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Company Directors Disqualification Act 1986

CHAPTER 46

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ELIZABETH II



Company Directors Disqualification Act 1986

1986 CHAPTER 46

An Act to consolidate certain enactments relating to the disqualification of persons from being directors of companies, and from being otherwise concerned with a company's affairs. [25th July 1986]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Preliminary

1.—(1) In the circumstances specified below in this Act a court may, and under section 6 shall, make against a person a disqualification order, that is to say an order that he shall not, without leave of the court—

Disqualifi-
cation orders:
general.

- (a) be a director of a company, or
- (b) be a liquidator or administrator of a company, or
- (c) be a receiver or manager of a company's property, or
- (d) in any way, whether directly or indirectly, be concerned or take part in the promotion, formation or management of a company,

for a specified period beginning with the date of the order.

(2) In each section of this Act which gives to a court power or, as the case may be, imposes on it the duty to make a dis-

qualification order there is specified the maximum (and, in section 6, the minimum) period of disqualification which may or (as the case may be) must be imposed by means of the order.

(3) Where a disqualification order is made against a person who is already subject to such an order, the periods specified in those orders 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.

*Disqualification for general misconduct
in connection with companies*

Disqualifi-
cation on
conviction of
indictable
offence.

2.—(1) The court may make a disqualification order against a person where he is convicted of an indictable offence (whether on indictment or summarily) in connection with the promotion, formation, management or liquidation of a company, or with the receivership or management of a company's property.

(2) "The court" for this purpose means—

- (a) any court having jurisdiction to wind up the company in relation to which the offence was committed, or
- (b) the court by or before which the person is convicted of the offence, or
- (c) in the case of a summary conviction in England and Wales, any other magistrates' court acting for the same petty sessions area ;

and for the purposes of this section the definition of "indictable offence" in Schedule 1 to the Interpretation Act 1978 applies for Scotland as it does for England and Wales.

(3) The maximum period of disqualification under this section is—

- (a) where the disqualification order is made by a court of summary jurisdiction, 5 years, and
- (b) in any other case, 15 years.

3.—(1) The court may make a disqualification order against a person where it appears to it that he has been persistently in default in relation to provisions of the companies legislation requiring any return, account or other document to be filed with, delivered or sent, or notice of any matter to be given, to the registrar of companies.

(2) On an application to the court for an order to be made under this section, the fact that a person has been persistently in default in relation to such provisions as are mentioned above may

1978 c. 30.

Disqualifi-
cation for
persistent
breaches of
companies
legislation.

(without prejudice to its proof in any other manner) be conclusively proved by showing that in the 5 years ending with the date of the application he has been adjudged guilty (whether or not on the same occasion) of three or more defaults in relation to those provisions.

(3) A person is to be treated under subsection (2) as being adjudged guilty of a default in relation to any provision of that legislation if—

- (a) he is convicted (whether on indictment or summarily) of an offence consisting in a contravention of or failure to comply with that provision (whether on his own part or on the part of any company), or
- (b) a default order is made against him, that is to say an order under any of the following provisions—
 - (i) section 244 of the Companies Act (order requiring delivery of company accounts),
 - (ii) section 713 of that Act (enforcement of company's duty to make returns),
 - (iii) section 41 of the Insolvency Act (enforcement of receiver's or manager's duty to make returns), or
 - (iv) section 170 of that Act (corresponding provision for liquidator in winding up),
 in respect of any such contravention of or failure to comply with that provision (whether on his own part or on the part of any company).

(4) In this section "the court" means any court having jurisdiction to wind up any of the companies in relation to which the offence or other default has been or is alleged to have been committed.

(5) The maximum period of disqualification under this section is 5 years.

4.—(1) The court may make a disqualification order against a person if, in the course of the winding up of a company, it appears that he—

- (a) has been guilty of an offence for which he is liable (whether he has been convicted or not) under section 458 of the Companies Act (fraudulent trading), or
- (b) has otherwise been guilty, while an officer or liquidator of the company or receiver or manager of its property, of any fraud in relation to the company or of any breach of his duty as such officer, liquidator, receiver or manager.

