

STATUTORY INSTRUMENTS

1986 No. 692 (S. 69)

SHERIFF COURT, SCOTLAND

Act of Sederunt (Disqualification of Directors etc.) 1986

Made - - - - 10th April 1986

Coming into Operation 28th April 1986

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 32 of the Sheriff Courts (Scotland) Act 1971(a), and of all other powers enabling them in that behalf, do hereby enact and declare: —

Citation, commencement and interpretation

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Disqualification of Directors etc.) 1986 and shall come into operation on 28th April 1986.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

(3) In this Act of Sederunt —

“the 1985 Act” means the Insolvency Act 1985(b).

Disqualification of unfit directors of insolvent companies

2.—(1) Applications for a disqualification order under section 12(3) of the 1985 Act shall be made by summary application.

(2) In an application under sub-paragraph (1) which proceeds as undefended, evidence submitted in the form of affidavits shall be admissible in place of parole evidence.

(3) For the purposes of this paragraph —

(a) “affidavit” includes affirmation and statutory or other declaration; and

(b) an affidavit shall be treated as admissible if it is duly emitted before a Notary Public or any other competent authority.

Orders to comply with requirement for information or inspection

3.—(1) This paragraph applies to an application to the court under rule 4 of the Insolvent Companies (Reports on Conduct of Directors) (Scotland) Rules 1986(c).

(2) Subject to sub-paragraph (3), the application shall be made by summary application.

(a) 1971 c.58.
(b) 1985 c.65.
(c) S.I. 1986/626.

(3) Where an application has been made under section 12(3) of the 1985 Act for a disqualification order, the application under this paragraph may be made by minute in the proceedings in which that order is sought.

Declarator of liability to contribute to company's assets

4.—(1) This paragraph applies to an application by a liquidator under section 15(1) of the 1985 Act, for a declarator that a director, or former director, of a company which is in the course of being wound up, is liable to make a contribution to the assets of the company.

(2) Subject to sub-paragraph (3), the application shall be made by summary application.

(3) Where the company is being wound up by the court, the application may be made by minute in the winding-up proceedings.

Emslie,
Lord President,
I.P.D.

Edinburgh.
10th April 1986.

EXPLANATORY NOTE

(This Note is not part of the Act of Sederunt.)

This Act of Sederunt provides sheriff court procedures in connection with those provisions of Part II, Chapter 1 (Disqualification and Personal Liability of Directors and Others) of the Insolvency Act 1985, which come into operation on 28th April 1986.

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