



Small Business, Enterprise and Employment Act 2015

2015 CHAPTER 26

PART 9

DIRECTORS' DISQUALIFICATION ETC

New grounds for disqualification

104 Convictions abroad

(1) After section 5 of the Company Directors Disqualification Act 1986 insert—

“5A Disqualification for certain convictions abroad

- (1) If it appears to the Secretary of State that it is expedient in the public interest that a disqualification order under this section should be made against a person, the Secretary of State may apply to the court for such an order.
- (2) The court may, on an application under subsection (1), make a disqualification order against a person who has been convicted of a relevant foreign offence.
- (3) A “relevant foreign offence” is an offence committed outside Great Britain—
 - (a) in connection with—
 - (i) the promotion, formation, management, liquidation or striking off of a company (or any similar procedure),
 - (ii) the receivership of a company's property (or any similar procedure), or
 - (iii) a person being an administrative receiver of a company (or holding a similar position), and
 - (b) which corresponds to an indictable offence under the law of England and Wales or (as the case may be) an indictable offence under the law of Scotland.

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Changes to legislation: There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, PART 9. (See end of Document for details)

- (4) Where it appears to the Secretary of State that, in the case of a person who has offered to give a disqualification undertaking—
- (a) the person has been convicted of a relevant foreign offence, and
 - (b) it is expedient in the public interest that the Secretary of State should accept the undertaking (instead of applying, or proceeding with an application, for a disqualification order),
- the Secretary of State may accept the undertaking.
- (5) In this section—
- “company” includes an overseas company;
- “the court” means the High Court or, in Scotland, the Court of Session.
- (6) The maximum period of disqualification under an order under this section is 15 years.”
- (2) Section 5A(2) and (4) of the Company Directors Disqualification Act 1986, as inserted by this section, applies in relation to a conviction of a relevant foreign offence which occurs on or after the day on which this section comes into force regardless of whether the act or omission which constituted the offence occurred before that day.

Commencement Information

II [S. 104](#) in force at 26.5.2015 for specified purposes by [S.I. 2015/1329](#), [reg. 3\(c\)](#)

105 Persons instructing unfit director

After section 8 of the Company Directors Disqualification Act 1986 insert—

“Persons instructing unfit directors

8ZA Order disqualifying person instructing unfit director of insolvent company

- (1) The court may make a disqualification order against a person (“P”) if, on an application under section 8ZB, it is satisfied—
- (a) either—
 - (i) that a disqualification order under section 6 has been made against a person who is or has been a director (but not a shadow director) of a company, or
 - (ii) that the Secretary of State has accepted a disqualification undertaking from such a person under section 7(2A), and
 - (b) that P exercised the requisite amount of influence over the person.

That person is referred to in this section as “the main transgressor”.

- (2) For the purposes of this section, P exercised the requisite amount of influence over the main transgressor if any of the conduct—
- (a) for which the main transgressor is subject to the order made under section 6, or

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- (b) in relation to which the undertaking was accepted from the main transgressor under section 7(2A),
was the result of the main transgressor acting in accordance with P's directions or instructions.
- (3) But P does not exercise the requisite amount of influence over the main transgressor by reason only that the main transgressor acts on advice given by P in a professional capacity.
- (4) Under this section the minimum period of disqualification is 2 years and the maximum period is 15 years.
- (5) In this section and section 8ZB “the court” has the same meaning as in section 6; and subsection (3B) of section 6 applies in relation to proceedings mentioned in subsection (6) below as it applies in relation to proceedings mentioned in section 6(3B)(a) and (b).
- (6) The proceedings are proceedings—
 - (a) for or in connection with a disqualification order under this section, or
 - (b) in connection with a disqualification undertaking accepted under section 8ZC.

8ZB Application for order under section 8ZA

- (1) If it appears to the Secretary of State that it is expedient in the public interest that a disqualification order should be made against a person under section 8ZA, the Secretary of State may—
 - (a) make an application to the court for such an order, or
 - (b) in a case where an application for an order under section 6 against the main transgressor has been made by the official receiver, direct the official receiver to make such an application.
- (2) Except with the leave of the court, an application for a disqualification order under section 8ZA must not be made after the end of the period of 3 years beginning with the day on which the company in question became insolvent (within the meaning given by section 6(2)).
- (3) Subsection (4) of section 7 applies for the purposes of this section as it applies for the purposes of that section.