(2) In this section "the court" means any court having jurisdiction to wind up any of the companies in relation to which

the offence or other default has been or is alleged to have been committed ; and “ officer ” includes a shadow director.

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

Disqualifi-
cation on
summary
conviction.

5.—(1) An offence counting for the purposes of this section is one of which a person is convicted (either on indictment or summarily) in consequence of a contravention of, or failure to comply with, any provision of the companies legislation requiring a return, account or other document to be filed with, delivered or sent, or notice of any matter to be given, to the registrar of companies (whether the contravention or failure is on the person’s own part or on the part of any company).

(2) Where a person is convicted of a summary offence counting for those purposes, the court by which he is convicted (or, in England and Wales, any other magistrates’ court acting for the same petty sessions area) may make a disqualification order against him if the circumstances specified in the next subsection are present.

(3) Those circumstances are that, during the 5 years ending with the date of the conviction, the person has had made against him, or has been convicted of, in total not less than 3 default orders and offences counting for the purposes of this section ; and those offences may include that of which he is convicted as mentioned in subsection (2) and any other offence of which he is convicted on the same occasion.

(4) For the purposes of this section—

- (a) the definition of “ summary offence ” in Schedule 1 to the Interpretation Act 1978 applies for Scotland as for England and Wales, and
- (b) “ default order ” means the same as in section 3(3)(b).

(5) The maximum period of disqualification under this section is 5 years.

Disqualification for unfitness

Duty of court
to disqualify
unfit directors
of insolvent
companies.

6.—(1) The court shall make a disqualification order against a person in any case where, on an application under this section, it is satisfied—

- (a) that he is or has been a director of a company which has at any time become insolvent (whether while he was a director or subsequently), and
- (b) that his conduct as a director of that company (either taken alone or taken together with his conduct as a director of any other company or companies) makes him unfit to be concerned in the management of a company.

(2) For the purposes of this section and the next, 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,
 - (b) an administration order is made in relation to the company, or
 - (c) an administrative receiver of the company is appointed ;
- and references to a person's conduct as a director of any company or companies include, where that company or any of those companies has become insolvent, that person's conduct in relation to any matter connected with or arising out of the insolvency of that company.

(3) In this section and the next " the court " means—

- (a) in the case of a person who is or has been a director of a company which is being wound up by the court, the court by which the company is being wound up,
- (b) in the case of a person who is or has been a director of a company which is being wound up voluntarily, any court having jurisdiction to wind up the company,
- (c) in the case of a person who is or has been a director of a company in relation to which an administration order is in force, the court by which that order was made, and
- (d) in any other case, the High Court or, in Scotland, the Court of Session ;

and in both sections " director " includes a shadow director.

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

7.—(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—

Applications to court under s. 6; reporting provisions.

- (a) by the Secretary of State, or
- (b) 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 wound up by the court in England and Wales, by the official receiver.

(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 2 years beginning with the day on which the company of which that person is or has been a director became insolvent.

(3) If it appears to the office-holder responsible under this section, that is to say—

- (a) in the case of a company which is being wound up by the court in England and Wales, the official receiver,
- (b) in the case of a company which is being wound up otherwise, the liquidator,
- (c) in the case of a company in relation to which an administration order is in force, the administrator; or
- (d) in the case of a company of which there is an administrative receiver, that receiver,

that the conditions mentioned in section 6(1) are satisfied as respects a person who is or has been a director of that company, the office-holder shall forthwith report the matter to the Secretary of State.

(4) The Secretary of State or the official receiver may require the liquidator, administrator or administrative receiver of a company, or the former liquidator, administrator or administrative receiver of a company—

- (a) to furnish him with such information with respect to any person's conduct as a director of the company, and
- (b) to produce and permit inspection of such books, papers and other records relevant to that 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.

