



Company Directors Disqualification Act 1986

1986 CHAPTER 46

Other cases of disqualification

10 Participation in wrongful trading.

(1) Where the court makes a declaration under section 213 or 214 of the Insolvency Act [^{F1}1986] that a person is liable to make a contribution to a company's assets, then, whether or not an application for such an order is made by any person, the court may, if it thinks fit, also make a disqualification order against the person to whom the declaration relates.

(2) The maximum period of disqualification under this section is 15 years.

[^{F2}(3) In this section "company" includes overseas company.]

Textual Amendments

- F1** Words in s. 10(1) inserted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009](#) (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 85(6)(a)** (with art. 10)
- F2** S. 10(3) inserted (26.5.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015](#) (c. 26), s. 164(1), **Sch. 7 para. 11**; S.I. 2015/1329, reg. 3(c); S.I. 2015/1689, reg. 2(g)

Modifications etc. (not altering text)

- C1** Ss. 9, 10 extended (with modifications) by [S.I. 1986/2142](#), art. 6
- C2** Ss. 9, 10 extended (with modifications) (1.7.1989) by [S.I. 1989/638](#), **regs. 20, 21**
- C3** S. 10 applied (1.12.1994) by [S.I. 1994/2421](#), art. 16, **Sch. 8**
- C4** Ss. 6-10 applied (with modifications) by [S.I. 1994/2421](#), art. 16, Sch. 8 (as amended (E.W.) (8.12.2017) by [The Insolvency \(Miscellaneous Amendments\) Regulations 2017](#) (S.I. 2017/1119), reg. 1(1), Sch. 2 paras. 4, 8)

Changes to legislation: There are currently no known outstanding effects for the Company Directors Disqualification Act 1986, Cross Heading: Other cases of disqualification. (See end of Document for details)

11 Undischarged bankrupts.

[^{F3}(1) It is an offence for a person to act as director of a company or directly or indirectly to take part in or be concerned in the promotion, formation or management of a company, without the leave of the court, at a time when any of the circumstances mentioned in subsection (2) apply to the person.

(2) The circumstances are—

- (a) the person is an undischarged bankrupt—
 - (i) in England and Wales or Scotland, or
 - (ii) in Northern Ireland,
- (b) a bankruptcy restrictions order or undertaking is in force in respect of the person under—
 - (i) the Bankruptcy (Scotland) Act 1985 [^{F4}or 2016] or the Insolvency Act 1986, or
 - (ii) the Insolvency (Northern Ireland) Order 1989,
- (c) a debt relief restrictions order or undertaking is in force in respect of the person under—
 - (i) the Insolvency Act 1986, or
 - (ii) the Insolvency (Northern Ireland) Order 1989,
- (d) a moratorium period under a debt relief order applies in relation to the person under—
 - (i) the Insolvency Act 1986, or
 - (ii) the Insolvency (Northern Ireland) Order 1989.

(2A) In subsection (1) “the court” means—

- (a) for the purposes of subsection (2)(a)(i)—
 - [^{F5}(i) the court by which the bankruptcy order was made or (if the order was not made by a court) the court to which a debtor may appeal against a refusal to make a bankruptcy order, or]
 - (ii) in Scotland, the court by which sequestration of the person's estate was awarded or, if awarded other than by the court, the court which would have jurisdiction in respect of sequestration of the person's estate,
- (b) for the purposes of subsection (2)(b)(i)—
 - (i) the court which made the order,
 - (ii) in Scotland, if the order has been made other than by the court, the court to which the person may appeal against the order, or
 - (iii) the court to which the person may make an application for annulment of the undertaking,
- (c) for the purposes of subsection (2)(c)(i)—
 - (i) the court which made the order, or
 - (ii) the court to which the person may make an application for annulment of the undertaking,
- (d) for the purposes of subsection (2)(d)(i), the court to which the person would make an application under section 251M(1) of the Insolvency Act 1986 (if the person were dissatisfied as mentioned there),
- (e) for the purposes of paragraphs (a)(ii), (b)(ii), (c)(ii) and (d)(ii) of subsection (2), the High Court of Northern Ireland.]

Changes to legislation: There are currently no known outstanding effects for the Company Directors Disqualification Act 1986, Cross Heading: Other cases of disqualification. (See end of Document for details)

(3) In England and Wales, the leave of the court shall not be given unless notice of intention to apply for it has been served on the official receiver; and it is the latter's duty, if he is of opinion that it is contrary to the public interest that the application should be granted, to attend on the hearing of the application and oppose it.

[^{F6}(4) In this section “company” includes a company incorporated outside Great Britain that has an established place of business in Great Britain.]

Textual Amendments

- F3** S. 11(1)-(2A) substituted for s. 11(1)(2) (1.10.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\), ss. 113\(1\), 164\(1\)](#); S.I. 2015/1689, reg. 2(i) (with Sch. para. 11)
- F4** Words in s. 11(2)(b)(i) inserted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\), art. 1, Sch. 1 para. 5](#)
- F5** S. 11(2A)(a)(i) 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. 8](#)
- F6** S. 11(4) inserted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\), art. 2\(1\), Sch. 1 para. 85\(7\)](#) (with art. 10)

Modifications etc. (not altering text)

- C5** Ss. 11, 12(2) extended (with modifications) (1.7.1989) by [S.I. 1989/638, regs. 20, 21](#)

