

## PRACTICE DIRECTION

# DIRECTORS DISQUALIFICATION PROCEEDINGS

## PART ONE

### 1. APPLICATION AND INTERPRETATION

**1.1** In this practice direction:

- (1) 'the Act' means the Company Directors Disqualification Act 1986 (as amended);
- (2) 'the Disqualification Rules' means the rules for the time being in force made under section 411 of the Insolvency Act 1986 in relation to disqualification proceedings<sup>1</sup>;
- (3) 'the Insolvency Rules' means the rules for the time being in force made under sections 411 and 412 of the Insolvency Act 1986 in relation to insolvency proceedings;
- (4) 'CPR' means the Civil Procedure Rules 1998 and 'CPR' followed by 'Part' or 'Rule' and a number means the part or Rule with that number in those Rules;
- (5) 'disqualification proceedings' has the meaning set out in paragraph 1.3 below;
- (6) 'a disqualification application' is an application under the Act for the making of a disqualification order;
- (7) 'registrar' means any judge of the High Court or the county court who is a registrar within the meaning of the Insolvency Rules;
- (8) 'companies court registrar' means any judge of the High Court sitting in the Royal Courts of Justice in London who is a registrar within the meaning of the Insolvency Rules.
- (9) except where the context otherwise requires references to:
  - (a) 'company' or 'companies' shall include references to 'partnership' or 'partnerships' and to 'limited liability partnership' and 'limited liability partnerships'
  - (b) 'director' shall include references to an 'officer' of a partnership and to a 'member' of a limited liability partnership;
  - (c) 'shadow director' shall include references to a 'shadow member' of a limited liability partnership
 and, in appropriate cases, the forms annexed to this practice direction shall be varied accordingly;
- (10) 'disqualification order' has the meaning set out in section 1 of the Act and 'disqualification undertaking' has the meaning set out in section 1A or section 9B of the Act (as the context requires);
- (11) a 'Section 8A application' is an application under section 8A of the Act to reduce the period for which a disqualification undertaking is in force or to provide for it to cease to be in force;
- (12) 'specified regulator' has the meaning set out in section 9E(2) of the Act.

**1.2** This practice direction shall come into effect on 26 April 1999 and shall replace all previous practice directions relating to disqualification proceedings.

**1.3** This practice direction applies to the following proceedings ('disqualification proceedings'):

- (1) disqualification applications made:

<sup>1</sup> The current rules are the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987. For convenience relevant references to the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987, which apply to disqualification applications under sections 7, 8 and 9A of the Act (see rule 1(3)), are set out in footnotes to this Practice Direction. This Practice Direction applies certain provisions contained in the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987 to disqualification proceedings other than applications under sections 7, 8 and 9A of the Act.

- (a) under section 2(2)(a) of the Act (after the person's conviction of an indictable offence in connection with the affairs of a company);
- (b) under section 3 of the Act (on the ground of persistent breaches of provisions of companies legislation);
- (c) under section 4 of the Act (on the ground of fraud etc);
- (d) by the Secretary of State or the official receiver under section 7(1) of the Act (on the ground that the person is or has been a director of a company which has at any time become insolvent and his conduct makes him unfit to be concerned in the management of a company);
- (e) by the Secretary of State under section 8 of the Act (on it appearing to the Secretary of State from investigative material that it is expedient in the public interest that a disqualification order should be made); or
- (f) by the Office of Fair Trading or a specified regulator under section 9A of the Act (on the ground of breach of competition law by an undertaking and unfitness to be concerned in the management of a company);
- (2) any application made under section 7(2) or 7(4) of the Act;
- (3) any application for permission to act made under section 17 of the Act for the purposes of any of sections 1(1)(a), 1A(1)(a) or 9B(4), or made under section 12(2) of the Act;
- (4) any application for a court order made under CPR Part 23 in the course of any of the proceedings set out in sub-paragraphs (1) to (3) above;
- (5) any application under the Act to the extent provided for by subordinate legislation<sup>1</sup>;
- (6) any section 8A application.

## 2. MULTI-TRACK

- 2.1** All disqualification proceedings are allocated to the multi-track. The CPR relating to allocation questionnaires and track allocation shall not apply.

## 3. RIGHTS OF AUDIENCE

- 3.1** Official receivers and deputy official receivers have right of audience in any proceedings to which this Practice Direction applies, including cases where a disqualification application is made by the Secretary of State or by the official receiver at his direction, and whether made in the High Court or a county court<sup>2</sup>.

# PART TWO DISQUALIFICATION APPLICATIONS

## 4. COMMENCEMENT

- 4.1** Sections 2(2)(a), 3(4), 4(2), 6(3), 8(3) and 9E(3) of the Act identify the civil courts which have jurisdiction to deal with disqualification applications.
- 4.1A** A disqualification application must be commenced by a claim form issued:
- (1) in the case of a disqualification application under section 9A of the Act, in the High Court out of the office of the companies court registrar at the Royal Courts of Justice;
  - (2) in any other case,

<sup>1</sup> Current subordinate legislation includes the Insolvent Partnerships Order 1994 and the Limited Liability Partnerships Regulations 2001.

<sup>2</sup> Rule 10 of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

- (a) in the High Court out of the office of the companies court registrar or a chancery district registry; and
- (b) in the county court, out of a county court office.

**4.2** Disqualification applications shall be made by the issue of a claim form in the form annexed hereto and the use of the procedure set out in CPR Part 8<sup>1</sup>, as modified by this practice direction and (where the application is made under sections 7, 8 or 9A of the Act) the Disqualification Rules. CPR rule 8.1(3) (power of the Court to order the application to continue as if the claimant had not used the Part 8 Procedure) shall not apply.

**4.3** When the claim form is issued, the claimant will be given a date for the first hearing of the disqualification application. This date is to be not less than eight weeks from the date of issue of the claim form<sup>2</sup>. The first hearing will be before a registrar.

## 5. HEADINGS

**5.1** Every claim form by which a disqualification application under the Act is begun and all affidavits, notices and other documents in the proceedings must be entitled in the matter of the company or companies in question and in the matter of the Act. In the case of any disqualification application under section 7 or 9A of the Act it is not necessary to mention in the heading any company other than that referred to in section 6(1)(a) or 9A(2) of the Act (as the case may be).

## 6. THE CLAIM FORM

**6.1** CPR Rule 8.2 does not apply. The claim form must state:

- (1) that CPR Part 8 (as modified by this practice direction) applies, and (if the application is made under sections 7, 8 or 9A of the Act) that the disqualification application is made in accordance with the Disqualification Rules<sup>3</sup>;
- (2) that the claimant seeks a disqualification order, and the section of the Act pursuant to which the disqualification application is made;
- (3) the period for which, in accordance with the Act, the court has power to impose a disqualification period.

