



The Insolvency  
Service

# Effects of a Disqualification Order

Note: This publication is intended as a guide for individuals subject to a disqualification order or undertaking, other parties may also find the information provided to be of relevance.

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## Introduction

A court has made a disqualification order against you under the Company Directors Disqualification Act 1986 (CDDA), or you have given a disqualification undertaking to the Secretary of State, which has been accepted. These are very serious matters; you could go to prison if you contravene the order or undertaking.

This publication gives you some idea of what the order or undertaking means. It does not give a complete list of everything you must and must not do, nor does it give you legal advice.

To understand exactly how the order or undertaking affects you, you should always get your own independent professional advice.

## Is the order or undertaking available to the public?

The order or undertaking will be registered at Companies House, which is required to maintain a register of all disqualified directors.

The Insolvency Service (the Service) operates an [online facility](#) which provides the public with details of recent disqualification results obtained by us including details of the unfit conduct that led to the disqualification. It is also possible to request details of the unfit conduct for older cases.

You can access these at [www.gov.uk/search-the-register-of-disqualified-company-directors](http://www.gov.uk/search-the-register-of-disqualified-company-directors).

## What am I not allowed to do?

While the order or undertaking is in force, it stops you acting as if you were a director. So you cannot avoid the order, or undertaking by simply changing your job description.

The order or undertaking also means that you must not get other people to manage a company under your instructions. If you do, those people may also be prosecuted for assisting you in contravening the order or undertaking.

## Can I take a job with a company?

The order or undertaking does not stop you having a job with a company, but unless you have court permission it does stop you:

- Acting as a director of a company
- Taking part, directly or indirectly, in the promotion, formation or management of a company or limited liability partnership
- Being a receiver of a company's property.

You also cannot act as an insolvency practitioner.

## What does 'company' mean and where does the order/undertaking apply?

The ban on being a director applies to all registered and unregistered companies formed in England, Wales and Scotland.

It applies to foreign companies if the company:

- Is registered in England, Wales and Scotland
- Has sufficient connection to England, Wales or Scotland (for example, if it carries on business or has assets here) even if it is not registered here.

The ban also applies in Northern Ireland. For more information visit [nibusinessinfo.co.uk](http://nibusinessinfo.co.uk).

In addition to companies, you must not do any of the prohibited acts in relation to the following organisations:

- Limited liability partnerships (LLPs)
- Building societies
- Incorporated friendly societies
- NHS foundation trusts
- Open-ended investment companies
- Registered societies
- Charitable incorporated organisations.

Other regulations may impose different geographic restrictions and other countries and/or their organisations may impose their own restrictions on people disqualified by the CDDA.

## Further information about the main restrictions

### Sole trader or partnership

The order or undertaking does not stop you carrying on business as a sole trader or in partnership with others. But if the order or undertaking was made after 6 April 2001, you must not be a member of or be concerned or take part in promoting, forming or managing a limited liability partnership unless you have court permission.

### Promoting or forming a company

The order or undertaking prevents you taking part in the promotion or formation of a company.

A promoter is anyone who takes part in forming a company or, for example, someone who takes part in raising capital for the company before it is formed.

Formation describes mainly the legal acts necessary to bring a company into existence. You must not be involved in any of the stages of incorporating a company.

### Management

The order or undertaking prevents you taking part or being concerned in the management of a company. 'Management of a company' is not confined to management of the internal affairs of that company. A manager may be someone in a position equivalent to that of a director (without having been appointed as such) or below director level.

Being concerned in the management of the company may include such activities as:

- Undertaking tasks in relation to the company's business, for example ordering, paying or negotiating with suppliers or customers, renting or buying business premises, hiring or firing employees, dealing with the company bank account
- Acting as a management consultant
- Acting in a governing role within the company
- Taking executive decisions as to the company's affairs or making it seem that you are in a position to take such decisions.

This list is not meant to be complete. Many other acts may, depending on the circumstances, amount to taking part or being concerned in the management of a company.

### **Company secretary**

The order or undertaking does not stop you acting as a company secretary. Whether you are called 'company secretary' is not relevant. What matters is the nature of the duties you will be carrying out. In some circumstances, acting as a company secretary may also be regarded as acting in the management of a company.

### **Shareholder**

You may act as a shareholder but you may wish to consider taking legal advice if you choose to issue directions or instructions to the director(s) of the company as a shareholder.