Disqualifi-
cation after
investigation
of company.

8.—(1) If it appears to the Secretary of State from a report made by inspectors under section 437 of the Companies Act, or from information or documents obtained under section 447 or 448 of that Act, that it is expedient in the public interest that a disqualification order should be made against any person who is or has been a director or shadow director of any company, he may apply to the court for such an order to be made against that person.

(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 makes him unfit to be concerned in the management of a company.

(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.

9.—(1) Where it falls to a court to determine whether a person's conduct as a director or shadow director of any particular company or companies makes him unfit to be concerned in the management of a company, the court shall, as respects his conduct as a director of that company or, as the case may be, each of those companies, have regard in particular—

Matters for determining unfitness of directors.

(a) to the matters mentioned in Part I of Schedule 1 to this Act, and

(b) where the company has become insolvent, to the matters mentioned in Part II of that Schedule ;

and references in that Schedule to the director and the company are to be read accordingly.

(2) Section 6(2) applies for the purposes of this section and Schedule 1 as it applies for the purposes of sections 6 and 7.

(3) Subject to the next subsection, any reference in Schedule 1 to an enactment contained in the Companies Act or the Insolvency Act includes, in relation to any time before the coming into force of that enactment, the corresponding enactment in force at that time.

(4) The Secretary of State may by order modify any of the provisions of Schedule 1 ; and such an order may contain such transitional provisions as may appear to the Secretary of State necessary or expedient.

(5) The power to make orders under this section is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Other cases of disqualification

10.—(1) Where the court makes a declaration under section 213 or 214 of the Insolvency Act that a person is liable to make a contribution to a company's assets, then, whether or not an application for such an order is made by any person, the court may, if it thinks fit, also make a disqualification order against the person to whom the declaration relates.

Participation in wrongful trading.

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

11.—(1) It is an offence for a person who is an undischarged bankrupt to act as director of, or directly or indirectly to take part in or be concerned in the promotion, formation or management of, a company, except with the leave of the court.

Undischarged bankrupts.

(2) "The court" for this purpose is the court by which the person was adjudged bankrupt or, in Scotland, sequestration of his estates was awarded.

(3) In England and Wales, the leave of the court shall not be given unless notice of intention to apply for it has been served on the official receiver; and it is the latter's duty, if he is of opinion that it is contrary to the public interest that the application should be granted, to attend on the hearing of the application and oppose it.

Failure to pay
under county
court
administration
order.

12.—(1) The following has effect where a court under section 429 of the Insolvency Act revokes an administration order under Part VI of the County Courts Act 1984.

1984 c. 28.

(2) A person to whom that section applies by virtue of the order under section 429(2)(b) shall not, except with the leave of the court which made the order, act as director or liquidator of, or directly or indirectly take part or be concerned in the promotion, formation or management of, a company.

Consequences of contravention

Criminal
penalties.

13.—If a person acts in contravention of a disqualification order or of section 12(2), or is guilty of an offence under section 11, he is liable—

- (a) on conviction on indictment, to imprisonment for not more than 2 years or a fine, or both; and
- (b) on summary conviction, to imprisonment for not more than 6 months or a fine not exceeding the statutory maximum, or both.

Offences by
body
corporate

14.—(1) Where a body corporate is guilty of an offence of acting in contravention of a disqualification order, and it is proved that the offence occurred with the consent or connivance of, or was attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity he, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

15.—(1) A person is personally responsible for all the relevant debts of a company if at any time—

- (a) in contravention of a disqualification order or of section 11 of this Act he is involved in the management of the company, or
- (b) as a person who is involved in the management of the company, he acts or is willing to act on instructions given without the leave of the court by a person whom he knows at that time to be the subject of a disqualification order or to be an undischarged bankrupt.

Personal liability for company's debts where person acts while disqualified.

