



Small Business, Enterprise and Employment Act 2015

2015 CHAPTER 26

PART 9

DIRECTORS' DISQUALIFICATION ETC

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,

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- (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)—
 - (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.”

Commencement Information

II S. 113 in force at 1.10.2015 by S.I. 2015/1689, reg. 2(i) (with Sch. para. 11)

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

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- (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—
- (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).”

Commencement Information

I2 S. 114 in force at 1.10.2015 by S.I. 2015/1689, reg. 2(i) (with Sch. para. 12)

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)—

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- (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.”

Commencement Information

I3 S. 115 in force at 1.10.2015 by S.I. 2015/1689, reg. 2(i) (with Sch. para. 13)

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.
- (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.)).

Commencement Information

I4 S. 116 in force at 1.10.2015 by S.I. 2015/1689, reg. 2(i) (with Sch. para. 14)

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Changes to legislation:

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