

STATUTORY INSTRUMENTS

2002 No. 3150 (N.I. 4)

The Company Directors Disqualification (Northern Ireland) Order 2002

- - - - - 17th December 2002

Modifications etc. (not altering text)

- C1** Order applied (with modifications) (31.7.2015) by [The European Grouping of Territorial Cooperation Regulations 2015 \(S.I. 2015/1493\)](#), **reg. 10** (with reg. 11)
- C2** Order modified (1.1.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(3)(c), **271(5)** (with arts. 8(8), 121(3), 307)
- C3** Order applied (1.8.2007) by [European Grouping of Territorial Cooperation Regulations 2007 \(S.I. 2007/1949\)](#), **reg. 9**
- C4** Order power to amend conferred (17.2.2009 for certain purposes otherwise 21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 158(2)(b), 159(2)(b)**, 167 (with s. 247); S.I. 2009/296, **arts. 2, 3**, Sch. para. 3
- C5** Order applied (with modifications) (21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 121**, 134 (with s. 247); S.I. 2009/296, **art. 3**, Sch. para. 2
- C6** Order applied (with modifications) (21.2.2009) by [Banking Act 2009 \(c. 1\)](#), **ss. 155**, 167 (with s. 247); S.I. 2009/296, **art. 3**, Sch. para. 3
- C7** Order modified by 1986 c. 53, s. 90E (as inserted (21.2.2009) by [Building Societies \(Insolvency and Special Administration\) Order 2009 \(S.I. 2009/805\)](#), **arts. 6**, 17)
- C8** Order applied (with modifications) (8.2.2011) by [Investment Bank Special Administration Regulations 2011 \(S.I. 2011/245\)](#), regs. 1, 8(7), 9, **15**, 16-21, 24-26, Schs. 1-5

Introductory

Title and commencement

1.—(1) This Order may be cited as the Company Directors Disqualification (Northern Ireland) Order 2002.

(2) This Order shall come into operation on such day or days as the Department may by order appoint^{F1}.

F1 fully exercised by SR 2003/345

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

“administrative receiver” has the meaning given by Article 5(1) of [^{F2}the Insolvency (Northern Ireland) Order 1989];

[^{F3} “ CMA ” means the Competition and Markets Authority;]

[^{F4} “ company ” means—

- (a) a company registered under the Companies Act 2006 in Northern Ireland, or
- (b) a company that may be wound up under Part 6 of the Insolvency (Northern Ireland) Order 1989 (unregistered companies);]

[^{F5} “ the Companies Acts ” has the meaning given by section 2(1) of the Companies Act 2006;]

[^{F6} “ the Companies Acts ” has the meaning given in section 2 of the Companies Act 2006;]

^{F7}

^{F8}

^{F9}

“the Department” means the Department of Enterprise, Trade and Investment;

[^{F10} “ director ” includes any person occupying the position of director by whatever name called;]

^{F11}

[^{F12} “ officer ” has the same meaning as in the Companies Acts (see section 1173(1) of the Companies Act 2006);]

“the official receiver” means, in relation to the winding up of a company or the bankruptcy of an individual, any officer of the Department who by virtue of Article 355 or 357 of [^{F13}the Insolvency (Northern Ireland) Order 1989] is authorised to act as the official receiver in relation to that winding up or bankruptcy;

^{F14} ...

[^{F15}“overseas company” is a company which is incorporated or formed outside Northern Ireland;]

“prescribed” means prescribed by regulations;

[^{F16} “ the registrar ” means the registrar of companies for Northern Ireland;]

^{F17}[“regulations” means—

- (a) in Article 13D, regulations made by the Secretary of State, and
- (b) in other provisions of this Order, regulations made by the Department subject (except in Article 23(3)) to negative resolution;]

“shadow director”, in relation to a company, means a person in accordance with whose directions or instructions the directors of the company are accustomed to act [^{F18}, but so that a person is not deemed a shadow director by reason only that the directors act—

- (a) on advice given by that person in a professional capacity;
- (b) in accordance with instructions, a direction, guidance or advice given by that person in the exercise of a function conferred by or under a statutory provision;
- (c) in accordance with guidance or advice given by that person in that person's capacity as a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975)];

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33).

(3) Article 6 of [F19]the Insolvency (Northern Ireland) Order 1989] (interpretation for Parts II to VII of that Order) applies as regards references to a company's insolvency and to its going into liquidation; and references to acting as an insolvency practitioner are to be read in accordance with Article 3 of that Order.

[F20(4) Any reference to provisions, or a particular provision, of the Companies Acts or the Insolvency (Northern Ireland) Order 1989 includes the corresponding provisions or provision of corresponding earlier legislation.]

[F21(5) Subject to the provisions of this Article, expressions that are defined for the purposes of the Companies Acts [F22(see section 1174 of, and Schedule 8 to, the Companies Act 2006)] have the same meaning in this Order.]

(6) Any reference to acting as receiver—

- (a) includes acting as manager or as both receiver and manager, but
- (b) does not include acting as administrative receiver.

