



Partnerships (Prosecution) (Scotland) Act 2013

2013 CHAPTER 21

An Act to make provision about the prosecution in Scotland of partnerships, partners and others following dissolution or changes in membership. [25th April 2013]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

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).

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

- (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).

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.

Prosecution after change in membership

4 Prosecution of partnership after change in membership

- (1) This section and section 5 apply where—
 - (a) there is a change in the membership of a partnership,
 - (b) the partnership continues to carry on business after the change, and
 - (c) an offence is alleged to have been committed by the partnership before the change.
- (2) The partnership may be prosecuted, or continue to be prosecuted, for the offence.
- (3) For the purposes of this section and section 5, any enactment or rule of law, by virtue of which a change in membership of a partnership results in a new partnership being constituted, does not apply.
- (4) In this section and section 5, there is a change in the membership of a partnership where—
 - (a) a partner dies or, if not an individual, ceases to exist,
 - (b) a partner resigns, retires or is expelled from the partnership, or
 - (c) a person is admitted as a partner into the partnership.