



Company Officer Disqualification Details

1 Company Directors and Secretaries

A company director may be disqualified as a result of an investigation by one of the following authorities:-

- The Police - if fraud is suspected.
- DTI Investigations - for general misconduct whilst running a company.
- The Insolvency Service - usually as a result of an investigation of a failed company (e.g. a director knowingly continues to trade while insolvent).
- Companies House - for breaches of the filing requirements as specified in the Companies Act. The Courts also have power to make a disqualification order where a company director is convicted of an indictable offence in relation to certain matters in connection with a company.

If a person is disqualified then that person shall not, for the period of his disqualification except with leave of the court:-

- Be a director of a company
- Act as a receiver of a company's property
- Be concerned or take part, whether directly or indirectly, in the promotion, formation or management of a company
- Act as an insolvency practitioner

1.1 The Company Directors Disqualification Act 1986 (the "CDDA")

Disqualification orders are made, and undertakings accepted, under sections 2 – 8 and 10 of the Company Directors Disqualification Act 1986 (the "CDDA").

Sections 2 - 5: Disqualifications for general misconduct in connection with companies –

2. On conviction of an indictable offence.
3. Persistent breaches of company legislation.
4. For fraud, etc, in winding-up.
5. On conviction of summary offences.

Sections 6 - 8: Disqualification for unfitness to act as company director –

6. Duty of court to disqualify unfit directors of insolvent companies.
7. The Secretary of State may accept a disqualification order where the conditions in section 6 are met and it appears to him to be expedient to do so in the public interest.
8. Disqualification after investigation of company, under companies and other legislation.
The Secretary of State may accept an *undertaking* from a company director under sections 7 or 8 of the Company Directors Disqualification Act 1986.

Section 10: Fraudulent or Wrongful Trading –

10. A court may make a disqualification order where it makes a declaration in relation to fraudulent or to wrongful trading.

Sections 11 and 12: Miscellaneous Disqualification –

11. This section provides that, except with leave of court, undischarged bankrupts are disqualified from acting as directors or taking part in or being concerned in the promotion, formation or management of a company
12. This section provides that, except with leave of court, where an administration order under section 429 of the County Courts Act 1984 has been revoked and an order made under that section a person subject to such an order is similarly disqualified and also may not act as a liquidator. The maximum period of disqualification depends upon the provision under which the order is made, or undertaking accepted, and is either 5 years or 15 years.

Section 17: Application for leave under an order or undertaking –

17. A Director may apply to a Court to vary the terms of the original Disqualification Order or undertaking. In certain circumstances the court may allow the disqualified individual to continue as a director of a specific company or companies for either an interim period of time or the whole term of the disqualification. Details of any exemptions will be provided.

For further information, please refer to the Company Directors Disqualification Act 1986.

1.2 Members of Limited Liability Partnerships

A member of a limited liability partnership (LLP) can be subject to a disqualification order or undertaking under the provisions of the Limited Liability Regulations 2001.

A partner can also be subject to a disqualification order or undertaking under the provisions of the Insolvent Partnerships Order 1994.