The periods are as follows –

- (a) where the application is under section 2 of the Act, for a period of up to 15 years;
- (b) where the application is under section 3 of the Act, for a period of up to 5 years;
- (c) where the application is under section 4 of the Act, for a period of up to 15 years;
- (d) where the application is under section 7 of the Act, for a period of not less than 2, and up to 15, years<sup>4</sup>;
- (e) where the application is under section 8 or 9A of the Act, for a period of up to 15 years<sup>5</sup>.
- (4) in cases where the disqualification application is made under sections 7, 8 or 9A of the Act, that on the first hearing of the application, the court may hear and determine it summarily, without further or other notice to the defendant, and that, if the application is so determined, the court may impose a period of disqualification of up to 5 years but that if at the hearing of the application the court, on the evidence then before it, is minded to impose, in the case of any defendant, disqualification for any period longer than 5 years, it will not make a

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1 Rule 2(2) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987 as amended.

2 Rule 7(1) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

3 Rule 4(a) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

4 Rule 4(b)(i) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

5 Rule 4(b)(ii) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

disqualification order on that occasion but will adjourn the application to be heard (with further evidence, if any) at a later date that will be notified to the defendant<sup>1</sup>;

- (5) that any evidence which the defendant wishes the court to take into consideration must be filed in court in accordance with the time limits set out in paragraph 9 below (which time limits shall be set out in the notes to the Claim Form)<sup>2</sup>.

## 7. SERVICE OF THE CLAIM FORM

- 7.1** Service of claim forms in disqualification proceedings will be the responsibility of the claimant and will not be undertaken by the court.
- 7.2** The claim form shall be served by the claimant on the defendant. It may be served by sending it by first class post to his last known address; and the date of service shall, unless the contrary is shown, be deemed to be the 7<sup>th</sup> day following that on which the claim form was posted<sup>3</sup>. CPR r. 6.7(1) shall be modified accordingly. Otherwise Sections I and II of CPR Part 6 apply<sup>4</sup>.
- 7.3** Where any claim form or order of the court or other document is required under any disqualification proceedings to be served on any person who is not in England and Wales, the court may order service on him to be effected within such time and in such manner as it thinks fit, may require such proof of service as it thinks fit<sup>5</sup>, and may give such directions as to acknowledgment of service as it thinks fit. Section III of CPR Part 6 shall not apply.
- 7.4** The claim form served on the defendant shall be accompanied by an acknowledgement of service.

## 8. ACKNOWLEDGMENT OF SERVICE

- 8.1** The form of acknowledgment of service is annexed to this practice direction. CPR rules 8.3(2) and 8.3(3)(a) do not apply to disqualification applications.
- 8.2** In cases brought under section 7, 8 or 9A of the Act, the form of acknowledgement of service shall state that the defendant should indicate<sup>6</sup>:
- (1) whether he contests the application on the grounds that, in the case of any particular company –
- (a) he was not a director or shadow director of that company at a time when conduct of his, or of other persons, in relation to that company is in question;
- (b) his conduct as director or shadow director of that company was not as alleged in support of the application for a disqualification order;
- (c) in the case of an application made under section 7 of the Act, the company has at no time become insolvent within the meaning of section 6; or
- (d) in the case of an application under section 9A of the Act, the undertaking which is a company did not commit a breach of competition law within the meaning of that section.
- (2) whether, in the case of any conduct of his, he disputes the allegation that such conduct makes him unfit to be concerned in the management of a company; and
- (3) whether he, while not resisting the application for a disqualification order, intends to adduce mitigating factors with a view to reducing the period of disqualification.

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1 Rule 4(c) and (d) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

2 Rule 4(e) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

3 Rule 5(1) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

4 Attention is drawn to CPR Rule 6.14(2) regarding a certificate of service of the claim form.

5 Rule 5(2) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

6 Rule 5(4) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

**8.3** The defendant shall:

- (1) (subject to any directions to the contrary given under paragraph 7.3 above) file an acknowledgment of service in the prescribed form not more than 14 days after service of the claim form; and
- (2) serve a copy of the acknowledgment of service on the claimant and any other party.

**8.4** Where the defendant has failed to file an acknowledgment of service and the time period for doing so has expired, the defendant may attend the hearing of the application but may not take part in the hearing unless the court gives permission.

## 9. EVIDENCE

**9.1** Evidence in disqualification applications shall be by affidavit, except where the official receiver is a party, in which case his evidence may be in the form of a written report (with or without affidavits by other persons) which shall be treated as if it had been verified by affidavit by him and shall be prima facie evidence of any matter contained in it<sup>1</sup>.

**9.2** In the affidavits or (as the case may be) the official receiver's report in support of the application, there shall be included:

- (1) a statement of the matters by reference to which it is alleged that a disqualification order should be made against the defendant<sup>2</sup>; and
- (2) a statement of the steps taken to comply with any requirements imposed by sections 16(1) and 9C(4) of the Act

**9.3** When the claim form is issued:

- (1) the affidavit or report in support of the disqualification application must be filed in court;
- (2) exhibits must be lodged with the court where they shall be retained until the conclusion of the proceedings; and
- (3) copies of the affidavit/report and exhibits shall be served with the claim form on the defendant<sup>3</sup>.

**9.4** The defendant shall, within 28 days from the date of service of the claim form<sup>4</sup>:

- (1) file in court any affidavit evidence in opposition to the disqualification application that he or she wishes the court to take into consideration; and
- (2) lodge the exhibits with the court where they shall be retained until the conclusion of the proceedings; and
- (3) at the same time, serve upon the claimant a copy of the affidavits and exhibits.

**9.5** In cases where there is more than one defendant, each defendant is required to serve his evidence on the other defendants unless the court otherwise orders.

**9.6** The claimant shall, within 14 days from receiving the copy of the defendant's evidence<sup>5</sup>:

- (1) file in court any further affidavit or report in reply he wishes the court to take into consideration; and

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1 Rule 3(2) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987. Section 441 of the Companies Act 1985 makes provision for the admissibility in legal proceedings of a certified copy of a report of inspectors appointed under Part XIV of the Companies Act 1985. Note that the requirements of paragraph 8.1(2)(c) and (d) of this practice direction are additional to the provisions in the said rule 5(4).

2 Rule 3(3) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

3 Rule 3(1) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

4 Rule 6(1) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

5 Rule 6(2) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

- (2) lodge the exhibits with the court where they shall be retained until the conclusion of the proceedings; and
  - (3) at the same time serve a copy of the affidavits/reports and exhibits upon the defendant.
- 9.7** Prior to the first hearing of the disqualification application, the time for serving evidence may be extended by written agreement between the parties. After the first hearing, the extension of time for serving evidence is governed by CPR rules 2.11 and 29.5.
- 9.8** So far as is possible all evidence should be filed before the first hearing of the disqualification application.