### **Other restrictions**

Many restrictions are placed on disqualified people by other laws and regulations, so you should consult relevant rules or legislation or get your own professional advice to find out the full extent of the restrictions that may specifically apply to you. These restrictions include:

#### **Charities**

The order or undertaking prevents you being a trustee without permission. In the case of an incorporated charity, permission is required from the court. In the case of an unincorporated charity, permission is required from the Charity Commission.

#### **Schools**

Several prohibitions exist in relation to school governance. The order or undertaking may prevent you acting as a school governor, as a temporary governor or as a member of a foundation body. You may also be prohibited from acting as a member of a 'school company'.

#### **Pension trustees**

The order or undertaking prevents you acting as a trustee of an occupational pension scheme without leave from the Pensions Regulator.

#### **Police**

Several disqualifications apply in relation to the police service. For example, the order or undertaking prevents you being a member of a police authority.

### **Registered social landlord**

The order or undertaking may prevent you from being a director, trustee or committee member of a registered social landlord (often called a housing association).

### **Health boards and social care bodies**

The order or undertaking may prevent you being a member of various health commissions and social care bodies.

### **Solicitors, barristers, accountants and other professionals**

The order or undertaking may affect your membership of your professional body and require you to report the fact of your disqualification to that body, so you should contact that body for assistance.

## **What happens if I contravene the order or undertaking?**

You are then committing a criminal offence and you could be fined and/or go to prison for up to 2 years and may be disqualified for a further period.

If you contravene the order or undertaking, you could also become personally liable for any debts of the company that are incurred while you are contravening the order or undertaking.

If you ask somebody to act on your behalf then that person could also be prosecuted and/or disqualified and become personally liable for the company's debts.

If the order has been made against, or the undertaking given by, a corporate director, and that corporation contravenes the order or undertaking, then its officers or managers can be punished as if the order or undertaking applied to them personally.

The Insolvency Service considers complaints from the public regarding contraventions of disqualification orders and undertakings. For more information about how to complain about a disqualified director visit our website at [www.gov.uk/insolvency-service](http://www.gov.uk/insolvency-service).

## **What other action might be taken against me?**

The disqualification, or absence of a disqualification, does not affect the right of the Secretary of State, or any other prosecuting authority, to bring criminal proceedings in respect of any conduct which may amount to an offence.

Nor does it affect the right of the liquidator or creditors to bring civil proceedings against director(s) in respect of any losses sustained as a result of any unfit conduct.

Compensation orders may be sought in cases where the conduct for which a person has been disqualified has led to a direct loss to creditors and no, or insufficient, action has resulted from the insolvency process. The conduct must have occurred after 01 October 2015.

Where appropriate the Service will also bring matters of possible unfit conduct to the attention of any other relevant regulator for them to consider.

## How do I obtain permission to act as a director whilst disqualified?

You can apply to the court under section 17 of the CDDA for permission to act as a director or to take part in the promotion, formation or management of a named company. The court cannot give permission to act as an insolvency practitioner.

You will have to satisfy the court that you have a reasonable need to do what you are asking – not just that you want to be a director.

You must also satisfy the court that, if it gives the permission requested, the public will be adequately protected and therefore the court may require safeguards and may impose conditions/restrictions on you.

If you are considering such an application then please contact the Service at [civil.proceedings.team@insolvency.gov.uk](mailto:civil.proceedings.team@insolvency.gov.uk) for further general information and guidance. However, it is important that you also consider obtaining your own independent professional advice.

## Where can I get more information?

For more information about our investigation and disqualification work, visit our website at [www.gov.uk/insolvency-service](http://www.gov.uk/insolvency-service).

All our publications are available at [www.gov.uk/government/collections/insolvency-service-guidance-publications](http://www.gov.uk/government/collections/insolvency-service-guidance-publications).

For general enquiries, contact the Insolvency Service Insolvency Enquiry Line on 0300 678 0015 or email [Insolvency.EnquiryLine@insolvency.gov.uk](mailto:Insolvency.EnquiryLine@insolvency.gov.uk).

Please note that the Enquiry Line can only give general information about insolvency. If your query relates to a specific case then you should either contact the officer dealing with that case or obtain independent professional advice as appropriate.

Her Majesty's Courts and Tribunals Service publishes a series of information publications and contact details on their website at: <http://www.justice.gov.uk/global/contacts/hmcts/index.htm>.

This publication provides general information only. Every effort has been made to ensure that the information is accurate, but it is not a full and authoritative statement of the law and you should not rely on it as such. The Insolvency Service cannot accept any responsibility for any errors or omissions as a result of negligence or otherwise.

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