

STATUTORY INSTRUMENTS

2002 No. 3150

The Company Directors Disqualification (Northern Ireland) Order 2002

Disqualification for general misconduct in connection with companies

Disqualification on conviction of offence punishable only on indictment or either on conviction on indictment or on summary conviction

5.—(1) The court may make a disqualification order against a person where he is convicted of an offence punishable only on conviction on indictment or either on conviction on indictment or on summary conviction (whether on indictment or on summary conviction) in connection with the promotion, formation, management, liquidation or striking off of a company, with the receivership of a company's property or with his being an administrative receiver of a company.

[^{F1}(1A) In paragraph (1), “company” includes overseas company.]

(2) “The court” for this purpose means—

- (a) the High Court, or
- (b) the court by or before which the person is convicted of the offence, or
- (c) in the case of a summary conviction, any other court of summary jurisdiction^{F2}....

(3) The maximum period of disqualification under this Article is—

- (a) where the disqualification order is made by a court of summary jurisdiction, 5 years, and
- (b) in any other case, 15 years.

F1 Art. 5(1A) inserted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), [Sch. 8 para. 9\(5\)](#); S.I. 2015/1689, reg. 2(h)

F2 Words in art. 5(2)(c) repealed (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 1 para. 120\(1\)](#), [Sch. 9 Pt. 1](#) (with [Sch. 8 para. 1](#)); S.R. 2016/387, art. 2(k)(m) (with art. 3)

Modifications etc. (not altering text)

C1 Art. 5 applied by S.I. 1989/638, [reg. 20\(2\)](#) (as inserted (1.10.2009) by [European Economic Interest Grouping \(Amendment\) Regulations 2009 \(S.I. 2009/2399\)](#), {reg. 21(4)} (with reg. 2))

Disqualification for persistent default under companies legislation

6.—(1) The High Court may make a disqualification order against a person where it appears to it that he has been persistently in default in relation to provisions of the companies legislation requiring any return, account or other document to be filed with, delivered or sent, or notice of any matter to be given, to the registrar.

(2) On an application to the High Court for an order to be made under this Article, the fact that a person has been persistently in default in relation to such provisions as are mentioned in paragraph (1) may (without prejudice to its proof in any other manner) be conclusively proved by showing that in

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the 5 years ending with the date of the application he has been adjudged guilty (whether or not on the same occasion) of 3 or more defaults in relation to those provisions.

(3) A person is to be treated under paragraph (2) as being adjudged guilty of a default in relation to any such provision if—

- (a) he is convicted (whether on indictment or on summary conviction) of an offence consisting in a contravention of that provision (whether on his own part or on the part of any company), or
- (b) a default order is made against him, that is to say an order under any of the following provisions—
 - (i) [^{F3}section 452 of the Companies Act 2006] (order requiring delivery of company accounts),
 - (ii) [^{F4}section 456 of the Companies Act 2006] (order requiring preparation of revised accounts),
 - [^{F5}(iii) section 1113 of the Companies Act 2006 (enforcement of company's filing obligations),]
 - (iv) Article 51 of [^{F6}the Insolvency (Northern Ireland) Order 1989] (enforcement of receiver's or manager's duty to make returns), or
 - (v) Article 144 of [^{F7}that Order] (corresponding provision for liquidator in winding up), in respect of any such contravention of that provision (whether on his own part or on the part of any company).

[^{F8}(3A) In this Article “the companies legislation” means the Companies Acts and Parts 2 to 7 of the Insolvency (Northern Ireland) Order 1989 (company insolvency and winding up).]

[^{F9}(3B) In this Article “company” includes overseas company.]

(4) The maximum period of disqualification under this Article is 5 years.

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| F3 | Words in art. 6(3)(b)(i) substituted (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(3)(a) (with arts. 6, 11, 12) |
| F4 | Words in art. 6(3)(b)(ii) substituted (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(3)(b) (with arts. 6, 11, 12) |
| F5 | Art. 6(3)(b)(iii) substituted (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. 205(2)(a) (with art. 10) |
| F6 | Words in art. 6(3)(b)(iv) substituted (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. 205(2)(b) (with art. 10) |
| F7 | Words in art. 6(3)(b)(v) substituted (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. 205(2)(c) (with art. 10) |
| F8 | Art. 6(3A) 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. 205(3) (with art. 10) |
| F9 | Art. 6(3B) inserted (1.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), Sch. 8 para. 9(6) ; S.I. 2015/1689, reg. 2(h) |