## 10. THE FIRST HEARING OF THE DISQUALIFICATION APPLICATION

- 10.1** The date fixed for the first hearing of the disqualification application shall be not less than 8 weeks from the date of issue of the claim form<sup>1</sup>.
- 10.2** The hearing shall in the first instance be before the registrar<sup>2</sup>.
- 10.3** The registrar shall either determine the case on the date fixed or give directions and adjourn it<sup>3</sup>.
- 10.4** All interim directions should insofar as possible be sought at the first hearing of the disqualification application so that the disqualification application can be determined at the earliest possible date. The parties should take all such steps as they respectively can to avoid successive directions hearings.
- 10.5** In the case of a disqualification application made under sections 7, 8 or 9A of the Act, the registrar shall adjourn the case for further consideration if –
- (1) he forms the provisional opinion that a disqualification order ought to be made, and that a period of disqualification longer than 5 years is appropriate<sup>4</sup>; or
  - (2) he is of opinion that questions of law or fact arise which are not suitable for summary determination<sup>5</sup>.
- 10.6** If the registrar adjourns the application for further consideration he shall –
- (1) direct whether the application is to be heard by a registrar or by a judge<sup>6</sup>. This direction may at any time be varied by the court either on application or of its own initiative. If the court varies the direction in the absence of any of the parties, notice will be given to the parties;
  - (2) consider whether or not to adjourn the application to a judge so that the judge can give further directions;
  - (3) consider whether or not to make any direction with regard to fixing the trial date or a trial window;
  - (4) state the reasons for the adjournment<sup>7</sup>.

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<sup>1</sup> Rule 7(1) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

<sup>2</sup> Rule 7(2) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

<sup>3</sup> Rule 7(3) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

<sup>4</sup> Rule 7(4)(a) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

<sup>5</sup> Rule 7(4)(b) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

<sup>6</sup> Rule 7(5)(a) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

<sup>7</sup> Rule 7(5)(b) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

## 11. CASE MANAGEMENT

- 11.1** On the first or any subsequent hearing of the disqualification application, the registrar may also give directions as to the following matters:
- (1) the filing in court and the service of further evidence (if any) by the parties<sup>1</sup>;
  - (2) the time-table for the steps to be taken between the giving of directions and the hearing of the application;
  - (3) such other matters as the registrar thinks necessary or expedient with a view to an expeditious disposal of the application or the management of it generally<sup>2</sup>;
  - (4) the time and place of the adjourned hearing<sup>3</sup>; and
  - (5) the manner in which and the time within which notice of the adjournment and the reasons for it are to be given to the parties<sup>4</sup>.
- 11.2** Where a case is adjourned other than to a judge, it may be heard by the registrar who originally dealt with the case or by another registrar<sup>5</sup>.
- 11.3** If the companies court registrar adjourns the application to a judge, all directions having been complied with and the evidence being complete, the application will be referred to the Listing Office and any practice direction relating to listing shall apply accordingly.
- 11.4** In all disqualification applications, the Court may direct a pre-trial review ('PTR'), a case management conference or pre-trial check lists (listing questionnaires) (in the form annexed to this practice direction) and will fix a trial date or trial period in accordance with the provisions of CPR Part 29: the Multi Track as modified by any relevant practice direction made thereunder.
- 11.5** At the hearing of the PTR, the registrar may give any further directions as appropriate and, where the application is to be heard in the Royal Courts of Justice in London, unless the trial date has already been fixed, may direct the parties (by Counsel's clerks if applicable), to attend the Registrar at a specified time and place in order solely to fix a trial date. The court will give notice of the date fixed for the trial to the parties.
- 11.6** In all cases, the parties must inform the court immediately of any material change to the information provided in a pre-trial check list.

## 12. THE TRIAL

- 12.1** Trial bundles containing copies of –
- (1) the claim form;
  - (2) the acknowledgment of service;
  - (3) all evidence filed by or on behalf of each of the parties to the proceedings, together with the exhibits thereto;
  - (4) all relevant correspondence; and
  - (5) such other documents as the parties consider necessary;
- shall be lodged with the court.

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1 Rule 7(5)(c)(ii) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

2 Rule 7(5)(c)(iii) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

3 Rule 7(5)(c)(iv) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

4 Rule 7(5)(c)(i) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

5 Rule 7(6) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

- 12.2** Skeleton arguments should be prepared by all the parties in all but the simplest cases whether the case is to be heard by a registrar or a judge. They should comply with all relevant guidelines.
- 12.3** The advocate for the claimant should also in all but the simplest cases provide: (a) a chronology; (b) a *dramatis personae*; (c) in respect of each defendant, a list of references to the relevant evidence.
- 12.4** The documents mentioned in paragraph 12.1–12.3 above must be delivered to the court in accordance with any order of the court and/or any relevant practice direction<sup>1</sup>.
- (1) If the case is to be heard by a judge sitting in the Royal Courts of Justice, London, but the name of the judge is not known, or the judge is a deputy judge, these documents must be delivered to the Clerk of the Lists. If the name of the judge (other than a deputy judge) is known, these documents must be delivered to the judge's clerk;
- (2) If the case is to be heard by a companies court registrar, these documents must be delivered to Room 409, Thomas More Building, Royal Courts of Justice. Copies must be provided to the other party so far as possible when they are delivered to the court;
- (3) If the case is to be heard in the Chancery district registries in Birmingham, Bristol, Caernarfon, Cardiff, Leeds, Liverpool, Manchester, Mold, Newcastle upon Tyne or Preston, the addresses for delivery are set out in Annex 1;
- (4) If the case is to be heard in a county court, the documents should be delivered to the relevant county court office.
- 12.5** Copies of documents delivered to the court must, so far as possible, be provided to each of the other parties to the disqualification application.
- 12.6** The provisions in paragraphs 12.1 to 12.5 above are subject to any order of the court making different provision.

## 13. SUMMARY PROCEDURE

- 13.1** If the parties decide to invite the court to deal with the disqualification application under the procedure adopted in *Re Carecraft Construction Co. Ltd.* [1994] 1 WLR 172, they should inform the court immediately and obtain a date for the hearing of the application.
- 13.2** Whenever the *Carecraft* procedure is adopted, the claimant must:
- (1) except where the court otherwise directs, submit a written statement containing in respect of each defendant any material facts which (for the purposes of the application) are either agreed or not opposed (by either party); and
- (2) specify in writing the period of disqualification which the parties accept that the agreed or unopposed facts justify or the band of years (e.g. 4 to 6 years) or bracket (i.e. 2 to 5 years; 6 to 10 years; 11 to 15 years) into which they will submit the case falls.
- 13.3** Paragraph 12.4 of the above applies to the documents mentioned in paragraph 13.2 above unless the court otherwise directs.
- 13.4** Unless the Court otherwise orders, a hearing under the *Carecraft* procedure will be held in private.

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<sup>1</sup> Attention is drawn to the provisions of the Chancery Guide. Chapter 7 of that Guide dated September 2000 provides guidance on the preparation of trial bundles and skeleton arguments. Unless the Court otherwise orders, paragraph 7.16 of the Chancery Guide requires that trial bundles be delivered to the Court 7 days before trial and paragraph 7.21 requires that skeleton arguments be delivered to the Court not less than 2 clear days before trial.



