
STATUTORY INSTRUMENTS

2004 No. 1941

INSOLVENCY

COMPANIES

**The Insolvency Act 2000 (Company Directors
Disqualification Undertakings) Order 2004**

Made - - - - *21st July 2004*
Laid before Parliament *23rd July 2004*
Coming into force - - *1st September 2004*

The Secretary of State, in exercise of the powers conferred upon her by section 7(2) of the Insolvency Act 2000(1) hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Insolvency Act 2000 (Company Directors Disqualification Undertakings) Order 2004.

(2) This Order shall come into force on 1st September 2004 and the amendments made by it shall only apply in relation to disqualification undertakings under the Company Directors Disqualification (Northern Ireland) Order 2002(2) accepted on or after that date.

Modification of Company Directors Disqualification Act 1986

2.—(1) The Company Directors Disqualification Act 1986(3) is amended as follows.

(2) After section 12A (4) (Northern Irish disqualification orders) insert—

“Northern Irish disqualification undertakings

12B. A person subject to a disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002—

(1) 2000 c. 39.

(2) S.I. 2002/3150 (N.I. 4).

(3) 1986 c. 46, as amended by sections 5, 6 and 7 and Schedule 4 to the Insolvency Act 2000 (c. 39), regulation 4 of Part III of Schedule 2 to the Limited Liability Partnerships Regulations 2001 (S.I. 2001/1090), and paragraph 40 of Schedule 17 to the Enterprise Act 2002 (c. 40).

(4) Section 12A was inserted into the Company Directors Disqualification Act 1986 (c. 46) by section 7(1) of the Insolvency Act 2000 (c. 39).

- (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.”
- (3) In section 13 (criminal penalties) for “or 12A” substitute “, 12A or 12B”.
- (4) In section 14(1) (offences by body corporate) after “12A” insert “or 12B”.
- (5) In section 15 (personal liability for company's debts where person acts while disqualified)–
 - (a) in subsection (1)–
 - (i) in paragraph (a) for “or 12A” substitute “, 12A or 12B”,
 - (ii) in paragraph (b) after “1989” insert “or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002”, and
 - (b) in subsection (5) after “1989” insert “or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002”.
- (6) In section 18(4A) (register of disqualification orders) at the end insert “or disqualification undertakings made under the Company Directors Disqualification (Northern Ireland) Order 2002”.

Consequential provisions

3. The Schedule to this Order which makes consequential amendments to the enactments amended by Part II of Schedule 4 to the Insolvency Act 2000 (c. 39) shall have effect.

Gerry Sutcliffe,
Parliamentary Under Secretary of State for
Employment Relations, Competition and
Consumers,
Department of Trade and Industry

21st July 2004

SCHEDULE

Article 3

AMENDMENTS TO THE ENACTMENTS AMENDED BY PART II OF SCHEDULE 4 TO THE INSOLVENCY ACT 2000

Insolvency Act 1986 (c. 45)

1. The Insolvency Act 1986 is amended as follows.
2. In section 389A(3)(b) **(5)** (authorisation of nominees and supervisors) after “1989” insert “or a disqualification undertaking accepted under the Company Directors Disqualification (Northern Ireland) Order 2002”.
3. In section 390(4)(b) **(6)** (persons not qualified to act as insolvency practitioners) after “1989” insert “or to a disqualification undertaking accepted under the Company Directors Disqualification (Northern Ireland) Order 2002”.

Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40)

4. In section 8(1)(d) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 **(7)** (persons disqualified from being concerned in the management or control of a recognised body) after “1989” insert “or to a disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002”.

Charities Act 1993 (c. 10)

5. In section 72 of the Charities Act 1993 **(8)** (persons disqualified for being trustees of a charity)—
 - (a) in subsection (1)(f) after “1989” insert “or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002”,
 - (b) in subsection (3)(aa) after “1989” insert “or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002”, and
 - (c) in sub-paragraph (ii) of subsection 4(a) for “or 12A” substitute “,12A or 12B” and after “orders” insert “; Northern Irish disqualification undertakings”.

Pensions Act 1995 (c. 26)

6. In section 29(1)(f) of the Pensions Act 1995 **(9)**(persons disqualified for being trustees of trust schemes) after “1989” insert “or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002”.

Police Act 1996 (c. 16)

7. In paragraph 11(1)(c) of Schedule 2, and paragraph 7(1)(c) of Schedule 2A to the Police Act 1996 **(10)** (persons disqualified for being members of police authorities) after “1989” insert “or

(5) Section 389A was inserted into the Insolvency Act 1986 (c. 45) by section 4(4) of the Insolvency Act 2000 (c. 39).
(6) Section 390(4)(b) of the Insolvency Act 1986 was amended by paragraph 16(2) in Part II of Schedule 4 to the Insolvency Act 2000.
(7) Section 8(1)(d) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40) was amended by paragraph 17 in Part II of Schedule 4 to the Insolvency Act 2000.
(8) Section 72 of the Charities Act 1993 (c. 10) was amended by paragraph 18 in Part II of Schedule 4 to the Insolvency Act 2000.
(9) Section 29(1)(f) of the Pensions Act 1995 (c. 26) was amended by paragraph 19(3) in Part II of Schedule 4 to the Insolvency Act 2000.
(10) Relevant amendments to the Police Act 1996 (c. 16) were made by paragraph 20 in Part II of Schedule 4 to the Insolvency Act 2000.

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disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002”.

Housing Act 1996 (c. 52)

8. In paragraph 4(2)(b) of Schedule 1 to the Housing Act 1996 (**(11)**) (powers to remove directors, trustees etc. of registered social landlords) at the end insert “or disqualification undertaking under the Companies Directors Disqualification (Northern Ireland) Order 2002”.

Police Act 1997 (c. 50)

9. The Police Act 1997 (**(12)**) is amended as follows.

10. In section 91(7)(b) (commissioners for the purposes of Part III) at the end insert “or under the Company Directors Disqualification (Northern Ireland) Order 2002”.

11. In paragraph 3(1)(c) of Schedule 2 (members of Service Authorities) after “Order 1989” insert “or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for disqualification undertakings given under the [Company Directors Disqualification \(Northern Ireland\) Order 2002 \(S.I. 2002 No. 3150 \(N.I.4\)\)](#) to be given the same effect in Great Britain as corresponding disqualification undertakings provided for by section 6 of the [Company Directors Disqualification Act 1986 \(c. 46\)](#) and makes consequential amendments.

There is no requirement to prepare a Regulatory Impact Assessment since the statutory instrument will not impose any significant costs on business.

(11) Paragraph 4(2)(b) of Schedule 1 to the Housing Act 1996 (c. 52) was amended by paragraph 21 in Schedule 4 to the Insolvency Act 2000.

(12) Relevant amendments to the Police Act 1997 were made by paragraph 22 in Part II of Schedule 4 to the Insolvency Act 2000.