(2) Where a person is personally responsible under this section for the relevant debts of a company, he is jointly and severally liable in respect of those debts with the company and any other person who, whether under this section or otherwise, is so liable.

(3) For the purposes of this section the relevant debts of a company are—

- (a) in relation to a person who is personally responsible under paragraph (a) of subsection (1), such debts and other liabilities of the company as are incurred at a time when that person was involved in the management of the company, and
- (b) in relation to a person who is personally responsible under paragraph (b) of that subsection, such debts and other liabilities of the company as are incurred at a time when that person was acting or was willing to act on instructions given as mentioned in that paragraph.

(4) For the purposes of this section, a person is involved in the management of a company if he is a director of the company or if he is concerned, whether directly or indirectly, or takes part, in the management of the company.

(5) For the purposes of this section a person who, as a person involved in the management of a company, has at any time acted on instructions given without the leave of the court by a person whom he knew at that time to be the subject of a disqualification order or to be an undischarged bankrupt is presumed, unless the contrary is shown, to have been willing at any time thereafter to act on any instructions given by that person.

Supplementary provisions

Application
for disqualifi-
cation order.

16.—(1) A person intending to apply for the making of a disqualification order 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 against any person of a disqualification order under any of sections 2 to 5 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.

(3) On the hearing of any application under this Act 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.

17.—(1) As regards the court to which application must be made for leave under a disqualification order, the following applies—

(a) where the application is for leave to promote or form a company, it is any court with jurisdiction to wind up companies, and

(b) where the application is for leave to be a liquidator, administrator 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.

(2) 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.

Register of
disqualifi-
cation orders.

18.—(1) The Secretary of State may make regulations requiring officers of courts to furnish him with such particulars as the regulations may specify of cases in which—

(a) a disqualification order is made, or

(b) any action is taken by a court in consequence of which such an order is varied or ceases to be in force, or

- (c) leave is granted by a court for a person subject to such an order to do any thing which otherwise the order prohibits him from doing ;

and the regulations may specify the time within which, and the form and manner in which, such particulars are to be furnished.

(2) The Secretary of State shall, from the particulars so furnished, continue to maintain the register of orders, and of cases in which leave has been granted as mentioned in subsection (1)(c), which was set up by him under section 29 of the Companies Act 1976 and continued under section 301 of the Companies Act 1985.

(3) When an order of which entry is made in the register ceases to be in force, the Secretary of State shall delete the entry from the register and all particulars relating to it which have been furnished to him under this section or any previous corresponding provision.

(4) The register shall be open to inspection on payment of such fee as may be specified by the Secretary of State in regulations.

(5) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

19. Schedule 2 to this Act has effect—

- (a) in connection with certain transitional cases arising under sections 93 and 94 of the Companies Act 1981, so as to limit the power to make a disqualification order, or to restrict the duration of an order, by reference to events occurring or things done before those sections came into force,
- (b) to preserve orders made under section 28 of the Companies Act 1976 (repealed by the Act of 1981), and
- (c) to preclude any applications for a disqualification order under section 6 or 8, where the relevant company went into liquidation before 28th April 1986.

Special savings from repealed enactments 1981 c. 62.

Miscellaneous and general

20. In any proceedings (whether or not under this Act), any statement made in pursuance of a requirement imposed by or under sections 6 to 10, 15 or 19(c) of, or Schedule 1 to, this Act, or by or under rules made for the purposes of this Act under the Insolvency Act, may be used in evidence against any person making or concurring in making the statement.

Admissibility in evidence of statements.

Interaction
with
Insolvency Act.

21.—(1) References in this Act to the official receiver, in relation to the winding up of a company or the bankruptcy of an individual, are to any person who, by virtue of section 399 of the Insolvency Act, is authorised to act as the official receiver in relation to that winding up or bankruptcy; and, in accordance with section 401(2) of that Act, references in this Act to an official receiver includes a person appointed as his deputy.