8ZC Disqualification undertaking instead of an order under section 8ZA

- (1) If it appears to the Secretary of State that it is expedient in the public interest to do so, the Secretary of State may accept a disqualification undertaking from a person (“P”) if—
 - (a) any of the following is the case—
 - (i) a disqualification order under section 6 has been made against a person who is or has been a director (but not a shadow director) of a company,
 - (ii) the Secretary of State has accepted a disqualification undertaking from such a person under section 7(2A), or
 - (iii) it appears to the Secretary of State that such an undertaking could be accepted from such a person (if one were offered), and

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- (b) it appears to the Secretary of State that P exercised the requisite amount of influence over the person.

That person is referred to in this section as “the main transgressor”.

- (2) For the purposes of this section, P exercised the requisite amount of influence over the main transgressor if any of the conduct—
 - (a) for which the main transgressor is subject to the disqualification order made under section 6,
 - (b) in relation to which the disqualification undertaking was accepted from the main transgressor under section 7(2A), or
 - (c) which led the Secretary of State to the conclusion set out in subsection (1)(a)(iii),
 was the result of the main transgressor acting in accordance with P's directions or instructions.
- (3) But P does not exercise the requisite amount of influence over the main transgressor by reason only that the main transgressor acts on advice given by P in a professional capacity.
- (4) Subsection (4) of section 7 applies for the purposes of this section as it applies for the purposes of that section.

8ZD Order disqualifying person instructing unfit director: other cases

- (1) The court may make a disqualification order against a person (“P”) if, on an application under this section, it is satisfied—
 - (a) either—
 - (i) that a disqualification order under section 8 has been made against a person who is or has been a director (but not a shadow director) of a company, or
 - (ii) that the Secretary of State has accepted a disqualification undertaking from such a person under section 8(2A), and
 - (b) that P exercised the requisite amount of influence over the person.

That person is referred to in this section as “the main transgressor”.

- (2) The Secretary of State may make an application to the court for a disqualification order against P under this section if it appears to the Secretary of State that it is expedient in the public interest for such an order to be made.
- (3) For the purposes of this section, P exercised the requisite amount of influence over the main transgressor if any of the conduct—
 - (a) for which the main transgressor is subject to the order made under section 8, or
 - (b) in relation to which the undertaking was accepted from the main transgressor under section 8(2A),
 was the result of the main transgressor acting in accordance with P's directions or instructions.
- (4) But P does not exercise the requisite amount of influence over the main transgressor by reason only that the main transgressor acts on advice given by P in a professional capacity.

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- (5) Under this section the maximum period of disqualification is 15 years.
- (6) In this section “the court” means the High Court or, in Scotland, the Court of Session.

8ZE Disqualification undertaking instead of an order under section 8ZD

- (1) If it appears to the Secretary of State that it is expedient in the public interest to do so, the Secretary of State may accept a disqualification undertaking from a person (“P”) if—
 - (a) any of the following is the case—
 - (i) a disqualification order under section 8 has been made against a person who is or has been a director (but not a shadow director) of a company,
 - (ii) the Secretary of State has accepted a disqualification undertaking from such a person under section 8(2A), or
 - (iii) it appears to the Secretary of State that such an undertaking could be accepted from such a person (if one were offered), and
 - (b) it appears to the Secretary of State that P exercised the requisite amount of influence over the person.

That person is referred to in this section as “the main transgressor”.

- (2) For the purposes of this section, P exercised the requisite amount of influence over the main transgressor if any of the conduct—
 - (a) for which the main transgressor is subject to the disqualification order made under section 8,
 - (b) in relation to which the disqualification undertaking was accepted from the main transgressor under section 8(2A), or
 - (c) which led the Secretary of State to the conclusion set out in subsection (1)(a)(iii),was the result of the main transgressor acting in accordance with P's directions or instructions.
- (3) But P does not exercise the requisite amount of influence over the main transgressor by reason only that the main transgressor acts on advice given by P in a professional capacity.”

