
STATUTORY INSTRUMENTS

2002 No. 3150

**The Company Directors Disqualification
(Northern Ireland) Order 2002**

Disqualification for unfitness

Duty of High Court to disqualify unfit directors^{F1} ...

9.—(1) The High Court shall make a disqualification order against a person in any case where, on an application under this Article^{F2}...—

[^{F3}(a) the Court is satisfied—

- (i) that the person is or has been a director of a company which has at any time become insolvent (whether while the person was a director or subsequently), or
- (ii) that the person has been a director of a company which has at any time been dissolved without becoming insolvent (whether while the person was a director or subsequently), and

(b) the Court is satisfied that the person's conduct as a director of that company (either taken alone or taken together with the person's conduct as a director of one or more other companies or overseas companies) makes the person unfit to be concerned in the management of a company.]

[^{F4}(1A) In this Article 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.]

(2) For the purposes of this Article^{F5}..., 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,

[^{F6}(b) the company enters administration, or]

(c) an administrative receiver of the company is appointed;

^{F7} ...

[^{F8}(2A) For the purposes of this Article, an overseas company becomes insolvent if the company enters into insolvency proceedings of any description (including interim proceedings) in any jurisdiction.

(2B) In this Article and Article 10, “director” includes a shadow director.]

(3) Under this Article the minimum period of disqualification is 2 years, and the maximum period is 15 years.

F1 Words in [art. 9](#) heading omitted (15.12.2021 for specified purposes, 15.2.2022 in so far as not already in force) by virtue of [Rating \(Coronavirus\) and Directors Disqualification \(Dissolved Companies\) Act 2021 \(c. 34\)](#), [ss. 3\(2\)\(a\)](#), [4\(4\)\(c\)\(5\)](#) (with [s. 3\(13\)](#))

- F2** Words in art. 9(1) omitted (15.12.2021 for specified purposes, 15.2.2022 in so far as not already in force) by virtue of Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Act 2021 (c. 34), **ss. 3(2)(b)(i)**, 4(4)(c)(5) (with s. 3(13))
- F3** Art. 9(1)(a)(b) substituted (15.12.2021 for specified purposes, 15.2.2022 in so far as not already in force) by Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Act 2021 (c. 34), **ss. 3(2)(b)(ii)**, 4(4)(c)(5) (with s. 3(13))
- F4** Art. 9(1A) inserted (1.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 8 para. 3(2)(b)**; S.I. 2015/1689, reg. 2(h) (with Sch. paras. 5-8)
- F5** Words in art. 9(2) omitted (1.10.2015) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 8 para. 9(8)**; S.I. 2015/1689, reg. 2(h)
- F6** Art. 9(2)(b) substituted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 63; S.R. 2006/21, **art. 2** (subject to S.R. 2006/22, arts. 2-7)
- F7** Words in art. 9(2) omitted (1.10.2015) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 8 para. 3(2)(c)**; S.I. 2015/1689, reg. 2(h) (with Sch. paras. 5-8)
- F8** Art. 9(2A)(2B) inserted (1.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 8 para. 3(2)(d)**; S.I. 2015/1689, reg. 2(h) (with Sch. paras. 5-8)

Modifications etc. (not altering text)

- C1** Art. 9 applied by S.I. 1989/638, **reg. 20(2)** (as inserted (1.10.2009) by European Economic Interest Grouping (Amendment) Regulations 2009 (S.I. 2009/2399)), {reg. 21(4)} (with reg. 2))
- C2** Art. 9(2) applied (1.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 8 para. 4(3)**; S.I. 2015/1689, reg. 2(h)

[^{F9}Disqualification orders under Article 9: applications and acceptance of undertakings]

10.—(1) If it appears to the Department that it is expedient in the public interest that a disqualification order under Article 9 should be made against any person, an application for the making of such an order against that person may be made—

- (a) by the Department, or
- (b) if the Department so directs in the case of a person who is or has been a director of a company which is being, or has been, wound up by the High Court, by the official receiver.

(2) Except with the leave of the High Court, an application for the making under Article 9 of a disqualification order against any person shall not be made after the expiration of [^{F10}3 years] from [^{F11}—

- (a) in a case where the person is or has been a director of a company which has become insolvent, the day on which the company became insolvent, or
- (b) in a case where the person has been a director of a company which has been dissolved without becoming insolvent, the day on which the company was dissolved.]

