



# Company Directors Disqualification Act 1986

## 1986 CHAPTER 46

### *Other cases of disqualification*

#### **[<sup>F1</sup>12C Determining unfitness etc: matters to be taken into account**

- (1) This section applies where a court must determine—
- (a) whether a person's conduct as a director of one or more companies or overseas companies makes the person unfit to be concerned in the management of a company;
  - (b) whether to exercise any discretion it has to make a disqualification order under any of sections 2 to 4, 5A, 8 [<sup>F2</sup>, 8ZG] or 10;
  - (c) where the court has decided to make a disqualification order under any of those sections or is required to make an order under section 6 [<sup>F3</sup> or 8ZF], what the period of disqualification should be.

- (2) But this section does not apply where the court in question is one mentioned in section 2(2)(b) or (c).

- (3) This section also applies where the Secretary of State must determine—
- (a) whether a person's conduct as a director of one or more companies or overseas companies makes the person unfit to be concerned in the management of a company;
  - (b) whether to exercise any discretion the Secretary of State has to accept a disqualification undertaking under section 5A, 7 or 8.

- [ This section also applies where an officer of Revenue and Customs must determine—
- <sup>F4</sup>(3A) (a) whether a person's conduct as a director of one or more companies or overseas companies makes the person unfit to be concerned in the management of a company;
- (b) whether to exercise any discretion the officer has to accept a disqualification undertaking under section 8ZF or 8ZG.]

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**Changes to legislation:** There are currently no known outstanding effects for the Company Directors Disqualification Act 1986, Section 12C. (See end of Document for details)

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- (4) In making any such determination in relation to a person, the court or the Secretary of State [<sup>F5</sup>or the officer (as the case may be)] must—
- (a) in every case, have regard in particular to the matters set out in paragraphs 1 to 4 of Schedule 1;
  - (b) in a case where the person concerned is or has been a director of a company or overseas company, also have regard in particular to the matters set out in paragraphs 5 to 7 of that Schedule.
- (5) In this section “director” includes a shadow director.
- (6) Subsection (1A) of section 6 applies for the purposes of this section as it applies for the purposes of that section.
- (7) The Secretary of State may by order modify Schedule 1; and such an order may contain such transitional provision as may appear to the Secretary of State to be necessary or expedient.
- (8) The power to make an order under this section is exercisable by statutory instrument.
- (9) An order under this section may not be made unless a draft of the instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.]

#### Textual Amendments

- F1** S. 12C inserted (26.5.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 106(5)**, 164(1); S.I. 2015/1329, reg. 3(c); S.I. 2015/1689, reg. 2(d)
- F2** Word in s. 12C(1)(b) inserted (22.2.2024) by [Finance Act 2024 \(c. 3\)](#), **Sch. 13 para. 2(7)(a)(i)** (with Sch. 13 para. 4(2))
- F3** Words in s. 12C(1)(c) inserted (22.2.2024) by [Finance Act 2024 \(c. 3\)](#), **Sch. 13 para. 2(7)(a)(ii)** (with Sch. 13 para. 4(2))
- F4** S. 12C(3A) inserted (22.2.2024) by [Finance Act 2024 \(c. 3\)](#), **Sch. 13 para. 2(7)(b)** (with Sch. 13 para. 4(2))
- F5** Words in s. 12C(4) inserted (22.2.2024) by [Finance Act 2024 \(c. 3\)](#), **Sch. 13 para. 2(7)(c)** (with Sch. 13 para. 4(2))

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

- C1** S. 12C applied (with modifications) by S.I. 1994/2421, art. 16, **Sch. 8** (as amended (E.W.) (8.12.2017) by [The Insolvency \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/1119\)](#), reg. 1(1), Sch. 2 paras. 4, 8)

**Changes to legislation:**

There are currently no known outstanding effects for the Company Directors Disqualification Act 1986, Section 12C.