Commencement Information

I2 S. 105 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(c)

Determining unfitness

106 Determining unfitness and disqualifications: matters to be taken into account

- (1) The Company Directors Disqualification Act 1986 is amended as follows.
- (2) In section 6 (duty of court to disqualify unfit directors of insolvent companies)—

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- (a) in subsection (1)(b), for “any other company or companies” substitute “one or more other companies or overseas companies”,
 - (b) after subsection (1) insert—
 - “(1A) In this section references to a person's conduct as a director of any company or overseas company include, where that company or overseas company has become insolvent, references to that person's conduct in relation to any matter connected with or arising out of the insolvency.”,
 - (c) in subsection (2), omit the words from “and references” to the end, and
 - (d) after subsection (2) insert—
 - “(2A) For the purposes of this section, an overseas company becomes insolvent if the company enters into insolvency proceedings of any description (including interim proceedings) in any jurisdiction.”
- (3) In section 8 (disqualification where expedient in public interest)—
- (a) in subsection (2), after “the company” insert “ (either taken alone or taken together with his conduct as a director or shadow director of one or more other companies or overseas companies) ”,
 - (b) in subsection (2A)(a), after “shadow director” insert “ (either taken alone or taken together with his conduct as a director or shadow director of one or more other companies or overseas companies) ”, and
 - (c) after subsection (2A) insert—
 - “(2B) Subsection (1A) of section 6 applies for the purposes of this section as it applies for the purposes of that section.”
- (4) Omit section 9 (matters for determining unfitness of directors).
- (5) After section 12B insert—

“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.”
- (6) For Schedule 1 (matters determining unfitness of directors) substitute—

“SCHEDULE 1

Section 12C

DETERMINING UNFITNESS ETC: MATTERS TO BE TAKEN INTO ACCOUNT

Matters to be taken into account in all cases

- 1 The extent to which the person was responsible for the causes of any material contravention by a company or overseas company of any applicable legislative or other requirement.
- 2 Where applicable, the extent to which the person was responsible for the causes of a company or overseas company becoming insolvent.
- 3 The frequency of conduct of the person which falls within paragraph 1 or 2.
- 4 The nature and extent of any loss or harm caused, or any potential loss or harm which could have been caused, by the person's conduct in relation to a company or overseas company.

Additional matters to be taken into account where person is or has been a director

- 5 Any misfeasance or breach of any fiduciary duty by the director in relation to a company or overseas company.
- 6 Any material breach of any legislative or other obligation of the director which applies as a result of being a director of a company or overseas company.
- 7 The frequency of conduct of the director which falls within paragraph 5 or 6.

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Interpretation

- 8 Subsections (1A) to (2A) of section 6 apply for the purposes of this Schedule as they apply for the purposes of that section.
- 9 In this Schedule “director” includes a shadow director.”

Commencement Information

I3 S. 106 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(c)

107 Reports of office-holders on conduct of directors of insolvent companies

- (1) The Company Directors Disqualification Act 1986 is amended in accordance with subsections (2) to (4).
- (2) After section 7 insert—

“7A Office-holder's report on conduct of directors

- (1) The office-holder in respect of a company which is insolvent must prepare a report (a “conduct report”) about the conduct of each person who was a director of the company—
- (a) on the insolvency date, or
 - (b) at any time during the period of 3 years ending with that date.
- (2) For the purposes of this section a company is insolvent if—
- (a) the company is in liquidation and at the time it went into liquidation its assets were insufficient for the payment of its debts and other liabilities and the expenses of the winding up,
 - (b) the company has entered administration, or
 - (c) an administrative receiver of the company has been appointed;
- and subsection (1A) of section 6 applies for the purposes of this section as it applies for the purpose of that section.
- (3) A conduct report must, in relation to each person, describe any conduct of the person which may assist the Secretary of State in deciding whether to exercise the power under section 7(1) or (2A) in relation to the person.
- (4) The office-holder must send the conduct report to the Secretary of State before the end of—
- (a) the period of 3 months beginning with the insolvency date, or
 - (b) such other longer period as the Secretary of State considers appropriate in the particular circumstances.
- (5) If new information comes to the attention of an office-holder, the office-holder must send that information to the Secretary of State as soon as reasonably practicable.
- (6) “New information” is information which an office-holder considers should have been included in a conduct report prepared in relation to the company, or would have been so included had it been available before the report was sent.