- 13.5** If the Court is minded to make a disqualification order having heard the parties' representations, it will usually give judgment and make the disqualification order in public. Unless the Court otherwise orders, the written statement referred to in paragraph 13.2 shall be annexed to the disqualification order.
- 13.6** If the Court refuses to make the disqualification order under the Carecraft procedure, the Court shall give further directions for the hearing of the application.

## **14. MAKING AND SETTING ASIDE OF DISQUALIFICATION ORDER**

- 14.1** The court may make a disqualification order against the defendant, whether or not the latter appears, and whether or not he has completed and returned the acknowledgment of service of the claim form, or filed evidence<sup>1</sup>.
- 14.2** Any disqualification order made in the absence of the defendant may be set aside or varied by the court on such terms as it thinks just<sup>2</sup>.

## **15. SERVICE OF DISQUALIFICATION ORDERS**

- 15.1** Service of disqualification orders will be the responsibility of the claimant.

## **16. COMMENCEMENT OF DISQUALIFICATION ORDER**

- 16.1** Unless the court otherwise orders, the period of disqualification imposed by a disqualification order shall begin at the end of the period of 21 days beginning with the date of the order<sup>3</sup>.

# **PART THREE APPLICATIONS UNDER SECTIONS 7(2) AND 7(4) OF THE ACT**

## **17. APPLICATIONS FOR PERMISSION TO MAKE A DISQUALIFICATION APPLICATION AFTER THE END OF THE PERIOD OF 2 YEARS SPECIFIED IN SECTION 7(2) OF THE ACT**

- 17.1** Such applications shall be made by Practice Form N208 under CPR Part 8 save where it is sought to join a director or former director to existing proceedings, in which case such application shall be made by Application Notice under CPR Part 23, and the Part 23 Practice Direction shall apply save as modified below.

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<sup>1</sup> Rule 8(1) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

<sup>2</sup> Rule 8(2) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987.

<sup>3</sup> Section 1(2) of the Act (as amended).

## 18. APPLICATIONS FOR EXTRA INFORMATION MADE UNDER SECTION 7(4) OF THE ACT

**18.1** Such applications may be made:

- (1) by Practice Form N208 under CPR Part 8;
- (2) by Application Notice in existing disqualification proceedings; or
- (3) by application under the Insolvency Rules in the relevant insolvency, if the insolvency practitioner against whom the application is made remains the officeholder.

## 19. PROVISIONS APPLICABLE TO APPLICATIONS UNDER SECTIONS 7(2) AND 7(4) OF THE ACT

**19.1 Headings:** Every claim form and notice by which such an application is begun and all witness statements affidavits, notices and other documents in relation thereto must be entitled in the matter of the company or companies in question and in the matter of the Act.

**19.2 Service:**

- (1) Service of claim forms and application notices seeking orders under section 7(2) or 7(4) of the Act will be the responsibility of the applicant and will not be undertaken by the court.
- (2) Where any claim form, application notice or order of the court or other document is required in any application under section 7(2) or section 7(4) of the Act to be served on any person who is not in England and Wales, the court may order service on him to be effected within such time and in such manner as it thinks fit, may require such proof of service as it thinks fit, and may make such directions as to acknowledgment of service as it thinks fit. Section III of CPR Part 6 does not apply.

## PART FOUR APPLICATIONS FOR PERMISSION TO ACT

### 20. COMMENCING AN APPLICATION FOR PERMISSION TO ACT

**20.1** This practice direction governs applications for permission to act made under:

- (1) section 17 of the Act for the purposes of any of sections 1(1)(a), 1A(1)(a) or 9B(4); and
- (2) section 12(2) of the Act.

**20.2** Sections 12 and 17 of the Act identify the courts which have jurisdiction to deal with applications for permission to act. Subject to these sections, such applications may be made:

- (1) by Practice Form N208 under CPR Part 8; or
- (2) by application notice in an existing disqualification application.

**20.3** In the case of a person subject to disqualification under section 12A or 12B of the Act (by reason of being disqualified in Northern Ireland), permission to act notwithstanding disqualification can only be granted by the High Court of Northern Ireland.

## 21. HEADINGS

- 21.1** Every claim form by which an application for permission to act is begun, and all affidavits, notices and other documents in the application must be entitled in the matter of the company or companies in question and in the matter of the Act.
- 21.2** Every application notice by which an application for permission to act is made and all affidavits, notices and other documents in the application shall be entitled in the same manner as the heading of the claim form in the existing disqualification application.

## 22. EVIDENCE

- 22.1** Evidence in support of an application for permission to act shall be by affidavit.

## 23. SERVICE<sup>1</sup>

- 23.1** Where a disqualification application has been made under section 9A of the Act or a disqualification undertaking has been accepted under section 9B of the Act, the claim form or application notice (as appropriate), together with the evidence in support thereof, must be served on the Office of Fair Trading or specified regulator which made the relevant disqualification application or accepted the disqualification undertaking (as the case may be).
- 23.2** In all other cases, the claim form or application notice (as appropriate), together with the evidence in support thereof, must be served on the Secretary of State.

## PART FIVE APPLICATIONS

### 24. FORM OF APPLICATION

- 24.1** CPR Part 23 and the Part 23 practice direction (General Rules about Applications for Court Orders) shall apply in relation to applications governed by this practice direction (see paragraph 1.3(4) above) save as modified below.

### 25. HEADINGS

- 25.1** Every notice and all witness statements and affidavits in relation thereto must be entitled in the same manner as the Claim Form in the proceedings in which the application is made.

### 26. SERVICE

- 26.1** Service of application notices in disqualification proceedings will be the responsibility of the parties and will not be undertaken by the court.
- 26.2** Where any application notice or order of the court or other document is required in any application to be served on any person who is not in England and Wales, the court may order

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<sup>1</sup> Addresses for service on government departments are set out in the List of Authorised Government Departments issued by the Cabinet Office under section 17 of the Crown Proceedings Act 1947, which is annexed to the Practice Direction supplementing Part 66.

service on him to be effected within such time and in such manner as it thinks fit, and may also require such proof of service as it thinks fit. Section III of CPR Part 6 does not apply.

## **PART SIX DISQUALIFICATION PROCEEDINGS OTHER THAN IN THE ROYAL COURTS OF JUSTICE**

- 27.1** Where a disqualification application or a section 8A application is made by a claim form issued other than in the Royal Courts of Justice this practice direction shall apply with the following modifications
- (1)** Upon the issue of the claim form the court shall endorse it with the date and time for the first hearing before a district judge. The powers exercisable by a registrar under this practice direction shall be exercised by a district judge.
  - (2)** If the district judge (either at the first hearing or at any adjourned hearing before him) directs that the disqualification claim or section 8A application is to be heard by a High Court judge or by an authorised circuit judge he will direct that the case be entered forthwith in the list for hearing by that judge and the court will allocate (i) a date for the hearing of the trial by that judge and (ii) unless the district judge directs otherwise a date for the hearing of a P.T.R. by the trial judge.

