



Charities (Protection and Social Investment) Act 2016

2016 CHAPTER 4

9 Automatic disqualification from being a trustee

- (1) The Charities Act 2011 is amended as follows.
- (2) Section 178 (persons disqualified from being charity trustees or trustees for a charity) is amended as follows.
- (3) In subsection (1), in Case A, for “of any offence involving dishonesty or deception.” substitute “of—
 - (a) an offence specified in section 178A;
 - (b) an offence, not specified in section 178A, that involves dishonesty or deception.”
- (4) In Case D—
 - (a) for “from the office of charity trustee or trustee for a charity” substitute “as a trustee, charity trustee, officer, agent or employee of a charity”;
 - (b) for “to which P was privy,” substitute “which P knew of and failed to take any reasonable step to oppose,”.
- (5) At the end of subsection (1) insert—

“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

Status: This is the original version (as it was originally enacted).

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.”

(6) After subsection (2) insert—

- “(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.”

(7) After section 178 insert—

“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"> (a) section 1 (bribing another person), (b) section 2 (offences relating to being bribed), (c) section 6 (bribery of foreign public officials), (d) section 7 (failure of commercial organisations to prevent bribery).
5	An offence under section 77 of this Act.
6	An offence of— <ul style="list-style-type: none"> (a) misconduct in public office, (b) perjury, (c) perverting the course of justice.

(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 Minister may amend this section by regulations to add or remove an offence.”
- (8) Section 179 (disqualification: pre-commencement events etc) is amended as follows.
- (9) In subsection (1), after “178(1)” insert “or section 178A or any amendment of that section”.
- (10) At the end add—
- “(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.”
- (11) Section 181 (waiver of disqualification) is amended as follows.
- (12) After subsection (2) insert—
- “(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.”
- (13) In subsection (3) (presumption for waiver after 5 years) for “or E” substitute “, E or I”.
- (14) In section 183 (criminal consequences of acting while disqualified), in subsection (1) —
- (a) after “for a charity” insert “or to hold an office or employment”;
 - (b) after “such a trustee” insert “or from holding that office or employment”.
- (15) Section 184 (civil consequences of acting while disqualified) is amended as follows.
- (16) In subsections (1) and (2)(a)—
- (a) after “for a charity” insert “or as officer or employee of a charity”, and
 - (b) after “such a trustee” insert “or from holding that office or employment”.
- (17) In subsection (2)(b) after “for the charity” insert “or holding the office or employment”.
- (18) Section 348 (regulations subject to affirmative procedure etc) is amended as follows.
- (19) In subsection (1), after paragraph (b) insert—
- “(ba) regulations under section 178A(4) (offences specified for automatic disqualification of charity trustees);”.
- (20) In subsection (2) after “(1)(a)” insert “, (ba)”.

Status: This is the original version (as it was originally enacted).

- (21) In subsection (4) after “regulations under—” insert—
“(za) section 178A(4), if the regulations add an offence,”.