



Company Directors Disqualification Act 1986

1986 CHAPTER 46

Disqualification for unfitness

6 Duty of court to disqualify unfit directors^{F1}....

(1) The court shall make a disqualification order against a person in any case where, on an application under this section^{F2}...—

[^{F3}(a) the court is satisfied—

(i) that the person is or has been a director of a company which has at any time become insolvent (whether while the person was a director or subsequently), or

(ii) that the person has been a director of a company which has at any time been dissolved without becoming insolvent (whether while the person was a director or subsequently), and]

[^{F3}(b) the court is satisfied that the person's conduct as a director of that company (either taken alone or taken together with the person's conduct as a director of one or more other companies or overseas companies) makes the person unfit to be concerned in the management of a company.]

[^{F4}(1A) In this section references to a person's conduct as a director of any company or overseas company include, where that company or overseas company has become insolvent, references to that person's conduct in relation to any matter connected with or arising out of the insolvency.]

(2) For the purposes of this section^{F5}... , a company becomes insolvent if—

(a) the company goes into liquidation at a time when its assets are insufficient for the payment of its debts and other liabilities and the expenses of the winding up,

[^{F6}(b) the company enters administration,]

(c) an administrative receiver of the company is appointed;

^{F7}

Changes to legislation: There are currently no known outstanding effects for the Company Directors Disqualification Act 1986, Cross Heading: Disqualification for unfitness. (See end of Document for details)

[^{F8}(2A) For the purposes of this section, an overseas company becomes insolvent if the company enters into insolvency proceedings of any description (including interim proceedings) in any jurisdiction.]

[^{F9}(3) In this section and section 7(2), “the court” means—

- (a) where the company in question is being or has been wound up by the court, that court,
- (b) where the company in question is being or has been wound up voluntarily, any court which has or (as the case may be) had jurisdiction to wind it up,
[where neither paragraph (a) nor (b) applies but an administrator or
- ^{F10}(c) administrative receiver has at any time been appointed in respect of the company in question, any court which has jurisdiction to wind it up],
- [where the company in question has been dissolved without becoming
- ^{F11}(d) insolvent, a court which at the time it was dissolved had jurisdiction to wind it up.]

(3A) Sections 117 and 120 of the ^{M1}Insolvency Act 1986 (jurisdiction) shall apply for the purposes of subsection (3) as if the references in the definitions of “registered office” to the presentation of the petition for winding up were references—

- (a) in a case within paragraph (b) of that subsection, to the passing of the resolution for voluntary winding up,
[in a case within paragraph (c) of that subsection, to the appointment of the
- ^{F12}(b) administrator or (as the case may be) administrative receiver.]

(3B) Nothing in subsection (3) invalidates any proceedings by reason of their being taken in the wrong court; and proceedings—

- (a) for or in connection with a disqualification order under this section, or
- (b) in connection with a disqualification undertaking accepted under section 7, may be retained in the court in which the proceedings were commenced, although it may not be the court in which they ought to have been commenced.

(3C) In this section and section 7, “director” includes a shadow director]

(4) Under this section the minimum period of disqualification is 2 years, and the maximum period is 15 years.

Textual Amendments

- F1** Words in s. 6 heading omitted (15.12.2021 for specified purposes, 15.2.2022 in so far as not already in force) by virtue of [Rating \(Coronavirus\) and Directors Disqualification \(Dissolved Companies\) Act 2021 \(c. 34\)](#), **ss. 2(2)(a)**, 4(4)(b)(5) (with s. 2(14))
- F2** Words in s. 6(1) omitted (15.12.2021 for specified purposes, 15.2.2022 in so far as not already in force) by virtue of [Rating \(Coronavirus\) and Directors Disqualification \(Dissolved Companies\) Act 2021 \(c. 34\)](#), **ss. 2(2)(b)(i)**, 4(4)(b)(5) (with s. 2(14))
- F3** S. 6(1)(a)(b) substituted (15.12.2021 for specified purposes, 15.2.2022 in so far as not already in force) by [Rating \(Coronavirus\) and Directors Disqualification \(Dissolved Companies\) Act 2021 \(c. 34\)](#), **ss. 2(2)(b)(ii)**, 4(4)(b)(5) (with s. 2(14))
- F4** S. 6(1A) 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(2)(b)**, 164(1); S.I. 2015/1329, reg. 3(c); S.I. 2015/1689, reg. 2(d) (with Sch. para. 2)

