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## STATUTORY INSTRUMENTS

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# 2002 No. 3150

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

*Miscellaneous and general*

### Admissibility in evidence of statements

**23.**—(1) In any proceedings (whether or not under this Order), any statement made in pursuance of a requirement imposed by or under Articles 9 to 14 or 19 or Schedule 1 or by or under rules made for the purposes of this Order under the Insolvency Order, may be used in evidence against any person making or concurring in making the statement.

(2) However, in criminal proceedings in which any such person is charged with an offence to which this paragraph 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) Paragraph (2) applies to any offence other than—

- (a) an offence which is—
  - (i) created by rules made for the purposes of this Order under the Insolvency Order, and
  - (ii) designated for the purposes of this paragraph by such rules or by regulations;
- (b) an offence which is—
  - (i) created by regulations made under any such rules, and
  - (ii) designated for the purposes of this paragraph by such regulations; or

(c) an offence under Article 10 of the Perjury (Northern Ireland) Order 1979 (NI 19) (false statements made otherwise than on oath).

(4) Regulations under paragraph (3)(a)(ii) shall after being made be laid before the Assembly.

VALID FROM 06/04/2008

### [<sup>F1</sup>Legal professional privilege

**23A.** In proceedings against a person for an offence under this Order nothing in this Order 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.]

**F1** Art. 23A inserted (6.4.2008) by Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), arts. 2(2), 3(1)(b), Sch. 1 para. 226(4) (with arts. 6, 11, 12)

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## Interaction with the Insolvency Order

**24.**—(1) Articles 4, 9 to 14, 18, 19 and 23 and Schedule 1, and Articles 3 and 21 as they apply for the purposes of those provisions, are deemed included in Parts II to VII of the Insolvency Order for the purposes of the following Articles of that Order—

Article 359 (power to make insolvency rules);

Article 361 (fees orders);

Article 364 (orders extending provisions about insolvent companies to insolvent partnerships);

Article 366 (modifications of such provisions in their application to recognised banks).

(2) Article 378 of that Order (Crown application) applies to Articles 4, 9 to 14, 18, 19 and 23 and Schedule 1, and Articles 3 and 21 as they apply for the purposes of those provisions, as it does to the provisions of that Order which are there mentioned.

VALID FROM 21/02/2009

### [<sup>F2</sup>Bank insolvency

**24A** 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.]

**F2** Art. 24A inserted (21.2.2009) by virtue of Banking Act 2009 (c. 1), ss. **121(4)**, 134, 263(1) (with s. 247); S.I. 2009/296, art. 3, Sch. para. 2

VALID FROM 21/02/2009

### [<sup>F3</sup>Bank administration

**24B** 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.]

**F3** Art. 24B inserted (21.2.2009) by virtue of Banking Act 2009 (c. 1), ss. **155(4)**, 167, 263(1) (with s. 247); S.I. 2009/296, art. 3, Sch. para. 3

VALID FROM 29/03/2009

### [<sup>F4</sup>Building society insolvency and special administration

**24C.** 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.]

**F4** Art. 24C inserted (29.3.2009) by virtue of Building Societies (Insolvency and Special Administration) Order 2009 (S.I. 2009/805), arts. **12**, 17

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VALID FROM 01/10/2009

#### [<sup>F5</sup>Application of Order to building societies

**24D.**—(1) This Order applies to building societies as it applies to companies.

(2) References in this Order 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 Article 2(2) 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 Companies Act 2006 or the Insolvency (Northern Ireland) Order 1989 include references to the corresponding provisions of the Building Societies Act 1986.

**F5** Arts. 24D, 24E inserted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 212** (with art. 10)

VALID FROM 01/10/2009

#### Application of Order to open-ended investment companies

**24E.**—(1) This Order applies to open-ended investment companies with the following modifications.

(2) In Article 11(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 Article “open-ended investment company” has the meaning given by section 236 of the Financial Services and Markets Act 2000.]

**F5** Arts. 24D, 24E inserted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 212** (with art. 10)

#### Application of Order to incorporated friendly societies

**25** <sup>F6</sup>.—(1) This Order applies to incorporated friendly societies as it applies to companies.

(2) References in this Order 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 (c. 40) or to a member of the committee of management or officer, within the meaning of that Act, of an incorporated friendly society.

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(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 Order or the Companies Order include references to the corresponding provisions of the Friendly Societies Act 1992.

F6 Mod. SR 2004/307

VALID FROM 01/07/2006

### Application of Order to registered societies

[<sup>F7</sup>25A.—(1) This Order applies to societies registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24) (“registered societies”) as it applies to companies.

(2) In its application to registered societies, this Order shall have effect as follows—

- (a) references in this Order to a company, or to a director or an officer of a company shall include, respectively, references to a registered society or to a member of the committee of management or officer, within the meaning of the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24), of a registered society;
- (b) in Article 5(1) “striking off of a company” shall include the cancellation of the registration of a registered society under that Act;
- (c) in Articles 6(1) and 8(1) “the companies legislation” shall include that Act;
- (d) in Article 11(2) “investigative material” shall include a report made under section 43A, 56 or 58(1) of that Act and information, books, accounts or other documents obtained under section 57 of that Act;
- (e) references to the registrar shall have effect as references to the registrar as defined in section 101(1) of that Act;
- (f) references to a shadow director shall be omitted.

(3) In the application of Schedule 1 to the members of the committee of management of a registered society, references to provisions of the Insolvency Order or the Companies Order include references to the corresponding provisions of the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24).]

F7 [Art. 25A](#) inserted (1.7.2006) by [Industrial and Provident Societies \(Northern Ireland\) Order 2006 \(S.I. 2006/314 \(N.I. 3\)\)](#), arts. 1(3), 8; S.R. 2006/242, [art. 2](#)

### Transitional provisions, savings, amendments and repeals

26.—(1) The transitional provisions and savings in Schedule 2 shall have effect for the purposes of this Order.

(2) The statutory provisions specified in Schedule 3 shall have effect subject to the amendments specified there, being amendments consequential on the provisions of this Order.

(3) The Department may by order, subject to negative resolution, make—

- (a) any supplementary, incidental or consequential provision, and
- (b) any transitory, transitional or saving provision,

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which it considers necessary or expedient for the purposes of this Order.

(4) An order under paragraph (3) may—

- (a) modify, exclude or apply (with or without modifications) any statutory provision;
- (b) make consequential amendments, repeals and revocations of any such provision.

(5) Subject to paragraph (1) and any transitory, transitional or saving provision made under paragraph (3), the statutory provisions specified in Schedule 4 are hereby repealed to the extent specified in column 2 of that Schedule.

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