(3) If it appears to the Department that the conditions mentioned in Article 9(1) are satisfied as respects any person who has offered to give the Department a disqualification undertaking, the Department may accept the undertaking if it appears to the Department that it is expedient in the public interest that the Department should do so (instead of applying, or proceeding with an application, for a disqualification order).

^{F12}(4)

(5) The Department or the official receiver may require the liquidator, administrator or administrative receiver of a company, or the former liquidator, administrator or administrative receiver of a company—

- (a) to furnish the Department or, as the case may be, the official receiver with such information with respect to any person's conduct as a director of the company, and

- (b) to produce and permit inspection of such books, papers and other records relevant to that person's conduct as such a director,

as the Department or the official receiver may reasonably require for the purpose of determining whether to exercise, or of exercising, any function under this Article.

[^{F13}(5A) The Department or the official receiver may require any person—

- (a) to furnish the Department or, as the case may be, the official receiver with such information with respect to that person's or another person's conduct as a director of a company which has been dissolved without becoming insolvent (whether while the person was a director or subsequently), and
- (b) to produce and permit inspection of such books, papers and other records as are considered by the Department or, as the case may be, the official receiver to be relevant to that person's or another person's conduct as such a director,

as the Department or the official receiver may reasonably require for the purpose of determining whether to exercise, or of exercising, any function under this Article.]

[^{F14}(6) Paragraphs (1A) and (2) of Article 9 apply for the purposes of this Article as they apply for the purposes of that Article.]

- F9** Art. 10 heading substituted (6.4.2016) by [Small Business, Enterprise and Employment Act 2015](#) (c. 26), s. 164(1), [Sch. 8 para. 5\(4\)](#); S.I. 2016/321, reg. 3(c) (with Sch. paras. 3, 4)
- F10** Words in art. 10(2) substituted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015](#) (c. 26), s. 164(1), [Sch. 8 para. 4\(1\)](#) (with Sch. 8 para. 4(2)); S.I. 2015/1689, reg. 2(h)
- F11** Art. 10(2)(a)(b) substituted for words (15.12.2021 for specified purposes, 15.2.2022 in so far as not already in force) by [Rating \(Coronavirus\) and Directors Disqualification \(Dissolved Companies\) Act 2021](#) (c. 34), [ss. 3\(3\)\(a\)](#), 4(4)(c)(5) (with s. 3(13))
- F12** Art. 10(4) omitted (6.4.2016) by virtue of [Small Business, Enterprise and Employment Act 2015](#) (c. 26), s. 164(1), [Sch. 8 para. 5\(3\)](#); S.I. 2016/321, reg. 3(c) (with Sch. paras. 3, 4)
- F13** Art. 10(5A) inserted (15.12.2021 for specified purposes, 15.2.2022 in so far as not already in force) by [Rating \(Coronavirus\) and Directors Disqualification \(Dissolved Companies\) Act 2021](#) (c. 34), [ss. 3\(3\)\(b\)](#), 4(4)(c)(5) (with s. 3(13))
- F14** Art. 10(6) inserted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015](#) (c. 26), s. 164(1), [Sch. 8 para. 9\(9\)](#); S.I. 2015/1689, reg. 2(h)

Modifications etc. (not altering text)

- C3** Art. 10 applied by [S.I. 1989/638, reg. 20\(2\)](#) (as inserted (1.10.2009) by [European Economic Interest Grouping \(Amendment\) Regulations 2009](#) (S.I. 2009/2399)), {reg. 21(4)} (with reg. 2)

[^{F15}**Office-holder's report on conduct of directors**

10A.—(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 Article 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 paragraph (1A) of Article 9 applies for the purposes of this Article as it applies for the purposes of that Article.

(3) A conduct report must, in relation to each person, describe any conduct of the person which may assist the Department in deciding whether to exercise the power under Article 10(1) or (3) in relation to that person.

