

Draft Order laid before Parliament under section 268(13) of the Enterprise Act 2002, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2006 No. 0000

INSOLVENCY

INDIVIDUALS

**The Enterprise Act 2002 (Disqualification
from Office: General) Order 2006**

Made - - - - ****2006*
Coming into force - - *In accordance with*
article 1(1)

The Secretary of State makes the following Order in exercise of the powers conferred upon him by section 268 of the Enterprise Act 2002(1);

In accordance with section 268(13) of that Act, a draft of this Order has been laid before, and approved by a resolution of, each House of Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 and shall come into force on the day after the day on which it is made.

(2) For the purposes of this Order, “disqualification provision” has the same meaning as in section 268(2) of the Enterprise Act 2002.

Disqualification provisions — repeals, revocations and amendments

2.—(1) Schedule 1 to this Order (which repeals or revokes disqualification provisions) shall have effect.

(2) Schedule 2 to this Order (which amends or modifies the effect of disqualification provisions) shall have effect.

Parliamentary Under Secretary of State for
Employment Relations and Consumer Affairs,
Department of Trade and Industry

Draft Legislation: This is a draft item of legislation and has not yet been made as a UK Statutory Instrument.

SCHEDULE 1

Article 2(1)

Repeal or revocation of disqualification provisions

PART 1

Provision made by an Act of Parliament

Metropolis Water Act 1902

1. In paragraph 7 of Schedule 3 (constitution and proceedings of Water Board) to the Metropolis Water Act 1902⁽²⁾, the words “, or is adjudged bankrupt, or makes a composition or arrangement with his creditors” shall be omitted.

Land Drainage Act 1991

2. Paragraph 9 of Schedule 1 (insolvency of members or candidates) to the Land Drainage Act 1991⁽³⁾ shall be omitted.

PART 2

Provision made under an Act of Parliament

British Wool Marketing Scheme (Approval) Order 1950

3. In paragraph 9(b) of the Schedule (the Board) to the British Wool Marketing Scheme (Approval) Order 1950⁽⁴⁾, the words “if he is adjudged bankrupt or compounds with his creditors, or” shall be omitted.

SCHEDULE 2

Article 2(2)

Amendment or modification of disqualification provisions

PART 1

Provision made by an Act of Parliament

Industry Act 1975

1. In paragraph 6(1)(c) of Schedule 3 (establishment of Tribunal) to the Industry Act 1975⁽⁵⁾—
- (a) for the words “becomes bankrupt or makes a composition with creditors” there is substituted “is the subject of a bankruptcy restrictions order or an interim order”; and

(2) 1902 c.41.

(3) 1991 c.59.

(4) S.I. 1950/1326.

(5) 1975 c.68. Paragraph 6(1) was amended by section 26 of, and paragraph 52 of Schedule 6 to, the Judicial Pensions and Retirement Act 1993 (c.8).

- (b) the words “or a member makes a trust deed for behoof of his creditors or a composition contract” shall be omitted.

Aircraft and Shipbuilding Industries Act 1977

2. In section 42(5) (the Arbitration Tribunal) of the Aircraft and Shipbuilding Industries Act 1977⁽⁶⁾—

- (a) in paragraph (b), for the words “he is unfit to continue in office; and” there is substituted “he is unfit to continue in office.”; and
- (b) paragraph (c) shall be omitted.

Transport Act 1981

3. In paragraph 3(2)(a) of Schedule 2 (resignation and vacation of office) to the Transport Act 1981⁽⁷⁾—

- (a) for the words “becomes bankrupt or makes an arrangement with his creditors” there is substituted “is the subject of a bankruptcy restrictions order or an interim order”; and
- (b) the words “or makes a trust deed for behoof of his creditors or a composition contract” shall be omitted.

Charities Act 1993

4. In section 72 (persons disqualified for being trustees of a charity) of the Charities Act 1993⁽⁸⁾—

- (a) in subsection (1)(b), after the word “discharged” there is inserted “or he is the subject of a bankruptcy restrictions order or an interim order”; and
- (b) in subsection (2)(b), after the word “sequestration” there is inserted “or the making of a bankruptcy restrictions order or an interim order”.

