



Insolvency Act 2000

2000 CHAPTER 39

Disqualification of company directors etc.

5 Disqualification orders

- (1) In section 1 of the Company Directors Disqualification Act 1986 (disqualification orders: general), in subsection (1), for the words following “an order that” there is substituted “for a period specified in the order—
 - (a) he shall not be a director of a company, act as receiver of a company’s property or in any way, whether directly or indirectly, be concerned or take part in the promotion, formation or management of a company unless (in each case) he has the leave of the court, and
 - (b) he shall not act as an insolvency practitioner.”
- (2) At the end of subsection (2) of that section there is inserted “and, unless the court otherwise orders, the period of disqualification so imposed shall begin at the end of the period of 21 days beginning with the date of the order”.
- (3) In section 22 of that Act (interpretation), at the end there is inserted—
 - “(10) Any reference to acting as receiver—
 - (a) includes acting as manager or as both receiver and manager, but
 - (b) does not include acting as administrative receiver;and “receivership” is to be read accordingly.”

6 Disqualification undertakings

- (1) The Company Directors Disqualification Act 1986 is amended in accordance with this section.
- (2) After section 1 there is inserted—

“1A Disqualification undertakings: general

- (1) In the circumstances specified in sections 7 and 8 the Secretary of State may accept a disqualification undertaking, that is to say an undertaking by any person that, for a period specified in the undertaking, the person—
 - (a) will not be a director of a company, act as receiver of a company’s property or in any way, whether directly or indirectly, be concerned or take part in the promotion, formation or management of a company unless (in each case) he has the leave of a court, and
 - (b) will not act as an insolvency practitioner.
 - (2) The maximum period which may be specified in a disqualification undertaking is 15 years; and the minimum period which may be specified in a disqualification undertaking under section 7 is two years.
 - (3) Where a disqualification undertaking by a person who is already subject to such an undertaking or to a disqualification order is accepted, the periods specified in those undertakings or (as the case may be) the undertaking and the order shall run concurrently.
 - (4) In determining whether to accept a disqualification undertaking by any person, the Secretary of State may take account of matters other than criminal convictions, notwithstanding that the person may be criminally liable in respect of those matters.”
- (3) In section 7 (applications to court under section 6; reporting provisions), after subsection (2) there is inserted—
- “(2A) If it appears to the Secretary of State that the conditions mentioned in section 6(1) are satisfied as respects any person who has offered to give him a disqualification undertaking, he may accept the undertaking if it appears to him that it is expedient in the public interest that he should do so (instead of applying, or proceeding with an application, for a disqualification order).”
- (4) In section 8 (disqualification after investigation of company), after subsection (2) there is inserted—
- “(2A) Where it appears to the Secretary of State from such report, information or documents that, in the case of a person who has offered to give him 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 makes him unfit to be concerned in the management of a company, and
 - (b) it is expedient in the public interest that he should accept the undertaking (instead of applying, or proceeding with an application, for a disqualification order),
- he may accept the undertaking.”
- (5) After that section there is inserted—

“8A Variation etc. of disqualification undertaking

- (1) The court may, on the application of a person who is subject to a disqualification undertaking—
 - (a) reduce the period for which the undertaking is to be in force, or
 - (b) provide for it to cease to be in force.
 - (2) On the hearing of an application under subsection (1), the Secretary of State shall appear and call the attention of the court to any matters which seem to him to be relevant, and may himself give evidence or call witnesses.
 - (3) In this section “the court” has the same meaning as in section 7(2) or (as the case may be) 8.”
- (6) In section 9 (matters for determining unfitness of directors), after subsection (1) there is inserted—
- “(1A) In determining whether he may accept a disqualification undertaking from any person the Secretary of State shall, as respects the person’s conduct as a director of any company concerned, have regard in particular—
- (a) to the matters mentioned in Part I of Schedule 1 to this Act, and
 - (b) where the company has become insolvent, to the matters mentioned in Part II of that Schedule;
- and references in that Schedule to the director and the company are to be read accordingly.”

7 Effect of Northern Irish disqualifications

- (1) After section 12 of the Company Directors Disqualification Act 1986 there is inserted—

“12A Northern Irish disqualification orders

A person subject to a disqualification order under Part II of the Companies (Northern Ireland) Order 1989—

- (a) shall not be a director of a company, act as receiver of a company’s property or in any way, whether directly or indirectly, be concerned or take part in the promotion, formation or management of a company unless (in each case) he has the leave of the High Court of Northern Ireland, and
 - (b) shall not act as an insolvency practitioner.”
- (2) If provision is made in relation to Northern Ireland for undertakings corresponding to the disqualification undertakings provided for by section 6, the Secretary of State may by order made by statutory instrument make any modifications of the Company Directors Disqualification Act 1986, or any enactment amended by Part II of Schedule 4, which he considers necessary or expedient to give effect to those undertakings in relation to Great Britain.
 - (3) A statutory instrument containing an order under this section is to be subject to annulment in pursuance of a resolution of either House of Parliament.

Status: This is the original version (as it was originally enacted).

8 Amendments

Schedule 4 (which makes minor and consequential amendments about the disqualification of company directors, etc.) is to have effect.