



Companies Act 1976

1976 CHAPTER 69

PART II

MISCELLANEOUS AND SUPPLEMENTARY

Disqualification orders

28 Disqualification for persistent default in relation to delivery of documents to registrar

- (1) Where, on the application of the Secretary of State, it appears to the High Court that a person has been persistently in default in relation to relevant requirements of the Companies Acts, the court may make an order that that person shall not, without the leave of the court, be a director of or in any way, whether directly or indirectly, be concerned or take part in the management of a company for such period beginning with the date of the order and not exceeding five years as may be specified in the order.

In the preceding provisions of this subsection "the court", in relation to the granting of leave, means any court having jurisdiction to wind up the company as respects which leave is sought, and in the application of this section to Scotland the references in this subsection to the High Court shall be construed as references to the Court of Session.

- (2) Any provision of the Companies Acts which requires any return, account or other document to be filed with, delivered or sent, or notice of any matter to be given, to the registrar of companies is a relevant requirement of the Companies Acts for the purposes of this section.
- (3) For the purposes of this section, the fact that a person has been persistently in default in relation to relevant requirements of the Companies Acts may, subject to subsection (4) below (and without prejudice to its proof in any other manner), be conclusively proved by showing that in the five years ending with the date of the application he has been adjudged guilty (whether or not on the same occasion) of three or more defaults in relation to any such requirements.

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A person shall be treated as being adjudged guilty of a default in relation to a relevant requirement of the Companies Acts for the purposes of this subsection if—

- (a) he is convicted of any offence by virtue of any contravention of or failure to comply with any such requirement (whether on his own part or on the part of any company) ; or
 - (b) an order is made against him under section 428 of the Act of 1948 (enforcement of duty of company to make returns to the registrar) or under section 5(1) above.
- (4) No account shall be taken for the purposes of this section of any offence which was committed or, in the case of a continuing offence, began before the date on which this section comes into operation.
- (5) The Secretary of State shall give not less than ten days' notice of his intention to apply for an order under this section to the person against whom the order is sought, and on the hearing of the application that person may appear and himself give evidence or call witnesses.
- (6) On the hearing of any application for an order under this section, or of any application for leave under this section by a person against whom an order under this section has been made, the Secretary of State shall appear and call the attention of the court to any matters which seem to him to be relevant and may himself give evidence or call witnesses.
- (7) If any person acts in contravention of an order under this section he shall in respect of each offence be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both; or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding £400 or to both.
- (8) In this section " company" includes an unregistered company (wherever incorporated) within the meaning of Part IX of the Act of 1948.

29 Register of disqualification orders

- (1) The prescribed officer of any court which—
- (a) makes an order, after the coming into operation of this section, that a person shall not, without the leave of the court, be a director of or in any way, whether directly or indirectly, be concerned or take part in the management of a company for such period as may be specified in the order, or
 - (b) grants leave in relation to any such order which is so made,
- shall, at such time and in such manner and form as may be prescribed, furnish the Secretary of State with the prescribed particulars of the order or the grant of leave.

This subsection applies whether the order is made under section 188 of the Act of 1948, section 9 of the Insolvency Act 1976, or section 28 above.

- (2) The Secretary of State shall, from the particulars with which he is furnished under subsection (1) above, maintain a register of such orders and of cases in which the court has granted leave.

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- (3) On the expiration of an order of which particulars are entered on the register, the Secretary of State shall delete from the register—
 - (a) those particulars, and
 - (b) any particulars of cases in which the court has granted leave in relation to that order.
- (4) The register shall be open to inspection on payment of such fee as may be specified by the Secretary of State in regulations made by statutory instrument.
- (5) A statutory instrument containing regulations made under subsection (4) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.