

## SCHEDULES

### SCHEDULE 12

Section 295.

#### SUPPLEMENTARY PROVISIONS IN CONNECTION WITH DISQUALIFICATION ORDERS

##### PART I

##### ORDERS UNDER SECTIONS 296 TO 299

###### *Application for order*

- 1 A person intending to apply for the making of an order under any of sections 296 to 299 by the court having jurisdiction to wind up a company shall give not less than 10 days' notice of his intention to the person against whom the order is sought; and on the hearing of the application the last-mentioned person may appear and himself give evidence or call witnesses.
- 2 An application to a court with jurisdiction to wind up companies for the making of such an order against any person may be made by the Secretary of State or the official receiver, or by the liquidator or any past or present member or creditor of any company in relation to which that person has committed or is alleged to have committed an offence or other default

###### *Hearing of application*

- 3 On the hearing of an application made by the Secretary of State or the official receiver or the liquidator the applicant 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.

###### *Application for leave under an order*

- 4 (1) As regards the court to which application must be made for leave under a disqualification order made under any of sections 296 to 299, the following applies.
  - (2) Where the application is for leave to promote or form a company, it is any court with jurisdiction to wind up companies.
  - (3) Where the application is for leave to be a liquidator or director of, or otherwise to take part in the management of a company, or to be a receiver or manager of a company's property, it is any court having jurisdiction to wind up that company.
- 5 On the hearing of an application for leave made by a person against whom a disqualification order has been made on the application of the Secretary of State, the official receiver or the liquidator, the Secretary of State, official receiver or liquidator 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.

## PART II

### ORDERS UNDER SECTION 300

#### *Application for order*

- 6 (1) In the case of a person who is or has been a director of a company which has gone into liquidation as mentioned in section 300(1) and is being wound up by the court, any application under that section shall be made by the official receiver or, in Scotland, the Secretary of State.
- (2) In any other case an application shall be made by the Secretary of State,
- 7 Where the official receiver or the Secretary of State intends to make an application under the section in respect of any person, he shall give not less than 10 days' notice of his intention to that person.

#### *Hearing of application*

- 8 On the hearing of an application under section 300 by the official receiver or the Secretary of State, or of an application for leave by a person against whom an order has been made on the application of the official receiver or Secretary of State—
- (a) the official receiver or 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, and
- (b) the person against whom the order is sought may appear and himself give evidence or call witnesses.

## PART III

### TRANSITIONAL PROVISIONS AND SAVINGS FROM COMPANIES ACT 1981, SS. 93, 94

- 9 Sections 296 and 298 (1)(b) do not apply in relation to anything done before 15th June 1982 by a person in his capacity as liquidator of a company or as receiver or manager of a company's property.
- 10 Subject to paragraph 9—
- (a) section 296 applies in a case where a person is convicted on indictment of an offence which he committed (and, in the case of a continuing offence, has ceased to commit) before 15th June 1982 ; but in such a case a disqualification order under that section shall not be made for a period in excess of 5 years ;
- (b) that section does not apply in a case where a person is convicted summarily—
- (i) in England and Wales, if he had consented so to be tried before that date, or
- (ii) in Scotland, if the summary proceedings commenced before that date.
- 11 Subject to paragraph 9, section 298 applies in relation to an offence committed or other thing done before 15th June 1982 ; but a disqualification order made on the grounds of such an offence or other thing done shall not be made for a period in excess of 5 years.

- 12 The powers of a court under section 299 are not exercisable in a case where a person is convicted of an offence which he committed (and, in the case of a continuing offence, had ceased to commit) before 15th June 1982.
- 13 For purposes of section 297(1) and section 299, no account is to be taken of any offence which was committed, or any default order which was made, before 1st June 1977.
- 14 An order made under section 28 of the Companies Act 1976 has effect as if made under section 297 of this Act; and an application made before 15th June 1982 for such an order is to be treated as an application for an order under the section last mentioned.
- 15 The period which may be specified as the period of disqualification in an order under section 300 may not exceed 5 years if none of the conduct to which the court has regard under subsection (1) of the section occurred after 15th June 1982.
- 16 Section 300(1) does not apply unless at least one of the companies there mentioned has gone into liquidation after 1st October 1977 ; and the conduct to which regard may be had under that subsection does not include conduct as director of a company that has gone into liquidation before that date.