



# Company Directors Disqualification Act 1986

## 1986 CHAPTER 46

### *Miscellaneous and general*

#### **20 Admissibility in evidence of statements.**

<sup>F1</sup>(1) In any proceedings (whether or not under this Act), any statement made in pursuance of a requirement imposed by or under sections 6 to 10, 15 or 19(c) of, or Schedule 1 to, this Act, or by or under rules made for the purposes of this Act under the Insolvency Act, may be used in evidence against any person making or concurring in making the statement.

<sup>F2</sup>(2) However, in criminal proceedings in which any such person is charged with an offence to which this subsection applies—

- (a) no evidence relating to the statement may be adduced, and
- (b) no question relating to it may be asked,

by or on behalf of the prosecution, unless evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person.

(3) Subsection (2) applies to any offence other than—

- (a) an offence which is—
  - (i) created by rules made for the purposes of this Act under the Insolvency Act, and
  - (ii) designated for the purposes of this subsection by such rules or by regulations made by the Secretary of State;
- (b) an offence which is—
  - (i) created by regulations made under any such rules, and
  - (ii) designated for the purposes of this subsection by such regulations;
- (c) an offence under section 5 of the <sup>M1</sup>Perjury Act 1911 (false statements made otherwise than on oath); or
- (d) an offence under section 44(2) of the <sup>M2</sup>Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made otherwise than on oath).

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- (4) Regulations under subsection (3)(a)(ii) shall be made by statutory instrument and, after being made, shall be laid before each House of Parliament.]

#### Textual Amendments

- F1** S. 20 renumbered as s. 20(1) (E.W.) (14.4.2000) and (S.) (1.1.2001) by 1999 c. 23, ss. 59, **Sch. 3 para. 8(2)** (with s. 63(2), **Sch. 7 paras. 3(3), 5(2)**); S.I. 2000/1034, **art. 2(a)** and S.S.I. 2000/445, **art. 2**
- F2** S. 20(2)-(4) inserted (E.W.) (14.4.2000) and (S.) (1.1.2001) by 1999 c. 23, ss. 59, **Sch. 3 para. 8(1)(3)** (with s. 63(2), **Sch. 7 paras. 3(3), 5(2)**); S.I. 2000/1034, **art. 2(a)** and S.S.I. 2000/445, **art. 2**

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

- C1** Ss. 19(c), 20 extended (with modifications) by S.I. 1986/2142, **art. 6**
- C2** S. 20 extended (with modifications) (1.7.1989) by S.I. 1989/638, **regs. 20, 21**
- C3** S. 20 applied (1.12.1994) by S.I. 1994/2421, **art. 16, Sch. 8**

#### Marginal Citations

- M1** 1911 c. 6.
- M2** 1995 c. 39.

VALID FROM 06/04/2008

### 20A Legal professional privilege

In proceedings against a person for an offence under this Act nothing in this Act is to be taken to require any person to disclose any information that he is entitled to refuse to disclose on grounds of legal professional privilege (in Scotland, confidentiality of communications).

## 21 Interaction with Insolvency Act.

- (1) References in this Act to the official receiver, in relation to the winding up of a company or the bankruptcy of an individual, are to any person who, by virtue of section 399 of the Insolvency Act, is authorised to act as the official receiver in relation to that winding up or bankruptcy; and, in accordance with section 401(2) of that Act, references in this Act to an official receiver includes a person appointed as his deputy.
- (2) Sections [F31A]6 to 10 [F313, 14], 15, 19(c) and 20 of, and Schedule 1 to, this Act [F3and sections 1 and 17 of this Act as they apply for the purposes of those provisions] are deemed included in Parts I to VII of the Insolvency Act for the purposes of the following sections of that Act—
- section 411 (power to make insolvency rules);
  - section 414 (fees orders);
  - section 420 (orders extending provisions about insolvent companies to insolvent partnerships);
  - section 422 (modification of such provisions in their application to recognised banks); . . . F4
- (3) Section 434 of that Act (Crown application) applies to sections [F51A]6 to 10 [F513, 14], 15, 19(c) and 20 of, and Schedule 1 to, this Act [F5and sections 1 and 17 of this

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Act as they apply for the purposes of those provisions]as it does to the provisions of that Act which are there mentioned.

[<sup>F6</sup>(4) For the purposes of summary proceedings in Scotland, section 431 of that Act applies to summary proceedings for an offence under section 11 or 13 of this Act as it applies to summary proceedings for an offence under Parts I to VII of the Act.]