- F2** Art. 2(2): words in the definition of "administrative receiver" 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. 204(2)(a)** (with art. 10)
- F3** Words in art. 2(2) inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 224(b)** (with art. 3)
- F4** Art. 2(2): definition of "company" 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. 204(2)(b)** (with art. 10)
- F5** Art. 2(2): definition of "the Companies Acts" 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. 204(2)(c)** (with art. 10)
- F6** Art. 2(2): definition of "the Companies Acts" inserted (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(2)(a)(iii)** (with arts. 6, 11, 12)
- F7** Art. 2(2): definition of "the companies legislation" omitted (1.10.2009) by virtue of [Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), **Sch. 1 para. 204(2)(d)** (with art. 10)
- F8** Art. 2(2): definition of "the Companies Order" omitted (1.10.2009) by virtue of [Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), **Sch. 1 para. 204(2)(d)** (with art. 10)
- F9** Art. 2(2): definition of "the Companies Orders" repealed (6.4.2008) by [Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), arts. 2(2), 3, **Sch. 1 para. 226(2)(a)(ii)**, **Sch. 2** (with arts. 6, 11, 12)
- F10** Art. 2(2): definition of "director" 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. 204(2)(e)** (with art. 10)
- F11** Art. 2(2): definition of "the Insolvency Order" omitted (1.10.2009) by virtue of [Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), **Sch. 1 para. 204(2)(f)** (with art. 10)
- F12** Art. 2(2): definition of "officer" 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. 204(2)(g)** (with art. 10)

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Company Directors Disqualification (Northern Ireland) Order 2002. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F13** Art. 2(2): words in the definition of "the official receiver" 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. 204(2)(h)** (with art. 10)
- F14** Words in art. 2(2) omitted (1.4.2014) by virtue of The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 224(a)** (with art. 3)
- F15** Words in art. 2(2) inserted (1.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 8 para. 9(2)**; S.I. 2015/1689, reg. 2(h)
- F16** Art. 2(2): definition of "the registrar" 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. 204(2)(i)** (with art. 10)
- F17** 2005 NI 9
- F18** Words in art. 2(2) substituted (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 91(2), 164(3)(g)(iii)**
- F19** Words in art. 2(3) 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. 204(3)** (with art. 10)
- F20** Art. 2(4) 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. 204(4)** (with art. 10)
- F21** Art. 2(5) 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(2)(c)** (with arts. 6, 11, 12)
- F22** Words in art. 2(5) 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. 204(5)** (with art. 10)

Modifications etc. (not altering text)

- C9** Art. 2(2)-(6) 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 orders: general

3.—(1) In the circumstances specified in this Order a court may, and under^[F23] Articles 9 and 13A] shall, make against a person a disqualification order, that is to say an order that, for a period specified in the order—

- (a) he shall not be a director of a company, act as receiver of a company's property or in any way, whether directly or indirectly, be concerned or take part in the promotion, formation or management of a company unless (in each case) he has the leave of the High Court, and
- (b) he shall not act as an insolvency practitioner.

(2) In each Article which gives to a court power or, as the case may be, imposes on it the duty to make a disqualification order there is specified the maximum (and, in ^[F24]Articles 9 and 11A], the minimum) period of disqualification which may or (as the case may be) must be imposed by means of the order and, unless the court otherwise orders, the period of disqualification so imposed shall begin at the end of the period of 21 days beginning with the date of the order.

(3) Where a disqualification order is made against a person who is already subject to such an order or to a disqualification undertaking, the periods specified in those orders or, as the case may be, in the order and the undertaking shall run concurrently.

(4) A disqualification order may be made on grounds which are or include matters other than criminal convictions, notwithstanding that the person in respect of whom it is to be made may be criminally liable in respect of those matters.

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F23 2005 NI 9

F24 Words in art. 3(2) substituted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015](#) (c. 26), s. 164(1), [Sch. 8 para. 9\(3\)](#); S.I. 2015/1689, reg. 2(h)

Modifications etc. (not altering text)

C10 Art. 3 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 undertakings: general

4.—(1) In the circumstances specified in Articles [^{F25}8A, 10, 11, 11C and 11E] the Department may accept a disqualification undertaking, that is to say an undertaking by any person that, for a period specified in the undertaking, the person—

- (a) will not be a director of a company, act as receiver of a company's property or in any way, whether directly or indirectly, be concerned or take part in the promotion, formation or management of a company unless (in each case) he has the leave of the High Court, and
- (b) will not act as an insolvency practitioner.

(2) The maximum period which may be specified in a disqualification undertaking is 15 years; and the minimum period which may be specified in a disqualification undertaking under Article 10 [^{F26}or 11C] is two years.

(3) Where a disqualification undertaking by a person who is already subject to such an undertaking or to a disqualification order is accepted, the periods specified in those undertakings or (as the case may be) the undertaking and the order shall run concurrently.

(4) In determining whether to accept a disqualification undertaking by any person, the Department may take account of matters other than criminal convictions, notwithstanding that the person may be criminally liable in respect of those matters.

F25 Words in art. 4(1) substituted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015](#) (c. 26), s. 164(1), [Sch. 8 para. 9\(4\)\(a\)](#); S.I. 2015/1689, reg. 2(h)

F26 Words in art. 4(2) inserted (1.10.2015) by [Small Business, Enterprise and Employment Act 2015](#) (c. 26), s. 164(1), [Sch. 8 para. 9\(4\)\(b\)](#); S.I. 2015/1689, reg. 2(h)

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.

[^{F27}(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^{F28}....