## **PART SEVEN DISQUALIFICATION UNDERTAKINGS**

### **28. COSTS**

- 28.1** The general rule is that the court will order the defendant to pay –
- (1)** the costs of the Secretary of State (and, in the case of a disqualification application made under section 7(1)(b) of the Act, the costs of the official receiver) if:
    - (a) a disqualification application under section 7 or 8 of the Act has been commenced; and
    - (b) that application is discontinued because the Secretary of State has accepted a disqualification undertaking under section 1A of the Act;
  - (2)** the costs of the Office of Fair Trading or a specified regulator if:
    - (a) a disqualification application under section 9A of the Act has been commenced; and
    - (b) that application is discontinued because the Office of Fair Trading or specified regulator (as the case may be) has accepted a disqualification undertaking under section 9B of the Act.
- 28.2** The general rule will not apply where the court considers that the circumstances are such that it should make another order.

# APPLICATIONS UNDER SECTION 8A OF THE ACT TO REDUCE THE PERIOD FOR WHICH A DISQUALIFICATION UNDERTAKING IS IN FORCE OR TO PROVIDE FOR IT TO CEASE TO BE IN FORCE

## 29. HEADINGS

- 29.1** Every claim form by which a section 8A application is begun and all affidavits, notices and other documents in the proceedings must be entitled in the matter of a disqualification undertaking and its date and in the matter of the Act.

## 30. COMMENCEMENT: THE CLAIM FORM

- 30.1** Section 8A(3) of the Act identifies the courts which have jurisdiction to deal with section 8A applications.

- 30.1A** A section 8A application must be commenced by a claim form issued:

- (1) in the case of a disqualification undertaking given under section 9B of the Act, in the High Court out of the office of the companies court registrar at the Royal Courts of Justice;
- (2) in any other case,
  - (a) in the High Court out of the office of the companies court registrar or a chancery district registry; and
  - (b) in the county court, out of a county court office.

- 30.2** A section 8A application shall be made by the issue of a Part 8 claim form in the form annexed hereto and the use of the procedure set out in CPR Part 8, as modified by this practice direction. CPR rule 8.1 (3) (power of the Court to order the application to continue as if the claimant had not used the Part 8 procedure) shall not apply.

- 30.3** When the claim form is issued, the claimant will be given a date for the first hearing of the section 8A application. This date is to be not less than eight weeks from the date of issue of the claim form. The first hearing will be before registrar.

- 30.4** CPR Rule 8.2 does not apply. The claim form must state:

- (1) that CPR Part 8 (as modified by this practice direction) applies;
- (2) the form of order the claimant seeks.

- 30.5** In the case of a disqualification undertaking given under section 9B of the Act, the defendant to the section 8A application shall be the Office of Fair Trading or specified regulator which accepted the undertaking. In all other cases, the Secretary of State shall be made the defendant to the section 8A application.

- 30.6** Service of claim forms in section 8A applications will be the responsibility of the claimant and will not be undertaken by the court. The claim form may be served by sending it by first class post and the date of service shall, unless the contrary is shown, be deemed to be the 7th day following that on which the claim form was posted. CPR r. 6.7(1) shall be modified accordingly. Otherwise Sections I and II of CPR Part 6 apply<sup>1</sup>.

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<sup>1</sup> Attention is drawn to CPR r 6.14(2) regarding a certificate of service of the claim form.

- 30.7** Where any order of the court or other document is required to be served on any person who is not in England and Wales, the court may order service on him to be effected within such time and in such manner as it thinks fit and may require such proof of service as it thinks fit. Section III of CPR Part 6 shall not apply.
- 30.8** The claim form served on the defendant shall be accompanied by an acknowledgement of service in the form annexed hereto.

## 31. ACKNOWLEDGEMENT OF SERVICE

- 31.1** The defendant shall:
- (1) file an acknowledgement of service in the relevant practice form not more than 14 days after service of the claim form; and
  - (2) serve a copy of the acknowledgement of service on the claimant and any other party.
- 31.2** Where the defendant has failed to file an acknowledgement of service and the time period for doing so has expired, the defendant may nevertheless attend the hearing of the application and take part in the hearing as provided for by section 8A(2) or (2A) of the Act. However, this is without prejudice to the Court's case management powers and its powers to make costs orders.

## 32. EVIDENCE

- 32.1** Evidence in section 8A applications shall be by affidavit. The undertaking (or a copy) shall be exhibited to the affidavit.
- 32.2** When the claim form is issued:
- (1) the affidavit in support of the section 8A application must be filed in court;
  - (2) exhibits must be lodged with the court where they shall be retained until the conclusion of the proceedings; and
  - (3) copies of the affidavit and exhibits shall be served with the claim form on the defendant.
- 32.3** The defendant shall, within 28 days from the date of service of the claim form:
- (1) file in court any affidavit evidence that he wishes the court to take into consideration on the application; and
  - (2) lodge the exhibits with the court where they shall be retained until the conclusion of the proceedings; and
  - (3) at the same time, serve upon the claimant a copy of the affidavits and exhibits.
- 32.4** The claimant shall, within 14 days from receiving the copy of the defendant's evidence:
- (1) file in court any further affidavit evidence in reply he wishes the court to take into consideration; and
  - (2) lodge the exhibits with the court where they shall be retained until the conclusion of the proceedings; and
  - (3) at the same time serve a copy of the affidavits and exhibits upon the defendant.
- 32.5** Prior to the first hearing of the section 8A application, the time for serving evidence may be extended by written agreement between the parties. After the first hearing, the extension of time for serving evidence is governed by CPR rules 2.11 and 29.5.
- 32.6** So far as is possible all evidence should be filed before the first hearing of the section 8A application.

### 33. HEARINGS AND CASE MANAGEMENT

- 33.1** The date fixed for the first hearing of the section 8A application shall be not less than 8 weeks from the date of issue of the claim form.
- 33.2** The hearing shall in the first instance be before the registrar.
- 33.3** The registrar shall either determine the case on the date fixed or give directions and adjourn it.
- 33.4** All interim directions should insofar as possible be sought at the first hearing of the section 8A application so that the section 8A application can be determined at the earliest possible date. The parties should take all such steps as they respectively can to avoid successive directions hearings.
- 33.5** If the registrar adjourns the application for further consideration he shall:
- (1) direct whether the application is to be heard by a registrar or by a judge. This direction may at any time be varied by the court either on application or of its own initiative. If the court varies the direction in the absence of any of the parties, notice will be given to the parties;
  - (2) consider whether or not to adjourn the application to a judge so that the judge can give further directions;
  - (3) consider whether or not to make any direction with regard to fixing the trial date or a trial window.
- 33.6** On the first or any subsequent hearing of the section 8A application, the registrar may also give directions as to the following matters:
- (1) the filing in court and the service of further evidence (if any) by the parties;
  - (2) the time-table for the steps to be taken between the giving of directions and the hearing of the section 8A application;
  - (3) such other matters as the registrar thinks necessary or expedient with a view to an expeditious disposal of the section 8A application or the management of it generally;
  - (4) the time and place of the adjourned hearing.
- 33.7** Where a case is adjourned other than to a judge, it may be heard by the registrar who originally dealt with the case or by another registrar.
- 33.8** If the companies court registrar adjourns the application to a judge, all directions having been complied with and the evidence being complete, the application will be referred to the Listing Office and any practice direction relating to listing shall apply accordingly.
- 33.9** In all section 8A applications, the Court may direct a pre-trial review ('PTR'), a case management conference or pre-trial check lists (listing questionnaires) (in the form annexed to this practice direction) and will fix a trial date or trial period in accordance with the provisions of CPR Part 29: The Multi-Track, as modified by any relevant practice direction made thereunder.
- 33.10** At the hearing of the PTR, the registrar may give any further directions as appropriate and, where the application is to be heard in the Royal Courts of Justice in London, unless the trial date has already been fixed, may direct the parties (by Counsel's clerks, if applicable) to attend the Registrar at a specified time and place in order solely to fix a trial date. The court will give notice of the date fixed for the trial to the parties.
- 33.11** In all cases, the parties must inform the court immediately of any material change to the information provided in a pre-trial check list.