[^{F7}11A Designated persons under sanctions legislation

- (1) It is an offence for a person who is subject to director disqualification sanctions to act as a director of a company or directly or indirectly to take part in or be concerned in the promotion, formation or management of a company (but see subsection (2)).
- (2) Subsection (1) does not apply—
- to the extent that an exception from subsection (1) has been created by virtue of section 15(3A) of the Sanctions and Anti-Money Laundering Act 2018, or
 - to anything done under the authority of a licence issued by virtue of section 15(3A) of that Act.
- (3) It is a defence for a person charged with an offence under this section to prove that they did not know and could not reasonably have been expected to know that they were subject to director disqualification sanctions at the time at which they engaged in that conduct.
- (4) In this section “person who is subject to director disqualification sanctions” means a person who under regulations under section 1 of the Sanctions and Anti-Money Laundering Act 2018 is a person subject to director disqualification sanctions for the purposes of this section and Article 15A of the Company Directors Disqualification (Northern Ireland) Order 2002 (see section 3A of the Sanctions and Anti-Money Laundering Act 2018).]

Textual Amendments

- F7** S. 11A inserted (26.10.2023 for specified purposes) by [Economic Crime and Corporate Transparency Act 2023 \(c. 56\), ss. 36\(2\), 219\(1\)\(2\)\(b\)](#)

Changes to legislation: There are currently no known outstanding effects for the Company Directors Disqualification Act 1986, Cross Heading: Other cases of disqualification. (See end of Document for details)

12 Failure to pay under county court administration order.

- (1) The following has effect where a court under section 429 of the Insolvency Act revokes an administration order under Part VI of the ^{M1}County Courts Act 1984.
- (2) A person to whom that section applies by virtue of the order under section 429(2) (b) shall not, except with the leave of the court which made the order, act as director or liquidator of, or directly or indirectly take part or be concerned in the promotion, formation or management of, a company.

Modifications etc. (not altering text)

C6 Ss. 11, 12(2) extended (with modifications) (1.7.1989) by [S.I. 1989/638](#), [regs. 20, 21](#)

Marginal Citations

M1 [1984 c. 28](#).

[^{F8}12A Northern Irish disqualification orders.

A person subject to a disqualification order under [^{F9}the Company Directors Disqualification (Northern Ireland) Order 2002]—

- (a) shall not be a director of a company, act as receiver of a company's property or in any way, whether directly or indirectly, be concerned or take part in the promotion, formation or management of a company unless (in each case) he has the leave of the High Court of Northern Ireland, and
- (b) shall not act as an insolvency practitioner.]

Textual Amendments

F8 S. 12A inserted (2.4.2001) by [2000 c. 39, s. 7\(1\)](#); [S.I. 2001/766, art. 2\(1\)\(a\)](#) (subject to transitional provisions in [art. 3](#))

F9 Words in s. 12A substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 ([S.I. 2009/1941](#)), art. 2(1), {Sch. 1 para. 85(8)} (with art. 10)

[^{F10}12B Northern Irish disqualification undertakings

A person subject to a disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002—

- (a) shall not be a director of a company, act as receiver of a company's property or in any way, whether directly or indirectly, be concerned or take part in the promotion, formation or management of a company unless (in each case) he has the leave of the High Court of Northern Ireland, and
- (b) shall not act as an insolvency practitioner.]

Textual Amendments

F10 S. 12B inserted (1.9.2004) by [The Insolvency Act 2000 \(Company Directors Disqualification Undertakings\) Order 2004 \(S.I. 2004/1941\)](#), [art. 2\(2\)](#) (with art. 1(2))

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[^{F11}12C Determining unfitness etc: matters to be taken into account

- (1) This section applies where a court must determine—
 - (a) whether a person's conduct as a director of one or more companies or overseas companies makes the person unfit to be concerned in the management of a company;
 - (b) whether to exercise any discretion it has to make a disqualification order under any of sections 2 to 4, 5A, 8 or 10;
 - (c) where the court has decided to make a disqualification order under any of those sections or is required to make an order under section 6, what the period of disqualification should be.
- (2) But this section does not apply where the court in question is one mentioned in section 2(2)(b) or (c).
- (3) This section also applies where the Secretary of State must determine—
 - (a) whether a person's conduct as a director of one or more companies or overseas companies makes the person unfit to be concerned in the management of a company;
 - (b) whether to exercise any discretion the Secretary of State has to accept a disqualification undertaking under section 5A, 7 or 8.
- (4) In making any such determination in relation to a person, the court or the Secretary of State must—
 - (a) in every case, have regard in particular to the matters set out in paragraphs 1 to 4 of Schedule 1;
 - (b) in a case where the person concerned is or has been a director of a company or overseas company, also have regard in particular to the matters set out in paragraphs 5 to 7 of that Schedule.
- (5) In this section “director” includes a shadow director.
- (6) Subsection (1A) of section 6 applies for the purposes of this section as it applies for the purposes of that section.
- (7) The Secretary of State may by order modify Schedule 1; and such an order may contain such transitional provision as may appear to the Secretary of State to be necessary or expedient.
- (8) The power to make an order under this section is exercisable by statutory instrument.
- (9) An order under this section may not be made unless a draft of the instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.]

Textual Amendments

- F11** S. 12C inserted (26.5.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 106(5)**, 164(1); S.I. 2015/1329, reg. 3(c); S.I. 2015/1689, reg. 2(d)

Modifications etc. (not altering text)

- C7** S. 12C applied (with modifications) by S.I. 1994/2421, art. 16, **Sch. 8** (as amended (E.W.) (8.12.2017) by [The Insolvency \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/1119\)](#), reg. 1(1), Sch. 2 paras. 4, 8)

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