(4) The office-holder must send the conduct report to the Department before the end of—

- (a) the period of 3 months beginning with the insolvency date, or
- (b) such other longer period as the Department 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 Department 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 sub-paragraph of paragraph (2) at that time), paragraph (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 sub-paragraphs of paragraph (2)—

- (a) the references in paragraph (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) paragraph (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 Department.

(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 High Court, 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 High Court, means the date on which the Court makes the winding-up order (see Article 105 of the Insolvency (Northern Ireland) Order 1989);
- (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 Article 75 of the Insolvency (Northern Ireland) Order 1989;
- (c) in the case of a company being wound up by way of a creditors' voluntary winding up where no such declaration under Article 75 of that Order 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 paragraph (10)(e), any appointment of an administrative receiver to replace an administrative receiver who has died or vacated office pursuant to Article 55 of the Insolvency (Northern Ireland) Order 1989 is to be ignored.

(12) In this Article, “director” includes a shadow director.]

F15 Art. 10A inserted (6.4.2016) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), [Sch. 8 para. 5\(2\)](#); S.I. 2016/321, reg. 3(c) (with [Sch. paras. 3, 4](#))

[^{F16}Disqualification of director on finding of unfitness]

11.—(1) If it appears to the Department ^{F17}... that it is expedient in the public interest that a disqualification order should be made against a person who is, or has been, a director or shadow director of a company, the Department may apply to the High Court for such an order.

^{F18}(2)

(3) Where it appears to the Department ^{F19}... that, in the case of a person who has offered to give the Department a disqualification undertaking—

(a) the conduct of the person in relation to a company of which the person is or has been a director or shadow director [^{F20}(either taken alone or taken together with his conduct as a director or shadow director of one or more other companies or overseas companies),] makes him unfit to be concerned in the management of a company, and

(b) it is expedient in the public interest that the Department should accept the undertaking (instead of applying, or proceeding with an application, for a disqualification order),

the Department may accept the undertaking.

(4) The High Court may make a disqualification order against a person where, on an application under this Article, it is satisfied that his conduct in relation to the company [^{F21}(either taken alone or taken together with his conduct as a director or shadow director of one or more other companies or overseas companies)] makes him unfit to be concerned in the management of a company.

[^{F22}(4A) Paragraph (1A) of Article 9 applies for the purposes of this Article as it applies for the purposes of that Article.]

(5) The maximum period of disqualification under this Article is 15 years.

F16 Art. 11 heading substituted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), [Sch. 8 para. 6\(3\)](#); S.I. 2015/1689, reg. 2(h)

F17 Words in art. 11(1) omitted (1.10.2015) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), [Sch. 8 para. 6\(2\)\(a\)](#); S.I. 2015/1689, reg. 2(h)

F18 Art. 11(2) omitted (1.10.2015) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), [Sch. 8 para. 6\(2\)\(b\)](#); S.I. 2015/1689, reg. 2(h)

F19 Words in art. 11(3) omitted (1.10.2015) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), [Sch. 8 para. 6\(2\)\(c\)](#); S.I. 2015/1689, reg. 2(h)

F20 Words in art. 11(3)(a) inserted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), [Sch. 8 para. 3\(3\)\(a\)](#); S.I. 2015/1689, reg. 2(h) (with [Sch. paras. 5-8](#))

F21 Words in art. 11(4) inserted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), [Sch. 8 para. 3\(3\)\(b\)](#); S.I. 2015/1689, reg. 2(h) (with [Sch. paras. 5-8](#))

F22 Art. 11(4A) inserted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), [Sch. 8 para. 3\(3\)\(c\)](#); S.I. 2015/1689, reg. 2(h) (with [Sch. paras. 5-8](#))

Changes to legislation: There are currently no known outstanding effects for the The Company Directors Disqualification (Northern Ireland) Order 2002, Disqualification for unfitness. (See end of Document for details)

Modifications etc. (not altering text)

C4 Art. 11 applied by S.I. 1989/638, **reg. 20(2)** (as inserted (1.10.2009) by [European Economic Interest Grouping \(Amendment\) Regulations 2009 \(S.I. 2009/2399\)](#)), {reg. 21(4)} (with reg. 2))

Changes to legislation:

There are currently no known outstanding effects for the The Company Directors Disqualification (Northern Ireland) Order 2002, Disqualification for unfitness.