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*Status: Point in time view as at 01/12/2001. This version of this schedule contains provisions that are not valid for this point in time.*  
**Changes to legislation:** There are currently no known outstanding effects for the Company Directors Disqualification Act 1986, SCHEDULE 1. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 1

Section 9.

#### MATTERS FOR DETERMINING UNFITNESS OF DIRECTORS

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**Modifications etc. (not altering text)**

- C1** Sch. 1 extended (with modifications) by S.I. 1986/2142, art. 6  
**C2** Sch. 1 applied (with modifications) (1.12.1994) by S.I. 1994/2421, art. 16, Sch. 8

#### PART I

##### MATTERS APPLICABLE IN ALL CASES

- 1 Any misfeasance or breach of any fiduciary or other duty by the director in relation to the company.
- 2 Any misapplication or retention by the director of, or any conduct by the director giving rise to an obligation to account for, any money or other property of the company.
- 3 The extent of the director's responsibility for the company entering into any transaction liable to be set aside under Part XVI of the Insolvency Act (provisions against debt avoidance).
- 4 The extent of the director's responsibility for any failure by the company to comply with any of the following provisions of the Companies Act, namely—
  - (a) section 221 (companies to keep accounting records);
  - (b) section 222 (where and for how long records to be kept);
  - (c) section 288 (register of directors and secretaries);
  - (d) section 352 (obligation to keep and enter up register of members);
  - (e) section 353 (location of register of members);
  - [<sup>F1</sup>(f) section 363 (duty of company to make annual returns);]
  - [<sup>F2</sup>(h) sections 398 and 703D (duty of company to deliver particulars of charges on its property).]

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**Textual Amendments**

- F1** Sch. 1 para. 4(f) substituted for sub-paras. (f) and (g) by Companies Act 1989 (c. 40, SIF 27), ss. 139(4), 213(2)

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**F2** Sch. 1 para. 4(h) substituted by Companies Act 1989 (c. 40, SIF 27), ss. 107, 213(2), 215(2) Sch. 16 para. 4

VALID FROM 06/04/2008

[<sup>F3</sup>4A The extent of the director's responsibility for any failure by the company to comply with any of the following provisions of the Companies Act 2006, namely—

- (a) section 386 (companies to keep accounting records); and
- (b) section 388 (where and for how long records to be kept).]

**Textual Amendments**

**F3** Sch. 1 paras. 4, 4A substituted (6.4.2008) for Sch. 1 para. 4 by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 106(8)(a)** (with arts. 6, 11, 12)

**Modifications etc. (not altering text)**

**C3** Sch. 1 para. 4 substituted (1.10.2009) for Sch. 1 paras. 4, 4A by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 85(14)(b)** (with art. 10)

[<sup>F4</sup>5 The extent of the director's responsibility for any failure by the directors of the company to comply with—

- (a) section 226 or 227 of the Companies Act (duty to prepare annual accounts), or
- (b) section 233 of that Act (approval and signature of accounts).]

**Textual Amendments**

**F4** Sch. 1 para. 5 substituted (subject to the transitional and saving provisions mentioned in S.I. 1990/355, arts. 6–9) by Companies Act 1989 (c. 40, SIF 27), ss. 23, 213(2), **Sch. 10 para. 35(3)**

[<sup>F5</sup>5A In the application of this Part of this Schedule in relation to any person who is a director of an open-ended investment company, any reference to a provision of the Companies Act is to be taken to be a reference to the corresponding provision of the Open-Ended Investment Companies Regulations 2001 or of any rules made under regulation 6 of those Regulations (Financial Services Authority rules).]

**Textual Amendments**

**F5** Sch. 1 para. 5A substituted (1.12.2001) by S.I. 2001/1228, reg. 84, **Sch. 7 Pt. I para. 9** (with reg. 1(2)(3)); S.I. 2001/3538, **art. 2(1)**

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## PART II

### MATTERS APPLICABLE WHERE COMPANY HAS BECOME INSOLVENT

**Modifications etc. (not altering text)**

**C4** Sch. 1 Pt. II applied (with modifications) by S.I. 2001/1090, reg. 4, Sch. 2 Pt. II

- 6 The extent of the director's responsibility for the causes of the company becoming insolvent.
- 7 The extent of the director's responsibility for any failure by the company to supply any goods or services which have been paid for (in whole or in part).
- 8 The extent of the director's responsibility for the company entering into any transaction or giving any preference, being a transaction or preference—
  - (a) liable to be set aside under section 127 or sections 238 to 240 of the Insolvency Act, or
  - (b) challengeable under section 242 or 243 of that Act or under any rule of law in Scotland.
- 9 The extent of the director's responsibility for any failure by the directors of the company to comply with section 98 of the Insolvency Act (duty to call creditors' meeting in creditors' voluntary winding up).
- 10 Any failure by the director to comply with any obligation imposed on him by or under any of the following provisions of the Insolvency Act—
  - (a) section 22 (company's statement of affairs in administration);
  - (b) section 47 (statement of affairs to administrative receiver);
  - (c) section 66 (statement of affairs in Scottish receivership);
  - (d) section 99 (directors' duty to attend meeting; statement of affairs in creditors' voluntary winding up);
  - (e) section 131 (statement of affairs in winding up by the court);
  - (f) section 234 (duty of any one with company property to deliver it up);
  - (g) section 235 (duty to co-operate with liquidator, etc.).

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