Pensions Act 1995

5. In section 29 (persons disqualified for being trustees) of the Pensions Act 1995⁽⁹⁾—

- (a) in subsection (1)(b), after the word “discharged” there is inserted “or he is the subject of a bankruptcy restrictions order or an interim order”; and
- (b) in subsection (2)(b), after the word “sequestration” there is inserted “or the making of the bankruptcy restrictions order or an interim order”.

Greater London Authority Act 1999

6. In section 21 (disqualification from being the Mayor or an Assembly Member) of the Greater London Authority Act 1999⁽¹⁰⁾—

- (a) for subsection (1)(c) there is substituted—
 - “(c) he is the subject of a bankruptcy restrictions order or an interim order;”;and
- (b) subsections (3) and (4) shall be omitted.

(6) 1977 c.3.
(7) 1981 c.56.
(8) 1993 c.10.
(9) 1995 c.26.
(10) 1999 c.29.

PART 2

Provision made under an Act of Parliament

Registration of Births, Deaths and Marriages Regulations 1968

7. In regulation 5(a)(i) (disqualification for appointment) of the Registration of Births, Deaths and Marriages Regulations 1968(**11**), after the words “has not subsequently obtained his discharge,” there is inserted “or he is the subject of a bankruptcy restrictions order or an interim order,”.

Personal Equity Plan Regulations 1989

8. In regulation 15(1)(b) (plan manager ceasing to qualify) of the Personal Equity Plan Regulations 1989(**12**), after the word “bankrupt” there is inserted “or is the subject of a bankruptcy restrictions order or an interim order”.

National Health Service Trusts (Membership and Procedure) Regulations 1990

9.—(1) The National Health Service Trusts (Membership and Procedure) Regulations 1990(**13**) shall be amended as follows.

(2) For regulation 11(1)(b) (disqualification for appointment of chairman and non-executive directors) there is substituted—

“(b) he is the subject of a bankruptcy restrictions order or an interim order;”.

(3) Paragraphs (1) and (2) of regulation 12 (cessation of disqualification) shall be omitted.

Air Passenger Duty Regulations 1994

10. In regulation 7(2)(d) (ceasing to act as a fiscal representative) of the Air Passenger Duty Regulations 1994(**14**), after the word “elsewhere” there is inserted “or is the subject of a bankruptcy restrictions order or an interim order”.

National Health Service Litigation Authority Regulations 1995

11.—(1) The National Health Service Litigation Authority Regulations 1995(**15**) shall be amended as follows.

(2) In regulation 7(1) (disqualification for appointment)—

(a) for the words “Subject to regulation 8 (cessation of disqualification), a person shall be” there is substituted “A person shall be”; and

(b) for sub-paragraph (b) (disqualification for appointment) there is substituted—

“(b) he is the subject of a bankruptcy restrictions order or an interim order;”.

(3) Regulation 8 (cessation of disqualification) shall be omitted.

(11) [S.I. 1968/2049](#).

(12) [S.I. 1989/469](#), as amended by [S.I. 2001/923](#).

(13) [S.I. 1990/2024](#).

(14) [S.I. 1994/1738](#).

(15) [S.I. 1995/2801](#).

Health Authorities (Membership and Procedure) Regulations 1996

12.—(1) The Health Authorities (Membership and Procedure) Regulations 1996(16) shall be amended as follows.

(2) For regulation 10(1)(b) (disqualification for appointment) there is substituted—

“(b) he is the subject of a bankruptcy restrictions order or an interim order;”.

(3) Paragraphs (1) and (2) of regulation 11 (cessation of disqualification) shall be omitted.

Individual Savings Account Regulations 1998

13. In regulation 20(1)(b) (account manager ceasing to qualify) of the Individual Savings Account Regulations 1998(17), after the word “bankrupt” there is inserted “or is the subject of a bankruptcy restrictions order or an interim order”.

Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000

14.—(1) The Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000(18) shall be amended as follows.