## 34. THE TRIAL

### 34.1 Trial bundles containing copies of –

- (1) the claim form;
- (2) the acknowledgment of service;
- (3) all evidence filed by or on behalf of each of the parties to the proceedings, together with the exhibits thereto;
- (4) all relevant correspondence; and
- (5) such other documents as the parties consider necessary, shall be lodged with the court.

### 34.2 Skeleton arguments should be prepared by all the parties in all but the simplest cases whether the case is to be heard by a registrar or a judge. They should comply with all relevant guidelines.

### 34.3 The advocate for the claimant should also in all but the simplest cases provide: (a) a chronology; (b) a *dramatis personae*.

### 34.4 The documents mentioned in paragraph 34.1-34.3 above must be delivered to the court in accordance with any order of the court and/or and relevant practice direction<sup>1</sup>.

- (1) If the case is to be heard by a judge sitting in the Royal Courts of Justice, London, but the name of the judge is not known, or the judge is a deputy judge, these documents must be delivered to the Clerk of the Lists. If the name of the judge (other than a deputy judge) is known, these documents must be delivered to the judge's clerk;
- (2) If the case is to be heard by a companies court registrar, these documents must be delivered to Room 409, Thomas More Building, Royal Courts of Justice. Copies must be provided to the other party so far as possible when they are delivered to the court;
- (3) If the case is to be heard in the Chancery district registries in Birmingham, Bristol, Caernarfon, Cardiff, Leeds, Liverpool, Manchester, Mold, Newcastle upon Tyne or Preston, the addresses for delivery are set out in Annex 1;
- (4) If the case is to be heard in a county court, the documents should be delivered to the relevant county court office.

### 34.5 Copies of documents delivered to the court must, so far as possible, be provided to each of the other parties to the claim.

### 34.6 The provisions in paragraphs 34.1 to 34.5 above are subject to any order of the court making different provision.

## 35. APPEALS

### 35.1 Rules 7.47 and 7.49 of the Insolvency Rules, as supplemented by Part Four of the Insolvency Proceedings Practice Direction, apply to an appeal from, or review of, a decision made by the court in the course of:

- (1) disqualification proceedings under any of sections 6 to 8A or 9A of the Act;

<sup>1</sup> Attention is drawn to the provisions of the Chancery Guide. Chapter 7 of that Guide dated September 2000 provides guidance on the preparation of trial bundles and skeleton arguments. Unless the Court otherwise orders, paragraph 7.16 of the Chancery Guide requires that trial bundles be delivered to the Court 7 days before trial and paragraph 7.21 requires that skeleton arguments be delivered to the Court not less than 2 clear days before trial. Addresses for service on government departments are set out in the List of Authorised Government Departments issued by the Cabinet Office under section 17 of the Crown Proceedings Act 1947, which is annexed to the Practice Direction supplementing Part 66.



- (2) an application made under section 17 of the Act for the purposes of any of sections 1(1)(a), 1A(1)(a) or 9B(4), for permission to act notwithstanding a disqualification order made, or a disqualification undertaking accepted, under any of sections 6 to 10.

Any such decision, and any appeal from it, constitutes 'insolvency proceedings' for the purposes of the Insolvency Proceedings Practice Direction<sup>1</sup>.

- 35.2** An appeal from a decision made by the court in the course of disqualification proceedings under any of sections 2(2)(a), 3 or 4 of the Act or on an application for permission to act notwithstanding a disqualification order made under any of those sections is governed by CPR Part 52 and the practice direction supplementing that Part.

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<sup>1</sup> CPR rule 2.1(2) and section 21(2) of the Act. See also rule 2(4) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987 and *Re Tasbian Limited, Official Receiver v. Nixon* [1991] B.C.L.C. 59; [1990] B.C.C. 322; *Re Probe Data Systems Limited (No 3)*, *Secretary of State for Trade and Industry v. Desai* [1992] B.C.L.C.405; [1992] BCC 110 and *Re The Premier Screw & Repetition Company Ltd, Secretary of State for Trade and Industry v Paulin* [2005] EWCH 888 (Ch).

# ANNEX 1

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*Birmingham:* The Chancery Listing Officer, The District Registry of the Chancery Division of the High Court, 33 Bull Street, Birmingham B4 6DS.

*Bristol:* The Chancery Listing Officer, The District Registry of the Chancery Division of the High Court, 3rd Floor, Greyfriars, Lewins Mead, Bristol BS1 2NR.

*Caernarfon:* The Chancery Listing Officer, The District Registry of the Chancery Division of the High Court, 1st Floor, Llanberis Road, Caernarfon, LL55 2DF.

*Cardiff:* The Chancery Listing Officer, The District Registry of the Chancery Division of the High Court, 1st Floor, 2 Park Street, Cardiff CF10 1ET.

*Leeds:* The Chancery Listing Officer, The District Registry of the Chancery Division of the High Court, Leeds Combined Court Centre, The Court House, 1 Oxford Row, Leeds LS1 3BG.

*Liverpool and Manchester:* The Chancery Listing Officer, The District Registry of the Chancery Division of the High Court, Manchester Courts of Justice, Crown Square, Manchester M60 9DJ.

*Mold:* The Chancery Listing Officer, The District Registry of the Chancery Division of the High Court, Law Courts, Civic Centre, Mold, CH7 1AE.

*Newcastle upon Tyne:* The Chancery Listing Officer, The District Registry of the Chancery Division of the High Court, The Law Courts, Quayside, Newcastle upon Tyne NE1 3LA.

*Preston:* The Chancery Listing Officer, The District Registry of the Chancery Division of the High Court, The Combined Court Centre, Ringway, Preston PR1 2LL.



**Claim form**  
**Directors disqualification**  
**application**

In the

Claim No.

In the matter of

SEAL

And in the matter of The Company Directors Disqualification Act 1986.