- (7) If there is more than one office-holder in respect of a company at any particular time (because the company is insolvent by virtue of falling within more than one paragraph of subsection (2) at that time), subsection (1) applies only to the first of the office-holders to be appointed.
- (8) In the case of a company which is at different times insolvent by virtue of falling within one or more different paragraphs of subsection (2)—
- (a) the references in subsection (1) to the insolvency date are to be read as references to the first such date during the period in which the company is insolvent, and
 - (b) subsection (1) does not apply to an office-holder if at any time during the period in which the company is insolvent a conduct report has already been prepared and sent to the Secretary of State.
- (9) The “office-holder” in respect of a company which is insolvent is—
- (a) in the case of a company being wound up by the court in England and Wales, the official receiver;
 - (b) in the case of a company being wound up otherwise, the liquidator;
 - (c) in the case of a company in administration, the administrator;
 - (d) in the case of a company of which there is an administrative receiver, the receiver.
- (10) The “insolvency date”—
- (a) in the case of a company being wound up by the court, means the date on which the court makes the winding-up order (see section 125 of the Insolvency Act 1986);
 - (b) in the case of a company being wound up by way of a members' voluntary winding up, means the date on which the liquidator forms the opinion that the company will be unable to pay its debts in full (together with interest at the official rate) within the period stated in the directors' declaration of solvency under section 89 of the Insolvency Act 1986;
 - (c) in the case of a company being wound up by way of a creditors' voluntary winding up where no such declaration under section 89 of that Act has been made, means the date of the passing of the resolution for voluntary winding up;
 - (d) in the case of a company which has entered administration, means the date the company did so;
 - (e) in the case of a company in respect of which an administrative receiver has been appointed, means the date of that appointment.
- (11) For the purposes of subsection (10)(e), any appointment of an administrative receiver to replace an administrative receiver who has died or vacated office pursuant to section 45 of the Insolvency Act 1986 is to be ignored.
- (12) In this section—
- “court” has the same meaning as in section 6;
 - “director” includes a shadow director.”
- (3) In section 7 (disqualification order or undertaking and reporting provisions), omit subsection (3).

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- (4) For the heading of section 7 substitute “ Disqualification orders under section 6: applications and acceptance of undertakings ”.
- (5) In consequence of the repeal made by subsection (3), in Schedule 17 to the Enterprise Act 2002, omit paragraph 42.

Commencement Information

I4 [S. 107](#) in force at 26.5.2015 for specified purposes by [S.I. 2015/1329](#), [reg. 3\(c\)](#)

Director disqualification: other amendments

108 Unfit directors of insolvent companies: extension of period for applying for disqualification order

- (1) In section 7(2) of the Company Directors Disqualification Act 1986 (period within which application may be made for disqualification order against unfit director of insolvent company), for “2 years” substitute “ 3 years ”.
- (2) Subsection (1) applies only to an application relating to a company which has become insolvent after the commencement of that subsection.
- (3) Section 6(2) of the 1986 Act (meaning of “becoming insolvent”) applies for the purposes of subsection (2) as it applies for the purposes of section 6 of that Act.

Commencement Information

I5 [S. 108](#) in force at 26.5.2015 for specified purposes by [S.I. 2015/1329](#), [reg. 3\(c\)](#)

109 Directors: removal of restriction on application for disqualification order

- (1) In section 8 of the Company Directors Disqualification Act 1986 (disqualification of director after investigation of company)—
 - (a) in subsection (1), omit “from investigative material”,
 - (b) omit subsection (1A), and
 - (c) in subsection (2A), omit “from such report, information or documents”.
- (2) For the heading of that section substitute “ Disqualification of director on finding of unfitness ”.