Changes to legislation: There are currently no known outstanding effects for the Company Directors Disqualification Act 1986, Cross Heading: Disqualification for unfitness. (See end of Document for details)

- F5** Words in s. 6(2) omitted (26.5.2015 for specified purposes, 1.10.2015 in so far as not already in force) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), [Sch. 7 para. 7](#); S.I. 2015/1329, reg. 3(c); S.I. 2015/1689, reg. 2(g)
- F6** S. 6(2)(b) substituted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, [Sch. 17 para. 41\(a\)](#) (with s. 249(1)-(3)); S.I. 2003/2093, [art. 2\(1\)](#), [Sch. 1](#) (subject to transitional provisions in arts. 3-8 (as amended by S.I. 2003/2332, art. 2))
- F7** Words in s. 6(2) omitted (26.5.2015 for specified purposes, 1.10.2015 in so far as not already in force) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), [ss. 106\(2\)\(c\)](#), 164(1); S.I. 2015/1329, reg. 3(c); S.I. 2015/1689, reg. 2(d) (with [Sch. para. 2](#))
- F8** S. 6(2A) 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\(2\)\(d\)](#), 164(1); S.I. 2015/1329, reg. 3(c); S.I. 2015/1689, reg. 2(d) (with [Sch. para. 2](#))
- F9** S. 6(3)-(3C) substituted (2.4.2001) for s. 6(3) by 2000 c. 39, s. 8, [Sch. 4 Pt. I para. 5](#); S.I. 2001/766, [art. 2\(1\)\(a\)](#) (subject to transitional provisions in art. 3)
- F10** S. 6(3)(c) substituted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, [Sch. 17 para. 41\(b\)](#) (with s. 249(1)-(3)); S.I. 2003/2093, [art. 2\(1\)](#), [Sch. 1](#) (subject to transitional provisions in arts. 3-8 (as amended by S.I. 2003/2332, art. 2))
- F11** S. 6(3)(d) inserted (15.12.2021 for specified purposes, 15.2.2022 in so far as not already in force) by [Rating \(Coronavirus\) and Directors Disqualification \(Dissolved Companies\) Act 2021 \(c. 34\)](#), [ss. 2\(2\)\(e\)](#), 4(4)(b)(5) (with s. 2(14))
- F12** S. 6(3A)(b) substituted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, [Sch. 17 para. 41\(c\)](#) (with s. 249(1)-(3)); S.I. 2003/2093, [art. 2\(1\)](#), [Sch. 1](#) (subject to transitional provisions in arts. 3-8 (as amended by S.I. 2003/2332, art. 2))

Modifications etc. (not altering text)

- C1** Ss. 4–6 extended (with modifications) (1.7.1989) by S.I. 1989/638, [regs. 20, 21](#)
- C2** Ss. 6–7 extended (with modifications) by S.I. 1986/2142, [art. 6](#)
- C3** s. 6 applied (with modifications) (1.12.1994) by S.I. 1994/2421, [art. 16](#), [Sch. 8](#)
S. 6 amended (1.12.2001) by 2000 c. 8, s. 356(1) (as substituted by 2000 c. 39, [ss. 15\(3\)\(a\)\(b\)](#), 16(1)); S.I. 2001/3538, [art. 2\(1\)](#)
- C4** Ss. 6-10 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](#))
- C5** S. 6(2) applied (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. 108\(3\)](#), 164(1); S.I. 2015/1329, reg. 3(c); S.I. 2015/1689, reg. 2(e)

Marginal Citations

- M1** 1986 c. 45.

7 ^[F13]Disqualification orders under section 6: applications and acceptance of undertakings

- (1) If it appears to the Secretary of State that it is expedient in the public interest that a disqualification order under section 6 should be made against any person, an application for the making of such an order against that person may be made—
- by the Secretary of State, or
 - if the Secretary of State so directs in the case of a person who is or has been a director of a company which is being ^[F14]or has been] wound up by the court in England and Wales, by the official receiver.