#### Textual Amendments

- F3** Words in s. 21(2) inserted (2.4.2001) by 2000 c. 39, s. 8, **Sch. 4 Pt. I para. 14(2)(a)(b)(c)**; S.I. 2001/766, **art. 2(1)(a)** (subject to transitional provisions in art. 3)
- F4** Word repealed by **Companies Act 1989 (c. 40, SIF 27)**, ss. 212, 213(2), **Sch. 24**
- F5** Words in s. 21(3) inserted (2.4.2001) by 2000 c. 39, s. 8, **Sch. 4 Pt. I para. 14(3)(a)(b)(c)**; S.I. 2001/766, **art. 2(1)(a)** (subject to transitional provisions in art. 3)
- F6** S. 21(4) added by **Companies Act 1989 (c. 40, SIF 27)**, ss. **208**, 213(2)

VALID FROM 21/02/2009

#### [<sup>F7</sup>21A **Bank insolvency**

Section 121 of the Banking Act 2009 provides for this Act to apply in relation to bank insolvency as it applies in relation to liquidation.]

#### Textual Amendments

- F7** S. 21A inserted (21.2.2009) by **Banking Act 2009 (c. 1)**, ss. 121(4), 263(1) (with s. 247); S.I. 2009/296, **art. 3**, Sch. para. 2

VALID FROM 21/02/2009

#### [<sup>F8</sup>21B **Bank administration**

Section 155 of the Banking Act 2009 provides for this Act to apply in relation to bank administration as it applies in relation to liquidation.]

#### Textual Amendments

- F8** S. 21B inserted (21.2.2009) by **Banking Act 2009 (c. 1)**, ss. 155(4), 263(1) (with s. 247); S.I. 2009/296, **art. 3**, Sch. para. 3

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VALID FROM 29/03/2009

## [<sup>F9</sup>21C Building society insolvency and special administration

Section 90E of the Building Societies Act 1986 provides for this Act to apply in relation to building society insolvency and building society special administration as it applies in relation to liquidation.]

### Textual Amendments

**F9** S. 21C inserted (29.3.2009) by [The Building Societies \(Insolvency and Special Administration\) Order 2009 \(S.I. 2009/805\)](#), **art. 12**

## 22 Interpretation.

- (1) This section has effect with respect to the meaning of expressions used in this Act, and applies unless the context otherwise requires.
- (2) The expression “company”—
  - (a) in section 11, includes an unregistered company and a company incorporated outside Great Britain which has an established place of business in Great Britain, and
  - (b) elsewhere, includes any company which may be wound up under Part V of the Insolvency Act.
- (3) Section 247 in Part VII of the Insolvency Act (interpretation for the first Group of Parts of that Act) applies as regards references to a company’s insolvency and to its going into liquidation; and “administrative receiver” has the meaning given by section 251 of that Act [<sup>F10</sup>and references to acting as an insolvency practitioner are to be read in accordance with section 388 of that Act].
- (4) “Director” includes any person occupying the position of director, by whatever name called <sup>F11</sup>. . .
- (5) “Shadow director”, in relation to a company, means a person in accordance with whose directions or instructions the directors of the company are accustomed to act (but so that a person is not deemed a shadow director by reason only that the directors act on advice given by him in a professional capacity).
- (6) Section 740 of the Companies Act applies as regards the meaning of “body corporate”; and “officer” has the meaning given by section 744 of that Act.
- (7) In references to legislation other than this Act—
  - “the Companies Act” means the <sup>M3</sup>Companies Act 1985;
  - “the Companies Acts” has the meaning given by section 744 of that Act;
  - and
  - “the Insolvency Act” means the Insolvency Act 1986;
 and in sections 3(1) and 5(1) of this Act “the companies legislation” means the Companies Acts (except the Insider Dealing Act), Parts I to VII of the Insolvency Act and, in Part XV of that Act, sections 411, 413, 414, 416 and 417.

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- (8) Any reference to provisions, or a particular provision, of the Companies Acts or the Insolvency Act includes the corresponding provisions or provision of the former Companies Acts (as defined by section 735(1)(c) of the Companies Act, but including also that Act itself) or, as the case may be, the <sup>M4</sup>Insolvency Act 1985.
- (9) Any expression for whose interpretation provision is made by Part XXVI of the Companies Act (and not by subsections (3) to (8) above) is to be construed in accordance with that provision.
- [<sup>F12</sup>(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.]

#### Textual Amendments

- F10** Words in s. 22(3) inserted (2.4.2001) by 2000 c. 39, s. 8, **Sch. 4 Pt. I para. 15(2)**; S.I. 2001/766, **art. 2(1)(a)** (subject to transitional provisions in **art. 3**)
- F11** Words in s. 22(4) repealed (2.4.2001) by 2000 c. 39, s. 8, 15(1), **Sch. 4 Pt. I para. 15(3)**, **Sch. 5**; S.I. 2001/766, **art. 2(1)(a)(c)(ii)** (subject to transitional provisions in **art. 3**)
- F12** S. 22(10) inserted (2.4.2001) by 2000 c. 39, s. 5(3); S.I. 2001/766, **art. 2(1)(a)** (subject to transitional provisions in **art. 3**)

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

- C4** S. 22 extended (with modifications) (1.7.1989) by S.I. 1989/638, **regs. 20, 21**

#### Marginal Citations

- M3** 1985 c. 6.  
**M4** 1985 c. 65.