Commencement Information

I6 [S. 109](#) in force at 26.5.2015 for specified purposes by [S.I. 2015/1329](#), [reg. 3\(c\)](#)

Compensation awards

110 Compensation orders and undertakings

After section 15 of the Company Directors Disqualification Act 1986 insert—

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“Compensation orders and undertakings

15A Compensation orders and undertakings

- (1) The court may make a compensation order against a person on the application of the Secretary of State if it is satisfied that the conditions mentioned in subsection (3) are met.
- (2) If it appears to the Secretary of State that the conditions mentioned in subsection (3) are met in respect of a person who has offered to give the Secretary of State a compensation undertaking, the Secretary of State may accept the undertaking instead of applying, or proceeding with an application, for a compensation order.
- (3) The conditions are that—
 - (a) the person is subject to a disqualification order or disqualification undertaking under this Act, and
 - (b) conduct for which the person is subject to the order or undertaking has caused loss to one or more creditors of an insolvent company of which the person has at any time been a director.
- (4) An “insolvent company” is a company that is or has been insolvent and a company becomes insolvent if—
 - (a) the company goes into liquidation at a time when its assets are insufficient for the payment of its debts and other liabilities and the expenses of the winding up,
 - (b) the company enters administration, or
 - (c) an administrative receiver of the company is appointed.
- (5) The Secretary of State may apply for a compensation order at any time before the end of the period of two years beginning with the date on which the disqualification order referred to in paragraph (a) of subsection (3) was made, or the disqualification undertaking referred to in that paragraph was accepted.
- (6) In the case of a person subject to a disqualification order under section 8ZA or 8ZD, or a disqualification undertaking under section 8ZC or 8ZE, the reference in subsection (3)(b) to conduct is a reference to the conduct of the main transgressor in relation to which the person has exercised the requisite amount of influence.
- (7) In this section and sections 15B and 15C “the court” means—
 - (a) in a case where a disqualification order has been made, the court that made the order,
 - (b) in any other case, the High Court or, in Scotland, the Court of Session.

15B Amounts payable under compensation orders and undertakings

- (1) A compensation order is an order requiring the person against whom it is made to pay an amount specified in the order—
 - (a) to the Secretary of State for the benefit of—
 - (i) a creditor or creditors specified in the order;

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- (ii) a class or classes of creditor so specified;
 - (b) as a contribution to the assets of a company so specified.
- (2) A compensation undertaking is an undertaking to pay an amount specified in the undertaking—
- (a) to the Secretary of State for the benefit of—
 - (i) a creditor or creditors specified in the undertaking;
 - (ii) a class or classes of creditor so specified;
 - (b) as a contribution to the assets of a company so specified.
- (3) When specifying an amount the court (in the case of an order) and the Secretary of State (in the case of an undertaking) must in particular have regard to—
- (a) the amount of the loss caused;
 - (b) the nature of the conduct mentioned in section 15A(3)(b);
 - (c) whether the person has made any other financial contribution in recompense for the conduct (whether under a statutory provision or otherwise).
- (4) An amount payable by virtue of subsection (2) under a compensation undertaking is recoverable as if payable under a court order.
- (5) An amount payable under a compensation order or compensation undertaking is provable as a bankruptcy debt.

15C Variation and revocation of compensation undertakings

- (1) The court may, on the application of a person who is subject to a compensation undertaking—
- (a) reduce the amount payable under the undertaking, or
 - (b) provide for the undertaking not to have effect.
- (2) On the hearing of an application under subsection (1), the Secretary of State must appear and call the attention of the court to any matters which the Secretary of State considers relevant, and may give evidence or call witnesses.”

Commencement Information

I7 [S. 110](#) in force at 26.5.2015 for specified purposes by [S.I. 2015/1329](#), [reg. 3\(e\)](#)

Consequential amendments and corresponding provision for Northern Ireland

111 Sections 104 to 110: consequential and related amendments

Schedule 7 makes amendments to the Company Directors Disqualification Act 1986, and other enactments, which are consequential on or related to the amendments made to that Act by the preceding provisions of this Part.

