

## STATUTORY INSTRUMENTS

# 2002 No. 3150

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

*<sup>F1</sup>Persons instructing unfit directors*

**F1** Arts. 11A-11E and cross-heading inserted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), [Sch. 8 para. 7](#); S.I. 2015/1689, reg. 2(h) (with [Sch. para. 9](#))

### Order disqualifying person instructing unfit director <sup>F2</sup>...

**11A.**—(1) The High Court may make a disqualification order against a person (“P”) if, on an application under Article 11B, it is satisfied—

(a) either—

- (i) that a disqualification order under Article 9 has been made against a person who is or has been a director (but not a shadow director) of a company, or
- (ii) that the Department has accepted a disqualification undertaking from such a person under Article 10(3), and

(b) that P exercised the requisite amount of influence over the person.

That person is referred to in this Article as “the main transgressor”.

(2) For the purposes of this Article, P exercised the requisite amount of influence over the main transgressor if any of the conduct—

- (a) for which the main transgressor is subject to the order made under Article 9, or
- (b) in relation to which the undertaking was accepted from the main transgressor under Article 10(3),

was the result of the main transgressor acting in accordance with P's directions or instructions.

(3) But P does not exercise the requisite amount of influence over the main transgressor by reason only that the main transgressor acts on advice given by P in a professional capacity.

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

**F2** Words in art. 11A 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\(4\), 4\(4\)\(c\)\(5\)](#) (with s. 3(13))

### Application for order under Article 11A

**11B.**—(1) If it appears to the Department that it is expedient in the public interest that a disqualification order should be made against a person under Article 11A, the Department may—

- (a) make an application to the High Court for such an order, or

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(b) in a case where an application for an order under Article 9 against the main transgressor has been made by the official receiver, direct the official receiver to make such an application.

(2) Except with the leave of the High Court, an application for a disqualification order under Article 11A must not be made after the end of the period of 3 years beginning with the day on which the company in question became insolvent (within the meaning given by Article 9(2)) [<sup>F3</sup>or was dissolved without becoming insolvent.]

[<sup>F4</sup>(3) Paragraphs (5) and (5A) of Article 10 apply for the purposes of this Article as they apply for the purposes of that Article.]

**F3** Words in art. 11B(2) 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\(5\)\(a\), 4\(4\)\(c\)\(5\)](#) (with s. 3(13))

**F4** Art. 11B(3) 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\(5\)\(b\), 4\(4\)\(c\)\(5\)](#) (with s. 3(13))

### **Disqualification undertaking instead of an order under Article 11A**

**11C.—**(1) If it appears to the Department that it is expedient in the public interest to do so, the Department may accept a disqualification undertaking from a person (“P”) if—

(a) any of the following is the case—

- (i) a disqualification order under Article 9 has been made against a person who is or has been a director (but not a shadow director) of a company,
- (ii) the Department has accepted a disqualification undertaking from such a person under Article 10(3), or
- (iii) it appears to the Department that such an undertaking could be accepted from such a person (if one were offered), and

(b) it appears to the Department that P exercised the requisite amount of influence over the person.

That person is referred to in this Article as “the main transgressor”.

(2) For the purposes of this Article, P exercised the requisite amount of influence over the main transgressor if any of the conduct—

- (a) for which the main transgressor is subject to the disqualification order made under Article 9,
- (b) in relation to which the disqualification undertaking was accepted from the main transgressor under Article 10(3), or
- (c) which led the Department to the conclusion set out in paragraph (1)(a)(iii),

was the result of the main transgressor acting in accordance with P's directions or instructions.

(3) But P does not exercise the requisite amount of influence over the main transgressor by reason only that the main transgressor acts on advice given by P in a professional capacity.

[<sup>F5</sup>(4) Paragraphs (5) and (5A) of Article 10 apply for the purposes of this Article as they apply for the purposes of that Article.]

**F5** [Art. 11C\(4\)](#) 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\(6\), 4\(4\)\(c\)\(5\)](#) (with s. 3(13))

### **Order disqualifying person instructing unfit director: other cases**

**11D.**—(1) The High Court may make a disqualification order against a person (“P”) if, on an application under this Article, it is satisfied—

- (a) either—
  - (i) that a disqualification order under Article 11 has been made against a person who is or has been a director (but not a shadow director) of a company, or
  - (ii) that the Department has accepted a disqualification undertaking from such a person under Article 11(3), and
- (b) that P exercised the requisite amount of influence over the person.

That person is referred to in this Article as “the main transgressor”.

(2) The Department may make an application to the High Court for a disqualification order against P under this Article if it appears to the Department that it is expedient in the public interest for such an order to be made.

(3) For the purposes of this Article, P exercised the requisite amount of influence over the main transgressor if any of the conduct—

- (a) for which the main transgressor is subject to the order made under Article 11, or
- (b) in relation to which the undertaking was accepted from the main transgressor under Article 11(3),

was the result of the main transgressor acting in accordance with P's directions or instructions.

(4) But P does not exercise the requisite amount of influence over the main transgressor by reason only that the main transgressor acts on advice given by P in a professional capacity.

(5) Under this Article the maximum period of disqualification is 15 years.

### **Disqualification undertaking instead of an order under Article 11D**

**11E.**—(1) If it appears to the Department that it is expedient in the public interest to do so, the Department may accept a disqualification undertaking from a person (“P”) if—

- (a) any of the following is the case—
  - (i) a disqualification order under Article 11 has been made against a person who is or has been a director (but not a shadow director) of a company,
  - (ii) the Department has accepted a disqualification undertaking from such a person under Article 11(3), or
  - (iii) it appears to the Department that such an undertaking could be accepted from such a person (if one were offered), and
- (b) it appears to the Department that P exercised the requisite amount of influence over the person.

That person is referred to in this Article as “the main transgressor”.

(2) For the purposes of this Article, P exercised the requisite amount of influence over the main transgressor if any of the conduct—

- (a) for which the main transgressor is subject to the disqualification order made under Article 11,
- (b) in relation to which the disqualification undertaking was accepted from the main transgressor under Article 11(3), or
- (c) which led the Department to the conclusion set out in paragraph (1)(a)(iii),

was the result of the main transgressor acting in accordance with P's directions or instructions.

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(3) But P does not exercise the requisite amount of influence over the main transgressor by reason only that the main transgressor acts on advice given by P in a professional capacity.]

**Changes to legislation:**

The Company Directors Disqualification (Northern Ireland) Order 2002, Cross Heading: Persons instructing unfit directors is up to date with all changes known to be in force on or before 21 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 13A(4)(e)(f) inserted by [2024 c. 13 s. 99\(2\)\(b\)](#)