Disqualification for fraud, etc., in winding up

7.—(1) The High Court may make a disqualification order against a person if, in the course of the winding up of a company, it appears that he—

- (a) has been guilty of an offence for which he is liable (whether he has been convicted or not) under ^{F10}section 993 of the Companies Act 2006] (fraudulent trading), or
 - (b) has otherwise been guilty, while an officer or liquidator of the company or receiver of the company's property or administrative receiver of the company, of any fraud in relation to the company or of any breach of his duty as such officer, liquidator, receiver or administrative receiver.
- (2) In this Article “officer” includes a shadow director.
- (3) The maximum period of disqualification under this Article is 15 years.

F10 Words in art. 7(1)(a) substituted (1.10.2007) by Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), arts. 1(3)(a), 10(1), **Sch. 4 para. 99** (with saving in art. 12)

Modifications etc. (not altering text)

C2 Art. 7 applied by S.I. 1989/638, **reg. 20(2)** (as inserted (1.10.2009) by European Economic Interest Grouping (Amendment) Regulations 2009 (S.I. 2009/2399)), {reg. 21(4)} (with reg. 2)

Disqualification on summary conviction of offence

8.—(1) An offence counting for the purposes of this Article is one of which a person is convicted (either on indictment or on summary conviction) in consequence of a contravention of any provision of the companies legislation requiring a return, account or other document to be filed with, delivered or sent, or notice of any matter to be given, to the registrar (whether the contravention is on the person's own part or on the part of any company).

(2) Where a person is convicted by a court of summary jurisdiction of an offence mentioned in paragraph (1), the court by which he is convicted, or any other court of summary jurisdiction^{F11} ..., may make a disqualification order against him if the circumstances specified in paragraph (3) are present.

(3) Those circumstances are that, during the 5 years ending with the date of the conviction, the person has had made against him, or has been convicted of, in total not less than 3 default orders and offences counting for the purposes of this Article and those offences may include that of which he is convicted as mentioned in paragraph (2) and any other offence of which he is convicted on the same occasion.

(4) For the purposes of this Article “default order” means the same as in Article 6(3)(b).

^{F12}(4A) In this Article “the companies legislation” means the Companies Acts and Parts 2 to 7 of the Insolvency (Northern Ireland) Order 1989 (company insolvency and winding up).]

^{F13}(4B) In this Article “company” includes overseas company.]

(5) The maximum period of disqualification under this Article is 5 years.

F11 Words in art. 8(2) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 120(2), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

F12 Art. 8(4A) 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. 206** (with art. 10)

F13 Art. 8(4B) inserted (1.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 8 para. 9(7)**; S.I. 2015/1689, reg. 2(h)

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Modifications etc. (not altering text)

C3 Art. 8 applied by S.I. 1989/638, **reg. 20(2)** (as inserted (1.10.2009) by [European Economic Interest Grouping \(Amendment\) Regulations 2009 \(S.I. 2009/2399\)](#)), {reg. 21(4)} (with reg. 2))

[^{F14}Disqualification for certain convictions abroad

8A.—(1) If it appears to the Department that it is expedient in the public interest that a disqualification order under this Article should be made against a person, the Department may apply to the High Court for such an order.

(2) The High Court may, on an application under paragraph (1), make a disqualification order against a person who has been convicted of a relevant foreign offence.

(3) A “relevant foreign offence” is an offence committed outside Northern Ireland—

(a) in connection with—

(i) the promotion, formation, management, liquidation or striking off of a company (or any similar procedure),

(ii) the receivership of a company's property (or any similar procedure), or

(iii) a person being an administrative receiver of a company (or holding a similar position), and

(b) which corresponds to an indictable offence under the law of Northern Ireland.

(4) Where it appears to the Department that, in the case of a person who has offered to give a disqualification undertaking—

(a) the person has been convicted of a relevant foreign offence, and

(b) it is expedient in the public interest that the Department should accept the undertaking (instead of applying, or proceeding with an application, for a disqualification order),

the Department may accept the undertaking.

(5) In this Article, “company” includes an overseas company.

(6) The maximum period of disqualification under an order under this Article is 15 years.]

F14 Art. 8A inserted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), **Sch. 8 para. 2(1)** (with [Sch. 8 para. 2\(2\)](#)); S.I. 2015/1689, reg. 2(h) (with [Sch. para. 8](#))

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