Name of Claimant

Name(s) of Defendant(s)

**The hearing**

(This section will be completed by the court)

The defendant(s) must attend before the (Registrar/District Judge) on

Date

Time

Place

on the hearing of an application by \_\_\_\_\_, the claimant, for a disqualification order under section \_\_\_\_ of the Company Directors Disqualification Act 1986 that:

The grounds upon which the claimant seeks a disqualification order are set out (in the details of claim overleaf and) in the (affidavit/report) of \_\_\_\_\_ (sworn/dated \_\_\_\_\_) a true copy of which is served herewith.

**Note: If you do not attend, the court may make such order as it thinks fit**

The court office at

is open between 10 am and 4 pm Monday to Friday. When corresponding with the court, please address forms or letters to the Court Manager and quote the claim number.

N500 Claim form - Directors disqualification proceedings (06.05)

HMCS

<b>Claim No.</b>	
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Does your claim include any issues under the Human Rights Act 1998?

☐ Yes

☐ No

Details of your claim

--

Defendant's name and address

--

£

Court fee	
Solicitor's costs	
Issue date	

## Endorsement

1. CPR Part 8 as modified by the Directors Disqualification Proceedings Practice Direction applies to this claim.
2. Any evidence which the defendant wishes to be taken into consideration by the court must be filed in court within 28 days from the date of service of the claim form and copies must then be served forthwith on the claimant. The evidence must be in the form of one or more affidavits.
- [3. This claim is made in accordance with the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987 (S.I. 1987/2023, as amended).]
4. The court has the power to impose a disqualification period as follows:
  - where the application is under section 2 or section 4 of the Company Directors Disqualification Act, for a period of up to 15 years;
  - where the application is under section 3 of the Company Directors Disqualification Act, for a period of up to 5 years;
  - where the application is under section 7 of the Company Directors Disqualification Act, for a period of not less than 2 years and up to 15 years;
  - where the application is under section 8 or section 9A of the Company Directors Disqualification Act, for a period of up to 15 years.
- [5. On the first hearing of the claim, the court may hear and determine the claim summarily, without further or other notice to you and if it is so determined, the court may impose disqualification for a period of up to 5 years.]
- [6. If at the hearing of the application the court, on the evidence then before it, is minded to impose, in the case of any defendant, disqualification for any period longer than 5 years, it will not make a disqualification order on the first hearing but will adjourn the application to be heard (with further evidence, if any) at a later date that will be notified to the defendant. At the second hearing, the court may impose disqualification period of more than 5 years without any further reference to you.]
7. Your attention is drawn to the possibility of resolving the claim by offering an undertaking pursuant to section 1A or 9B of the Company Directors Disqualification Act (as applicable) or pursuant to the summary procedure adopted in *Re Carecraft Construction Co. Ltd* [1994] 1 WLR 172 (as clarified by the decision of the Court of Appeal in *Secretary of State v Rogers* [1996] 1 WLR 1569).

### Statement of Truth

\*(I believe)(The claimant believes) that the facts stated in this claim form are true.

\* I am duly authorised by the claimant to sign this statement.

Full name of claimant \_\_\_\_\_

Name of claimant's solicitor's firm \_\_\_\_\_

signed \_\_\_\_\_ position or office held \_\_\_\_\_  
\*(Claimant)(Claimant's solicitor) (if signing on behalf of firm or company)

*\*delete as appropriate*

Claimant's or claimant's solicitor's address to which documents should be sent if different from overleaf. If you are prepared to accept service by DX, fax or e-mail, please add details.

# Notes for claimant on completing claim form N500

## Directors disqualification application

Please read all of these guidance notes before you begin completing the claim form. The notes follow the order in which information is required on the form.

- Court staff can help you fill in the claim form and give information about procedure once it has been issued. But they cannot give legal advice. If you need legal advice, for example, about the likely success of your claim or the evidence you need to prove it, you should contact a solicitor or a Citizens Advice Bureau.
- If you are filling in the claim form by hand, please use black ink and write in block capitals.
- You must file evidence to support your claim with the claim form in the form of an affidavit or affirmation or where permitted by rule 3(2) of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1986, a report by the Official Receiver.
- Copy the completed claim form, the defendant's notes for guidance and your written evidence so that you have one copy for yourself, one copy for the court and one copy for each defendant. Send or take the forms and evidence to the court office with the appropriate fee. The court will tell you how much this is.

### Notes on completing the claim form

#### Heading

You must fill in the heading of the form to indicate whether you want the claim to be issued in a county court or in the High Court (The High Court means either a District Registry (attached to a county court) or the Companies Court at the Royal Courts of Justice in London).

Use whichever of the following is appropriate:

- 'In the ..... county court'  
(inserting the name of the court)
- or**
- 'In the High Court of Justice Chancery Division  
..... District Registry'  
(inserting the name of the District Registry)
- or**
- 'In the High Court of Justice Chancery Division,  
Companies Court'

A disqualification application under section 9A of the Company Directors Disqualification Act must be issued in the High Court, out of the office of the Companies Court Registrar at the Royal Courts of Justice.

The section of text beginning 'In the matter of...' is included to comply with paragraph 5.1 of the Directors Disqualification Proceedings Practice Direction. You should insert the name of the relevant company(ies) after this text.

#### Claimant and defendant details

As the person issuing the claim, you are called the 'claimant'; the person you are suing is called the 'defendant'. You must provide the following information about yourself **and** the defendant according to the capacity on which you are suing and in which the defendant is being sued. When suing or being sued as:-

##### an individual:

All known forenames and surname (whether Mr, Mrs, Miss, Ms or Other e.g. Dr) and residential address (**including** postcode and telephone and any fax or e-mail number) in England and Wales. Where the defendant is a proprietor of a business, a partner in a firm or an individual sued in the name of a club or other unincorporated association, the address for service should be the usual or last known place of residence or principal place of business of the company, firm or club or other unincorporated association.

##### Where the individual is:

##### a firm:

Enter the name of the firm followed by the words 'a firm' e.g. 'Bandbow - a firm' and an address for service which is either a partner's residential address or the principal or last known place of business.

##### a corporation (other than a company):

Enter the full name of the corporation and the address which is either its principal office or any other place where the corporation carries on activities and which has a real connection with the claim.

**a company registered in England and Wales:**

Enter the name of the company and an address which is either the company's registered office or any place of business that has a real, or the most, connection with the claim e.g. the shop where the goods were bought.

**an overseas company (defined by s744 of the Companies Act 1985):**

Enter the name of the company and either the address registered under s691 of the Act or the address of the place of business having a real, or the most, connection with the claim.

**Hearing**

Paragraph 4.3 of the Practice Direction states that 'When the claim form is issued, the claimant will be given a date for the first hearing of the disqualification application'. Court staff will complete these details when a date for a hearing is fixed, before the claim form is served. You should fill in the blanks in the sentence below the dates with the claimant's name and the section of the Company Directors Disqualification Act 1986 under which you are seeking the defendant's disqualification. You should then complete the empty section with the details of the order you wish the court to make, and delete the sections in the following sentence as appropriate.

**Details of your claim**

You should set out the details of your claim here, unless you have chosen to set them out only in an attached affidavit or report.

