



# Charities Act 2011

## 2011 CHAPTER 25

### PART 9

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

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

#### **[<sup>F1</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

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**Changes to legislation:** Charities Act 2011, Section 181A is up to date with all changes known to be in force on or before 22 June 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) View outstanding changes

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- (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
  - (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—

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| 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> |

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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.

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- (8) The [<sup>F2</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).
- (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. ]

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#### Textual Amendments

- F1** 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)
- F2** 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)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 106(1)-(1B) substituted for s. 106(1) by [2022 c. 6 s. 16\(a\)](#)
- s. 322(2)(ea) inserted by [2022 c. 6 Sch. 2 para. 26](#)
- s. 331A331B and cross-heading inserted by [2022 c. 6 s. 15](#)