Changes to legislation: There are currently no known outstanding effects for the Company Directors Disqualification Act 1986, Cross Heading: Disqualification for unfitnes. (See end of Document for details)

- (2) Except with the leave of the court, an application for the making under that section of a disqualification order against any person shall not be made after the end of the period of [^{F15}3 years] beginning with [^{F16}—
- (a) in a case where the person is or has been a director of a company which has become insolvent, the day on which the company became insolvent, or
 - (b) in a case where the person has been a director of a company which has been dissolved without becoming insolvent, the day on which the company was dissolved.]
- [^{F17}(2A) If it appears to the Secretary of State that the conditions mentioned in section 6(1) are satisfied as respects any person who has offered to give him a disqualification undertaking, he may accept the undertaking if it appears to him that it is expedient in the public interest that he should do so (instead of applying, or proceeding with an application, for a disqualification order).]
- ^{F18}(3)
- (4) The Secretary of State or the official receiver may require [^{F19}any person] —
- (a) to furnish him with such information with respect to [^{F20}that person's or another person's conduct as a director of a company which has at any time become insolvent [^{F21}or been dissolved without becoming insolvent] (whether while the person was a director or subsequently), and]
 - (b) to produce and permit inspection of such books, papers and other records [^{F22}as are considered by the Secretary of State or (as the case may be) the official receiver to be relevant to that person's or another person's conduct as such a director],
- as the Secretary of State or the official receiver may reasonably require for the purpose of determining whether to exercise, or of exercising, any function of his under this section.
- [^{F23}(5) Subsections (1A) and (2) of section 6 apply for the purposes of this section as they apply for the purposes of that section.]

Textual Amendments

- F13** S. 7 heading substituted (26.5.2015 for specified purposes, 6.4.2016 in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 107(4)**, 164(1); S.I. 2015/1329, [reg. 3\(c\)](#); S.I. 2016/321, [reg. 3\(b\)](#) (with [Sch. paras. 1, 2](#))
- F14** Words in s. 7(1)(b) inserted (2.4.2001) by 2000 c. 39, s. 8, **Sch. 4 Pt. I para. 6(a)**; S.I. 2001/766, **art. 2(1)(a)** (subject to transitional provisions in [art. 3](#))
- F15** Words in s. 7(2) substituted (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. 108(1)**, 164(1) (with s. 108(2)); S.I. 2015/1329, [reg. 3\(c\)](#); S.I. 2015/1689, [reg. 2\(e\)](#)
- F16** S. 7(2)(a)(b) substituted for words (15.12.2021 for specified purposes, 15.2.2022 in so far as not already in force) by [Rating \(Coronavirus\) and Directors Disqualification \(Dissolved Companies\) Act 2021 \(c. 34\)](#), **ss. 2(3)(a)**, 4(4)(b)(5) (with s. 2(14))
- F17** S. 7(2A) inserted (2.4.2001) by 2000 c. 39, s. **6(3)**; S.I. 2001/766, **art. 2(1)(a)** (subject to transitional provisions in [art. 3](#))
- F18** S. 7(3) omitted (26.5.2015 for specified purposes, 6.4.2016 in so far as not already in force) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 107(3)**, 164(1); S.I. 2015/1329, [reg. 3\(c\)](#); S.I. 2016/321, [reg. 3\(b\)](#) (with [Sch. paras. 1, 2](#))

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- F19** Words in s. 7(4) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\), s. 115\(7\), Sch. 6 para. 11\(2\)](#); S.I. 2015/1732, art. 2(e)(iv) (with art. 5)
- F20** Words in s. 7(4)(a) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\), s. 115\(7\), Sch. 6 para. 11\(3\)](#); S.I. 2015/1732, art. 2(e)(iv) (with art. 5)
- F21** Words in s. 7(4)(a) inserted (15.12.2021 for specified purposes, 15.2.2022 in so far as not already in force) by [Rating \(Coronavirus\) and Directors Disqualification \(Dissolved Companies\) Act 2021 \(c. 34\), ss. 2\(3\)\(b\), 4\(4\)\(b\)\(5\)](#) (with s. 2(14))
- F22** Words in s. 7(4)(b) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\), s. 115\(7\), Sch. 6 para. 11\(4\)](#); S.I. 2015/1732, art. 2(e)(iv) (with art. 5)
- F23** S. 7(5) 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 \(c. 26\), s. 164\(1\), Sch. 7 para. 8](#); S.I. 2015/1329, reg. 3(c); S.I. 2015/1689, reg. 2(g)

Modifications etc. (not altering text)

