



# Department for Business, Innovation & Skills

## **Small Business, Enterprise and Employment Act: Directors' Disqualification and Creditor Compensation fact sheet**

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## Directors' Disqualification and Creditor Compensation

### Aims of the measure:

- Modernise and strengthen the director disqualification regime to give the business community and consumers' confidence that wrongdoers will be barred as directors.
- Simplify the procedure whereby insolvency practitioners (liquidators, administrators, administrative receivers) and official receivers report on the conduct of the directors of insolvent companies.
- Strengthen mechanisms that compensate creditors for director misconduct.

### Measure will:

- Require insolvency practitioners to report to the SoS on the conduct of every director of a company that becomes insolvent.
- Require the report to describe any conduct which may assist the SoS in deciding whether it is in the public interest to apply for the making of a disqualification order.
- Require courts to consider a wider range of matters – including the director's track record and nature of losses- when deciding whether or not to disqualify.
- Enable disqualification proceedings to be taken in the UK where there has been misconduct, or directors have been convicted, in overseas companies.
- Enable proceedings to be taken against a person who has caused a director's unfitness.
- Increase the period of time within which disqualification proceedings may be taken following a formal insolvency from 2 to 3 years.
- Facilitate better working between regulators by removing legislative barriers which restrict the use which may be made of information and reports provided by other regulators in deciding whether or not to bring disqualification proceedings.
- New power to enable the SoS to apply for a compensation order to be made against a disqualified director where the misconduct has caused identifiable loss to creditors.
- Allow liquidators and administrators to assign certain legal claims to a 3<sup>rd</sup> party (such as a creditor or claims firm) that currently only the liquidator/administrator may pursue.
- Ensuring that automatic prohibitions that apply to bankrupts and persons subject to bankruptcy restrictions, preventing them from acting as directors and insolvency practitioners, applies consistently across the UK.

**Specific outcomes and impacts:**

- A simplified system for reporting director misconduct.
- An increase in confidence in our director disqualification regime.
- Greater transparency as to what director misconduct can lead to disqualification.
- More compensation for creditors who have suffered from director misconduct.
- An ability to disqualify persons for overseas conduct or where they have been convicted of relevant offences abroad.
- Better joining-up and more efficient working between financial regulators resulting in more effective interventions.



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