Commencement Information

I8 [S. 111](#) in force at 26.5.2015 for specified purposes by [S.I. 2015/1329](#), [reg. 3\(e\)](#)

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VALID FROM 01/10/2015

112 Provision for Northern Ireland corresponding to sections 104 to 111

Schedule 8 makes provision for Northern Ireland which corresponds to that made by sections 104 to 111.

VALID FROM 01/10/2015

Bankruptcy: Scotland and Northern Ireland

113 Disqualification as director: bankruptcy, etc in Scotland and Northern Ireland

(1) For subsections (1) and (2) of section 11 of the Company Directors Disqualification Act 1986 (undischarged bankrupts) substitute—

“(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 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)—
 - (i) the court by which the person was adjudged bankrupt, 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)—

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- (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.”

(2) In section 24 of that Act (extent), for subsection (2) substitute—

“(2) Subsections (1) to (2A) of section 11 also extend to Northern Ireland.”

114 Company Directors Disqualification (Northern Ireland) Order 2002: bankruptcy, etc in England and Wales or Scotland

For paragraph (1) of Article 15 of the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I. 4)) (undischarged bankrupts) substitute—

“(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 paragraph (1A) apply to the person.

(1A) The circumstances are—

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

(1B) In paragraph (1) “the court” means—

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Changes to legislation: There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, PART 9. (See end of Document for details)

- (a) for the purposes of sub-paragraphs (a)(i), (b)(i), (c)(i) and (d)(i) of paragraph (1A), the High Court,
- (b) for the purposes of paragraph (1A)(a)(ii)—
 - (i) the court by which the person was adjudged bankrupt, 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,
- (c) for the purposes of paragraph (1A)(b)(ii)—
 - (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,
- (d) for the purposes of paragraph (1A)(c)(ii)—
 - (i) the court which made the order, or
 - (ii) the court to which the person may make an application for annulment of the undertaking,
- (e) for the purposes of paragraph (1A)(d)(ii), 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).”

115 Disqualification as insolvency practitioner: bankruptcy, etc in Scotland or Northern Ireland

In section 390 of the Insolvency Act 1986 (persons not qualified to act as insolvency practitioners)—

- (a) in subsection (4)—
 - (i) in paragraph (a), after “bankrupt” insert “ under this Act or the Insolvency (Northern Ireland) Order 1989 ”;
 - (ii) in paragraph (aa), after “a debt relief order” insert “ under this Act or the Insolvency (Northern Ireland) Order 1989 ”;
- (b) for subsection (5) substitute—

“(5) A person is not qualified to act as an insolvency practitioner while there is in force in respect of that person—

- (a) a bankruptcy restrictions order under this Act, the Bankruptcy (Scotland) Act 1985 or the Insolvency (Northern Ireland) Order 1989, or
- (b) a debt relief restrictions order under this Act or that Order.”

116 Disqualification as insolvency practitioner in Northern Ireland: bankruptcy, etc in England and Wales or Scotland

- (1) Article 349 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) (persons not qualified to act as insolvency practitioners) is amended as follows.

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(2) In paragraph (4)—

- (a) in sub-paragraph (a), after “bankrupt” insert “ under this Order or the 1986 Act ”;
- (b) in sub-paragraph (aa), after “a debt relief order” insert “ under this Order or the 1986 Act ”.

(3) For paragraph (5) substitute—

“(5) A person is not qualified to act as an insolvency practitioner while there is in force in respect of that person—

- (a) a bankruptcy restrictions order under this Order, the 1986 Act or the Bankruptcy (Scotland) Act 1985, or
- (b) a debt relief restrictions order under this Order or the 1986 Act.

(6) In this Article “the 1986 Act” means the Insolvency Act 1986.”

(4) In consequence of the amendment made by subsection (3), omit—

- (a) paragraph 4 of Schedule 6 to the Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10));
- (b) paragraph 4(9)(b) of the Schedule to the Debt Relief Act (Northern Ireland) 2010 (c. 16 (N.I.)).

Status:

Point in time view as at 26/05/2015. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:

There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, PART 9.