.10.2016) by Charities (Protection and Social Investment) Act 2016 (c. 4), ss. 10(3)(a), 17(4); S.I. 2016/815, reg. 3(a)
- F29** Words in s. 183(2)(a) inserted (2.1.2013) by The Charitable Incorporated Organisations (Consequential Amendments) Order 2012 (S.I. 2012/3014), arts. 1, 7
- F30** Words in s. 183(2)(b) substituted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, Sch. 2 para. 62(5) (with art. 5)
- F31** Words in s. 183(2)(b) inserted (1.10.2016) by Charities (Protection and Social Investment) Act 2016 (c. 4), ss. 10(3)(b), 17(4); S.I. 2016/815, reg. 3(a)

#### 184 Civil consequences of acting while disqualified

- (1) Any acts done as charity trustee or trustee for a charity [F32 or as officer or employee of a charity ] by a person disqualified from being such a trustee [F33 or from holding that office or employment ] by virtue of section 178 [F34 or an order under section 181A] are not invalid merely because of that disqualification.
- (2) Subsection (3) applies if the Commission is satisfied that any person—
- (a) has acted as charity trustee or trustee for a charity [F35 or as officer or employee of a charity ] while disqualified from being such a trustee [F36 or from holding that office or employment ] by virtue of section 178 [F37 or an order under section 181A], and
- (b) while so acting, has received from the charity any sums by way of remuneration or expenses, or any benefit in kind, in connection with acting as charity trustee or trustee for the charity [F38 or holding the office or employment ] .
- (3) The Commission may by order direct the person—
- (a) to repay to the charity the whole or part of any such sums, or
- (b) (as the case may be) to pay to the charity the whole or part of the monetary value (as determined by the Commission) of any such benefit.
- (4) Subsection (3) does not apply to any sums received by way of remuneration or expenses in respect of any time when the person concerned was not disqualified from being a charity trustee or trustee for the charity.

#### Textual Amendments

- F32** Words in s. 184(1) inserted (1.2.2018 for specified purposes) by Charities (Protection and Social Investment) Act 2016 (c. 4), ss. 9(16)(a), 17(4); S.I. 2018/47, reg. 2
- F33** Words in s. 184(1) inserted (1.2.2018 for specified purposes) by Charities (Protection and Social Investment) Act 2016 (c. 4), ss. 9(16)(b), 17(4); S.I. 2018/47, reg. 2
- F34** Words in s. 184(1) inserted (1.10.2016) by Charities (Protection and Social Investment) Act 2016 (c. 4), ss. 10(4)(a), 17(4); S.I. 2016/815, reg. 3(a)

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- F35** Words in s. 184(2)(a) inserted (1.2.2018 for specified purposes) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(16)(a)**, 17(4); S.I. 2018/47, reg. 2
- F36** Words in s. 184(2)(a) inserted (1.2.2018 for specified purposes) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(16)(b)**, 17(4); S.I. 2018/47, reg. 2
- F37** Words in s. 184(2)(a) inserted (1.10.2016) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 10(4)(b)**, 17(4); S.I. 2016/815, reg. 3(a)
- F38** Words in s. 184(2)(b) inserted (1.2.2018 for specified purposes) by Charities (Protection and Social Investment) Act 2016 (c. 4), **ss. 9(17)**, 17(4); S.I. 2018/47, reg. 2

**Status:**

Point in time view as at 27/06/2018.

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