- C4** Ss. 6-10 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](#))
- C6** S. 7 extended (with modifications) (1.7.1989) by S.I. 1989/638, [regs. 20, 21](#)
- C7** S. 7 applied (with modifications) (1.12.1994) by S.I. 1994/2421, art. 16, [Sch. 8](#)
S. 7 amended (1.12.2001) by [2000 c. 8, s. 356\(1\)](#) (as substituted by [2000 c. 39, ss. 15\(3\)\(a\)\(b\), 16\(1\)](#)); S.I. 3538, art. 2(1)

[^{F24}7A Office-holder's report on conduct of directors

- (1) The office-holder in respect of a company which is insolvent must prepare a report (a “conduct report”) about the conduct of each person who was a director of the company—
- (a) on the insolvency date, or
 - (b) at any time during the period of 3 years ending with that date.
- (2) For the purposes of this section a company is insolvent if—
- (a) the company is in liquidation and at the time it went into liquidation its assets were insufficient for the payment of its debts and other liabilities and the expenses of the winding up,
 - (b) the company has entered administration, or
 - (c) an administrative receiver of the company has been appointed;
- and subsection (1A) of section 6 applies for the purposes of this section as it applies for the purpose of that section.
- (3) A conduct report must, in relation to each person, describe any conduct of the person which may assist the Secretary of State in deciding whether to exercise the power under section 7(1) or (2A) in relation to the person.
- (4) The office-holder must send the conduct report to the Secretary of State before the end of—
- (a) the period of 3 months beginning with the insolvency date, or
 - (b) such other longer period as the Secretary of State considers appropriate in the particular circumstances.
- (5) If new information comes to the attention of an office-holder, the office-holder must send that information to the Secretary of State as soon as reasonably practicable.

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- (6) “New information” is information which an office-holder considers should have been included in a conduct report prepared in relation to the company, or would have been so included had it been available before the report was sent.
- (7) If there is more than one office-holder in respect of a company at any particular time (because the company is insolvent by virtue of falling within more than one paragraph of subsection (2) at that time), subsection (1) applies only to the first of the office-holders to be appointed.
- (8) In the case of a company which is at different times insolvent by virtue of falling within one or more different paragraphs of subsection (2)—
- (a) the references in subsection (1) to the insolvency date are to be read as references to the first such date during the period in which the company is insolvent, and
 - (b) subsection (1) does not apply to an office-holder if at any time during the period in which the company is insolvent a conduct report has already been prepared and sent to the Secretary of State.
- (9) The “office-holder” in respect of a company which is insolvent is—
- (a) in the case of a company being wound up by the court in England and Wales, the official receiver;
 - (b) in the case of a company being wound up otherwise, the liquidator;
 - (c) in the case of a company in administration, the administrator;
 - (d) in the case of a company of which there is an administrative receiver, the receiver.
- (10) The “insolvency date”—
- (a) in the case of a company being wound up by the court, means the date on which the court makes the winding-up order (see section 125 of the Insolvency Act 1986);
 - (b) in the case of a company being wound up by way of a members' voluntary winding up, means the date on which the liquidator forms the opinion that the company will be unable to pay its debts in full (together with interest at the official rate) within the period stated in the directors' declaration of solvency under section 89 of the Insolvency Act 1986;
 - (c) in the case of a company being wound up by way of a creditors' voluntary winding up where no such declaration under section 89 of that Act has been made, means the date of the passing of the resolution for voluntary winding up;
 - (d) in the case of a company which has entered administration, means the date the company did so;
 - (e) in the case of a company in respect of which an administrative receiver has been appointed, means the date of that appointment.
- (11) For the purposes of subsection (10)(e), any appointment of an administrative receiver to replace an administrative receiver who has died or vacated office pursuant to section 45 of the Insolvency Act 1986 is to be ignored.
- (12) In this section—
- “court” has the same meaning as in section 6;
 - “director” includes a shadow director.]

Changes to legislation: There are currently no known outstanding effects for the Company Directors Disqualification Act 1986, Cross Heading: Disqualification for unfitness. (See end of Document for details)

Textual Amendments

F24 S. 7A inserted (26.5.2015 for specified purposes, 6.4.2016 in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 107(2)**, 164(1); S.I. 2015/1329, reg. 3(c); S.I. 2016/321, reg. 3(b) (with Sch. paras. 1, 2)

Modifications etc. (not altering text)

C4 Ss. 6-10 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)

8 ^{F25}Disqualification of director on finding of unfitness.]