### [<sup>F13</sup>22A Application of Act to building societies.

- (1) This Act applies to building societies as it applies to companies.
- (2) References in this Act to a company, or to a director or an officer of a company include, respectively, references to a building society within the meaning of the Building Societies Act 1986 or to a director or officer, within the meaning of that Act, of a building society.
- (3) In relation to a building society the definition of “shadow director” in section 22(5) applies with the substitution of “building society” for “company”.
- (4) In the application of Schedule 1 to the directors of a building society, references to provisions of the Insolvency Act or the Companies Act include references to the corresponding provisions of the Building Societies Act 1986.]

#### Textual Amendments

- F13** S. 22A added by **Companies Act 1989 (c. 40, SIF 27)**, s. 211(3)

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## [22B <sup>F14</sup> Application of Act to incorporated friendly societies.

- (1) This Act applies to incorporated friendly societies as it applies to companies.
- (2) References in this Act to a company, or to a director or an officer of a company include, respectively, references to an incorporated friendly society within the meaning of the Friendly Societies Act 1992 or to a member of the committee of management or officer, within the meaning of that Act, of an incorporated friendly society.
- (3) In relation to an incorporated friendly society every reference to a shadow director shall be omitted.
- (4) In the application of Schedule 1 to the members of the committee of management of an incorporated friendly society, references to provisions of the Insolvency Act or the Companies Act include references to the corresponding provisions of the Friendly Societies Act 1992.]

### Textual Amendments

**F14** S. 22B added (1.2.1993) by [Friendly Societies Act 1992 \(c. 40\)](#), ss. 120, [Sch. 21 Pt. 1 para. 8](#) (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, [Sch.3](#)

## [<sup>F15</sup>22C Application of Act to NHS foundation trusts

- (1) This Act applies to NHS foundation trusts as it applies to companies within the meaning of this Act.
- (2) References in this Act to a company, or to a director or officer of a company, include, respectively, references to an NHS foundation trust or to a director or officer of the trust; but references to shadow directors are omitted.
- (3) In the application of Schedule 1 to the directors of an NHS foundation trust, references to the provisions of the Insolvency Act or the Companies Act include references to the corresponding provisions of [<sup>F16</sup>Chapter 5 of Part 2 of the National Health Service Act 2006].]

### Textual Amendments

**F15** S. 22C inserted (20.11.2003 for certain purposes and 1.4.2004 for E.W. otherwise) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 34, 199, [Sch. 4 para. 68](#); S.I. 2004/759, [art. 2](#)

**F16** Words in s. 22C(3) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), [Sch. 1 para. 92](#) (with [Sch. 3 Pt. 1](#))

VALID FROM 01/10/2009

## [<sup>F17</sup>22D Application of Act to open-ended investment companies

- (1) This Act applies to open-ended investment companies with the following modifications.

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- (2) In section 8(1) (disqualification after investigation), the reference to investigative material shall be read as including a report made by inspectors under regulations made by virtue of section 262(2)(k) of the Financial Services and Markets Act 2000.
- (3) In the application of Part 1 of Schedule 1 (matters for determining unfitness of directors: matters applicable in all cases) in relation to a director of an open-ended investment company, a reference to a provision of the Companies Act 2006 is to be taken to be a reference to the corresponding provision of the Open-Ended Investment Companies Regulations 2001 or of rules made under regulation 6 of those Regulations.
- (4) In this section “open-ended investment company” has the meaning given by section 236 of the Financial Services and Markets Act 2000.]

#### Textual Amendments

**F17** S. 22D inserted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), **Sch. 1 para. 85(13)** (with art. 10)

### 23 Transitional provisions, savings, repeals.

- (1) The transitional provisions and savings in Schedule 3 to this Act have effect, and are without prejudice to anything in the <sup>M5</sup>Interpretation Act 1978 with regard to the effect of repeals.
- (2) The enactments specified in the second column of Schedule 4 to this Act are repealed to the extent specified in the third column of that Schedule.

#### Marginal Citations

**M5** 1978 c. 30.

### 24 Extent.

- (1) This Act extends to England and Wales and to Scotland.
- (2) Nothing in this Act extends to Northern Ireland.

### 25 Commencement.

This Act comes into force simultaneously with the Insolvency Act 1986.

### 26 Citation.

This Act may be cited as the Company Directors Disqualification Act 1986.

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