(2) Sections 6 to 10, 15, 19(c) and 20 of, and Schedule 1 to, this Act are deemed included in Parts I to VII of the Insolvency Act for the purposes of the following sections of that Act—

section 411 (power to make insolvency rules);

section 414 (fees orders);

section 420 (orders extending provisions about insolvent companies to insolvent partnerships);

section 422 (modification of such provisions in their application to recognised banks); and

section 431 (summary proceedings).

(3) Section 434 of that Act (Crown application) applies to sections 6 to 10, 15, 19(c) and 20 of, and Schedule 1 to, this Act as it does to the provisions of that Act which are there mentioned.

Interpretation.

22.—(1) This section has effect with respect to the meaning of expressions used in this Act, and applies unless the context otherwise requires.

(2) The expression “company”—

(a) in section 11, includes an unregistered company and a company incorporated outside Great Britain which has an established place of business in Great Britain, and

(b) elsewhere, includes any company which may be wound up under Part V of the Insolvency Act.

(3) Section 247 in Part VII of the Insolvency Act (interpretation for the first Group of Parts of that Act) applies as regards references to a company’s insolvency and to its going into liquidation; and “administrative receiver” has the meaning given by section 251 of that Act.

(4) “Director” includes any person occupying the position of director, by whatever name called, and in sections 6 to 9 includes a shadow director.

(5) “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 (but so that a

person is not deemed a shadow director by reason only that the directors act on advice given by him in a professional capacity).

(6) Section 740 of the Companies Act applies as regards the meaning of “body corporate”; and “officer” has the meaning given by section 744 of that Act.

(7) In references to legislation other than this Act—

“the Companies Act” means the Companies Act 1985; 1985 c. 6.

“the Companies Acts” has the meaning given by section 744 of that Act; and

“the Insolvency Act” means the Insolvency Act 1986; 1986 c. 45.

and in sections 3(1) and 5(1) of this Act “the companies legislation” means the Companies Acts (except the Insider Dealing Act), Parts I to VII of the Insolvency Act and, in Part XV of that Act, sections 411, 413, 414, 416 and 417.

(8) Any reference to provisions, or a particular provision, of the Companies Acts or the Insolvency Act includes the corresponding provisions or provision of the former Companies Acts (as defined by section 735 (1)(c) of the Companies Act, but including also that Act itself) or, as the case may be, the Insolvency Act 1985. 1985 c. 65.

(9) Any expression for whose interpretation provision is made by Part XXVI of the Companies Act (and not by subsections (3) to (8) above) is to be construed in accordance with that provision.

23.—(1) The transitional provisions and savings in Schedule 3 to this Act have effect, and are without prejudice to anything in the Interpretation Act 1978 with regard to the effect of repeals. Transitional provisions, savings, repeals.

(2) The enactments specified in the second column of Schedule 4 to this Act are repealed to the extent specified in the third column of that Schedule. 1978 c. 30.

24.—(1) This Act extends to England and Wales and to Scotland. Extent. land.

(2) Nothing in this Act extends to Northern Ireland.

25. This Act comes into force simultaneously with the Insolvency Act 1986. Commencement.

26. This Act may be cited as the Company Directors Disqualification Act 1986. Citation.

SCHEDULES

Section 9.

