



Small Business, Enterprise and Employment Act 2015

2015 CHAPTER 26

PART 9

DIRECTORS' DISQUALIFICATION ETC

Compensation awards

110 Compensation orders and undertakings

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

“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;
 - (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.”