(2) For regulation 5(1)(b) (disqualification for appointment: chairman and non-officer members) there is substituted—

“(b) he is the subject of a bankruptcy restrictions order or an interim order;”.

(3) Paragraphs (1) and (2) of regulation 6 (cessation of disqualification) shall be omitted.

Education (Foundation Body) (England) Regulations 2000

15. In paragraph 2 of Schedule 4 (disqualification for holding office) to the Education (Foundation Body) (England) Regulations 2000(19)—

(a) for sub-paragraph (a) there is substituted—

“(a) his estate has been sequestrated and the sequestration has not been discharged, annulled or reduced;”;

(b) for sub-paragraph (b) there is substituted—

“(b) he is the subject of a bankruptcy restrictions order or an interim order.”.

National Treatment Agency Regulations 2001

16.—(1) The National Treatment Agency Regulations 2001(20) shall be amended as follows.

(2) For regulation 3(1)(b) (disqualification for appointment) there is substituted—

“(b) he is the subject of a bankruptcy restrictions order or an interim order;”.

(3) Paragraphs (1) and (2) of regulation 4 (cessation of disqualification) shall be omitted.

(16) [S.I. 1996/707](#).

(17) [S.I. 1998/1870](#).

(18) [S.I. 2000/89](#). Regulation 5(1)(b) was substituted by regulation 3(1) and (2)(b) of [S.I. 2003/1616](#).

(19) [S.I. 2000/2872](#).

(20) [S.I. 2001/715](#).

National Health Service Appointments Commission Regulations 2001

17.—(1) The National Health Service Appointments Commission Regulations 2001(21) shall be amended as follows.

- (2) For regulation 3(1)(b) (disqualification for appointment) there is substituted—
 - “(b) he is the subject of a bankruptcy restrictions order or an interim order;”.
- (3) Paragraphs (1) and (2) of regulation 4 (cessation of disqualification) shall be omitted.

National Patient Safety Agency Regulations 2001

18.—(1) The National Patient Safety Agency Regulations 2001(22) shall be amended as follows.

- (2) For regulation 3(1)(b) (disqualification for appointment) there is substituted—
 - “(b) he is the subject of a bankruptcy restrictions order or an interim order;”.
- (3) Paragraphs (1) and (2) of regulation 4 (cessation of disqualification) shall be omitted.

General Social Care Council (Appointments and Procedure) Regulations 2001

19.—(1) The General Social Care Council (Appointments and Procedure) Regulations 2001(23) shall be amended as follows.

- (2) In regulation 4 (disqualification for appointment)—
 - (a) for paragraph (1)(d) there is substituted—
 - “(d) a person who is the subject of a bankruptcy restrictions order or an interim order;”;
 - and
 - (b) paragraphs (3) and (4) shall be omitted.
- (3) In regulation 6(6) (termination by the Secretary of State of tenure of office of chairman and members), for the words “is adjudged bankrupt or makes a composition or arrangement with his creditors” there is substituted “becomes the subject of a bankruptcy restrictions order or an interim order”.

Council for the Regulation of Health Care Professionals (Appointment etc.) Regulations 2002

20. For regulation 2(b) (disqualification for appointment) of the Council for the Regulation of Health Care Professionals (Appointment etc.) Regulations 2002(24) there is substituted—

- “(b) is the subject of a bankruptcy restrictions order or an interim order;”.

(21) S.I. 2001/794.
(22) S.I. 2001/1742.
(23) S.I. 2001/1744.
(24) S.I. 2002/2376.

EXPLANATORY NOTE

(This note is not part of the Order)

Individuals who are bankrupts may be prevented by certain statutory provisions (“disqualification provisions”) from being elected or appointed to, or holding, an office or position, or from becoming or remaining a member of a body or group. Section 268 of the Enterprise Act 2002 confers a power on the Secretary of State to repeal or amend such a disqualification provision so as to reduce the class of bankrupts to whom the provision applies or so that it applies to only some or all individuals who are subject to a bankruptcy restrictions regime.

Schedule 1 to this Order repeals certain disqualification provisions.

Schedule 2 to the Order amends certain disqualification provisions.

A regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.