SCHEDULE 1

MATTERS FOR DETERMINING UNFITNESS OF DIRECTORS

PART I

MATTERS APPLICABLE IN ALL CASES

1. Any misfeasance or breach of any fiduciary or other duty by the director in relation to the company.
2. Any misapplication or retention by the director of, or any conduct by the director giving rise to an obligation to account for, any money or other property of the company.
3. The extent of the director's responsibility for the company entering into any transaction liable to be set aside under Part XVI of the Insolvency Act (provisions against debt avoidance).
4. The extent of the director's responsibility for any failure by the company to comply with any of the following provisions of the Companies Act, namely—
 - (a) section 221 (companies to keep accounting records) ;
 - (b) section 222 (where and for how long records to be kept) ;
 - (c) section 288 (register of directors and secretaries) ;
 - (d) section 352 (obligation to keep and enter up register of members) ;
 - (e) section 353 (location of register of members) ;
 - (f) sections 363 and 364 (company's duty to make annual return) ;
 - (g) section 365 (time for completion of annual return) ; and
 - (h) sections 399 and 415 (company's duty to register charges it creates).
5. The extent of the director's responsibility for any failure by the directors of the company to comply with section 227 (directors' duty to prepare annual accounts) or section 238 (signing of balance sheet and documents to be annexed) of the Companies Act.

PART II

MATTERS APPLICABLE WHERE COMPANY HAS BECOME INSOLVENT

6. The extent of the director's responsibility for the causes of the company becoming insolvent.
7. The extent of the director's responsibility for any failure by the company to supply any goods or services which have been paid for (in whole or in part).

8. The extent of the director's responsibility for the company entering into any transaction or giving any preference, being a transaction or preference—

- (a) liable to be set aside under section 127 or sections 238 to 240 of the Insolvency Act, or
- (b) challengeable under section 242 or 243 of that Act or under any rule of law in Scotland.

9. The extent of the director's responsibility for any failure by the directors of the company to comply with section 98 of the Insolvency Act (duty to call creditors' meeting in creditors' voluntary winding up).

10. Any failure by the director to comply with any obligation imposed on him by or under any of the following provisions of the Insolvency Act—

- (a) section 22 (company's statement of affairs in administration);
- (b) section 47 (statement of affairs to administrative receiver);
- (c) section 66 (statement of affairs in Scottish receivership);
- (d) section 99 (directors' duty to attend meeting; statement of affairs in creditors' voluntary winding up);
- (e) section 131 (statement of affairs in winding up by the court);
- (f) section 234 (duty of any one with company property to deliver it up);
- (g) section 235 (duty to co-operate with liquidator, etc.).

SCHEDULE 2

Section 19.

SAVINGS FROM COMPANIES ACT 1981 ss.93, 94,
AND INSOLVENCY ACT 1985 SCHEDULE 9

1. Sections 2 and 4(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.

2. Subject to paragraph 1—

- (a) section 2 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.

3. Subject to paragraph 1, section 4 applies in relation to an offence committed or other thing done before 15th June 1982; but

SCH. 2 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.

4. The powers of a court under section 5 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.

5. For purposes of section 3(1) and section 5, no account is to be taken of any offence which was committed, or any default order which was made, before 1st June 1977.

1976 c. 69.

6. An order made under section 28 of the Companies Act 1976 has effect as if made under section 3 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.

7. Where—

(a) an application is made for a disqualification order under section 6 of this Act by virtue of paragraph (a) of sub-section (2) of that section, and

(b) the company in question went into liquidation before 28th April 1986 (the coming into force of the provision replaced by section 6),

the court shall not make an order under that section unless it could have made a disqualification order under section 300 of the Companies Act as it had effect immediately before the date specified in sub-paragraph (b) above.

8. An application shall not be made under section 8 of this Act in relation to a report made or information or documents obtained before 28th April 1986.

Section 23(1).

SCHEDULE 3

TRANSITIONAL PROVISIONS AND SAVINGS

1. In this Schedule, “the former enactments” means so much of the Companies Act, and so much of the Insolvency Act, as is repealed and replaced by this Act; and “the appointed day” means the day on which this Act comes into force.

2. So far as anything done or treated as done under or for the purposes of any provision of the former enactments could have been done under or for the purposes of the corresponding provision of this Act, it is not invalidated by the repeal of that provision but has effect as if done under or for the purposes of the corresponding provision; and any order, regulation, rule or other instrument made or having effect under any provision of the former enactments shall, insofar as its effect is preserved by this paragraph, be treated for all purposes as made and having effect under the corresponding provision.

