

**EXPLANATORY MEMORANDUM TO
THE COMPANIES (DISQUALIFICATION ORDERS) REGULATIONS 2009**

2009 No. 2471

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to require certain court officers to provide the Secretary of State with particulars of disqualification orders and grants of leave in relation to such orders or disqualification undertakings made or accepted under the Company Directors Disqualification Act 1986 (“the CDDA”), and of any action taken by a court in consequence of which any such orders or undertakings are varied or cease to be in force. The instrument prescribes the particulars and form in which the particulars are to be provided by the court officers to the Secretary of State. Section 18 of the CDDA requires the Secretary of State to maintain a public register from the particulars so furnished.

3. Matters of special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 This instrument revokes and replaces the Companies (Disqualification Orders) Regulations 2001 (S.I. 2001/967) (“the 2001 Regulations”) as amended by S.I. 2002/1834 and 2004/1940. It consolidates the 2001 Regulations with minor amendments.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

• *What is being done and why*

7.1 The purpose of this instrument is to consolidate the 2001 Regulations and to make certain necessary minor amendments. Key changes from the 2001 Regulations (as amended) include a new definition of “leave granted” in relation to the retention

and disposal of information furnished to the Secretary of State relating to disqualification orders made, disqualification undertakings accepted and leave granted in relation to such orders and undertakings in Northern Ireland. Certain changes within the courts made by the Courts Act 2003 and the Constitutional Reform Act 2005 have necessitated amendments concerning the identity of the court officers who are required to provide the Secretary of State with particulars under section 18 of the CDDA. Also, the reference to section 723B of the Companies Act 1985 relating to confidentiality orders has been removed in the light of the repeal of that provision by the Companies Act 2006, and alternative provision has been made for the provision of service addresses by directors. In addition, the particulars that court officers must provide to the Secretary of State have been expanded to cover competition disqualification orders made under section 9A of the CDDA.

8. Consultation outcome

8.1 No formal consultation has been undertaken, although officials within the policy areas affected and the courts have been informed of the changes.

9. Guidance

9.1 As the changes made in this instrument update administrative forms and procedures used by Government officials and court officers no formal guidance has been published.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Insolvency Service monitors the efficient working of the insolvency framework and evaluates legislative changes to the insolvency legislation. In view of the fact that this instrument makes only minor changes of an administrative nature no specific monitoring of these changes will be undertaken.

13. Contact

Stephen Parcej at The Insolvency Service (Tel: 0207 291 6761 or e-mail: Stephen.parcej@insolvency.gsi.gov.uk) can answer any queries regarding this instrument.