^{F26}(1) If it appears to the Secretary of State ^{F27}... that it is expedient in the public interest that a disqualification order should be made against a person who is, or has been, a director or shadow director of a company, he may apply to the court for such an order.

^{F28}(1A)]

(2) The court may make a disqualification order against a person where, on an application under this section, it is satisfied that his conduct in relation to the company [^{F29}(either taken alone or taken together with his conduct as a director or shadow director of one or more other companies or overseas companies)] makes him unfit to be concerned in the management of a company.

^{F30}(2A) Where it appears to the Secretary of State ^{F31}... that, in the case of a person who has offered to give him a disqualification undertaking—

- (a) the conduct of the person in relation to a company of which the person is or has been a director or shadow director [^{F32}(either taken alone or taken together with his conduct as a director or shadow director of one or more other companies or overseas companies)] makes him unfit to be concerned in the management of a company, and
- (b) it is expedient in the public interest that he should accept the undertaking (instead of applying, or proceeding with an application, for a disqualification order),

he may accept the undertaking.]

^{F33}(2B) Subsection (1A) of section 6 applies for the purposes of this section as it applies for the purposes of that section.]

(3) In this section “the court” means the High Court or, in Scotland, the Court of Session.

(4) The maximum period of disqualification under this section is 15 years.

Textual Amendments

F25 S. 8 heading substituted (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. 109(2)**, 164(1); S.I. 2015/1329, reg. 3(c); S.I. 2015/1689, reg. 2(e)

F26 S. 8(1)(1A) substituted (1.12.2001) for s. 8(1) by S.I. 2001/3649, **arts. 1, 39**

F27 Words in s. 8(1) omitted (26.5.2015 for specified purposes, 1.10.2015 in so far as not already in force) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 109(1)(a)**, 164(1); S.I. 2015/1329, reg. 3(c); S.I. 2015/1689, reg. 2(e)

Changes to legislation: There are currently no known outstanding effects for the Company Directors Disqualification Act 1986, Cross Heading: Disqualification for unfitness. (See end of Document for details)

- F28** S. 8(1A) omitted (26.5.2015 for specified purposes, 1.10.2015 in so far as not already in force) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), [ss. 109\(1\)\(b\)](#), 164(1); S.I. 2015/1329, [reg. 3\(c\)](#); S.I. 2015/1689, [reg. 2\(e\)](#)
- F29** Words in s. 8(2) 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\(3\)\(a\)](#), 164(1); S.I. 2015/1329, [reg. 3\(c\)](#); S.I. 2015/1689, [reg. 2\(d\)](#) (with [Sch. para. 2](#))
- F30** S. 8(2A) inserted (2.4.2001) by 2000 c. 39, [s. 6\(4\)](#); S.I. 2001/766, [art. 2\(1\)\(a\)](#) (subject to transitional provisions in [art. 3](#))
- F31** Words in s. 8(2A) omitted (26.5.2015 for specified purposes, 1.10.2015 in so far as not already in force) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), [ss. 109\(1\)\(c\)](#), 164(1); S.I. 2015/1329, [reg. 3\(c\)](#); S.I. 2015/1689, [reg. 2\(e\)](#)
- F32** Words in s. 8(2A)(a) 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\(3\)\(b\)](#), 164(1); S.I. 2015/1329, [reg. 3\(c\)](#); S.I. 2015/1689, [reg. 2\(d\)](#) (with [Sch. para. 2](#))
- F33** S. 8(2B) 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\(3\)\(c\)](#), 164(1); S.I. 2015/1329, [reg. 3\(c\)](#); S.I. 2015/1689, [reg. 2\(d\)](#) (with [Sch. para. 2](#))

Modifications etc. (not altering text)

- C4** Ss. 6-10 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](#))
- C8** S. 8 extended (with modifications) by S.I. 1986/2142, [art. 6](#)
- C9** S. 8 extended (with modifications) (1.7.1989) by S.I. 1989/638, [regs. 20, 21](#)
- C10** S. 8 applied (with modifications) (1.12.1994) by S.I. 1994/2421, [art. 16](#), [Sch. 8](#) (as amended (1.12.2001) by S.I. 2001/3649, [arts. 1, 470](#))

Changes to legislation:

There are currently no known outstanding effects for the Company Directors Disqualification Act 1986, Cross Heading: Disqualification for unfitness.