3. Where any period of time specified in a provision of the former enactments is current immediately before the appointed day, this Act has effect as if the corresponding provision had been in

force when the period began to run ; and (without prejudice to the foregoing) any period of time so specified and current is deemed for the purposes of this Act—

SCH. 3

- (a) to run from the date or event from which it was running immediately before the appointed day, and
- (b) to expire (subject to any provision of this Act for its extension) whenever it would have expired if this Act had not been passed ;

and any rights, priorities, liabilities, reliefs, obligations, requirements, powers, duties or exemptions dependent on the beginning, duration or end of such a period as above mentioned shall be under this Act as they were or would have been under the former enactments.

4. Where in any provision of this Act there is a reference to another such provision, and the first-mentioned provision operates, or is capable of operating, in relation to things done or omitted, or events occurring or not occurring, in the past (including in particular past acts of compliance with any enactment, failures of compliance, contraventions, offences and convictions of offences) the reference to the other provision is to be read as including a reference to the corresponding provision of the former enactments.

5. Offences committed before the appointed day under any provision of the former enactments may, notwithstanding any repeal by this Act, be prosecuted and punished after that day as if this Act had not passed.

6. A reference in any enactment, instrument or document (whether express or implied, and in whatever phraseology) to a provision of the former enactments (including the corresponding provision of any yet earlier enactment) is to be read, where necessary to retain for the enactment, instrument or document the same force and effect as it would have had but for the passing of this Act, as, or as including, a reference to the corresponding provision by which it is replaced in this Act.

Section 23(2).

SCHEDULE 4

REPEALS

Chapter	Short title	Extent of repeal
1985 c. 6.	The Companies Act 1985.	Sections 295 to 299. Section 301. Section 302. Schedule 12. In Schedule 24, the entries relating to sections 295(7) and 302(1).
1985 c. 65.	The Insolvency Act 1985.	Sections 12 to 14. Section 16. Section 18. Section 108(2). Schedule 2. In Schedule 6, paragraphs 1, 2, 7 and 14. In Schedule 9, paragraphs 2 and 3.

TABLE OF DERIVATIONS

Note: The following abbreviations are used in this Table:—

“CA” = The Companies Act 1985 (c. 6).

“IA” = The Insolvency Act 1985 (c. 65).

Provision	Derivation
1	CA s. 295(1), (2), (4); IA Sch. 6 para. 1(1)–(3).
2	CA ss. 295(2), 296.
3	CA ss. 295(2), 297.
4	CA ss. 295(2), 298.
5	CA ss. 295(2), 299.
6	CA s. 295(2); IA ss. 12(1), (2), (7)–(9), 108(2).
7	IA s. 12(3)–(6).
8	CA s. 295(2); IA ss. 12(9), 13, 108(2).
9	IA ss. 12(9), 14.
10	CA s. 295(2); IA ss. 16, 108(2).
11	CA s. 302.
12	IA s. 221(2).
13	CA ss. 295(7), 302(1), Sch. 24.
14	CA s. 733(1)–(3); IA Sch. 6 para. 7.
15	IA s. 18(1) (part), (2)–(6).
16	CA s. 295(6) (part), Sch. 12 paras. 1–3; IA s. 108(2), Sch. 6 para. 1(4).
17	CA s. 295(6) (part), Sch. 12 paras. 4, 5; IA s. 108(2), Sch. 6 paras. 1(4), 14.
18	CA s. 301; IA s. 108(2), Sch. 6 para. 2.
19	CA s. 295(6); and see Sch. 2.
20	IA s. 231 (part).
21	IA ss. 106, 107, 108(1), (2), 222(1), 224(2), 227, 229, 234.
22	IA s. 108(1)–(4).
23	—
24	IA s. 236(4)(a).

Provision	Derivation
25	—
26	—
Sch. 1	IA Sch. 2.
Sch. 2	CA Sch. 12 Pt. III; IA Sch. 9 paras. 2, 3.
Sch. 3	—
Sch. 4	—

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