**Evidence**

The evidence in support of the claim must be set out in an attached affidavit or report, which must include a statement of the matters by reference to which it is alleged that a disqualification order should be made against the defendant.

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**Defendant's name and address**

Enter in this box the full name and address of the defendant to be served with the claim form (i.e. one claim form for each defendant). If the defendant is to be served outside England and Wales, you may need to obtain the court's permission.

**Endorsement**

If the claim is not brought under section 7, 8 or 9A of the Company Directors Disqualification Act 1986, paragraphs 3, 5 and 6 of the endorsement should be deleted.

**Statement of truth**

This must be signed by you, by your solicitor or your litigation friend, as appropriate.

Where the claimant is a registered company or a corporation the claim must be signed by either the director, treasurer, secretary, chief executive, manager or other officer of the company or (in the case of a corporation) the mayor, chairman, president or town clerk.

**Address for documents**

Insert in this box the address at which you wish to receive documents, if different from the address you have already given under the heading 'Claimant'. The address you give must be either that of your solicitors or your residential or business address and must be in England or Wales. If you live or carry on business outside of England and Wales, you can give some other address within England and Wales.

## Notes for defendant

### Directors disqualification application

**Please read these notes carefully - they will help you to decide what to do about this claim.**

- You have 14 days from the date on which you were served with the claim form (see below) in which to respond to the claim by completing and returning the acknowledgment of service enclosed with this claim form. The acknowledgement of service should be completed and returned to the court office and a copy sent to the claimant named on the claim form.
- If you **do not return** the acknowledgment of service (Form N502), you will be allowed to attend any hearing of this claim but you will not be allowed to take part in the hearing unless the court gives you permission to do so.

**Court staff can tell you about procedures but they cannot give legal advice. If you need legal advice, you should contact a solicitor or Citizens Advice Bureau immediately**

### Responding to this claim

#### Time for responding

The completed acknowledgment of service must be returned to the court office and a copy sent to the claimant named on the claim form within 14 days of the date on which the claim form was served on you. If the claim form was

- sent by post, the 14 days begins 7 days from the date of the postmark on the envelope.
- delivered or left at your address, the 14 days begins the day after it was delivered or left.
- handed to you personally, the 14 days begins on the day it was given to you.

#### Completing the acknowledgment of service (N502)

You should complete section A, B, or C as appropriate and all of section D.

#### Section A - contesting the claim

If you wish to contest the remedy sought by the claimant in the claim form, you should complete section A.

#### Section B - mitigation

If you do not wish to resist the claim for a disqualification order, but would like to offer evidence of mitigating circumstances with a view to justifying a shorter period of disqualification, you should complete section B.

#### Section C - disputing the court's jurisdiction

You should indicate your intention by completing section C and filing an application disputing the court's jurisdiction within 14 days of filing your acknowledgment of service at the court. The court will arrange a hearing date for the application and tell you and the claimant when and where to attend.

#### Section D - Statement of truth

This must be signed by you, by your solicitor or your litigation friend, as appropriate.

Where the defendant is a registered company or a corporation the claim must be signed by either the director, treasurer, secretary, chief executive, manager or other officer of the company or (in the case of a corporation) the mayor, chairman, president or town clerk.

#### Written evidence

Any evidence which you wish to be taken into consideration by the court must be filed in court within 28 days from the date of service of the claim form upon you. The evidence must be in the form of an affidavit.

#### Serving other parties

At the same time as you file your affidavit evidence with the court, you must also send copies of both the form and any written evidence to the claimant named on the claim form.

#### What happens next

The date of the first hearing of the claim is set out under 'Hearing'.





**Claim form**  
**Directors disqualification**  
**section 8A application**

In the

Claim No.

In the matter of a disqualification undertaking dated

and in the matter of the Company Directors Disqualification Act 1986.

SEAL

Name of Claimant

Name of Defendant(s)

**The hearing**

(This section will be completed by the court)

The defendant(s) must attend before the (Registrar/District Judge) on

Date

Time

Place

on the hearing of an application by \_\_\_\_\_, the claimant, for an order under Section 8A of the Company Directors Disqualification Act 1986 that:

The grounds upon which the claimant seeks the order are set out (in the details of claim overleaf and) in the affidavit of (\_\_\_\_\_) sworn on \_\_\_\_\_ a true copy of which is served herewith.

**Note: If you do not attend, the court may make such order as it thinks fit**

The court office at

is open between 10 am and 4 pm Monday to Friday. When corresponding with the court, please address forms or letters to the Court Manager and quote the claim number.

N501 Claim form - Directors disqualification section 8A application (06.05)

HMCS

<b>Claim No.</b>	
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Does your claim include any issues under the Human Rights Act 1998?

☐ Yes ☐ No

Details of your claim

Defendant's(s) name(s) and address(es)

	£
Court fee	
Solicitor's costs	
Issue date	

## Endorsement

1. CPR Part 8 as modified by the Directors Disqualification Proceedings Practice Direction applies to this claim.
2. Any evidence which the defendant wishes to be taken into consideration by the court must be filed in court within 28 days from the date of service of the claim form and copies must then be served forthwith on the claimant. The evidence must be in the form of one or more affidavits.

### Statement of Truth

\*(I believe)(The claimant believes) that the facts stated in this claim form are true.

\* I am duly authorised by the claimant to sign this statement.

Full name of claimant \_\_\_\_\_

Name of claimant's solicitor's firm \_\_\_\_\_

signed \_\_\_\_\_ position or office held \_\_\_\_\_

\*(Claimant)(Litigation friend)(Claimant's solicitor)

(if signing on behalf of firm or company)

*\*delete as appropriate*



Claimant's or claimant's solicitor's address to which documents should be sent if different from overleaf. If you are prepared to accept service by DX, fax or e-mail, please add details.

## Notes for claimant on completing claim form N501

### Directors disqualification section 8A application

Please read all of these guidance notes before you begin completing the claim form. The notes follow the order in which information is required on the form.

- Court staff can help you fill in the claim form and give information about procedure once it has been issued. But they cannot give legal advice. If you need legal advice for example, about the likely success of your claim or the evidence you need to prove it, you should contact a solicitor or a Citizens Advice Bureau.
- If you are filling in the claim form by hand, please use black ink and write in block capitals.
- You must file evidence to support your claim with the claim form in the form of an affidavit or affirmation.
- Copy the completed claim form, the defendant's notes for guidance and your written evidence so that you have one copy for yourself, one copy for the court and one copy for each defendant. Send or take the forms and evidence to the court office with the appropriate fee. The court will tell you how much this is.

### Notes on completing the claim form

#### Heading

You must fill in the heading of the form to indicate whether you want the claim to be issued in a county court or in the High Court (The High Court means either a District Registry (attached to a county court) or the Royal Courts of Justice in London). Section 8A(3) of the Company Directors Disqualification Act 1986 identifies the courts which have jurisdiction to deal with Section 8A applications.

An application under section 8A of the Company Directors Disqualification Act which relates to a disqualification undertaking given under section 9B of the Act must be issued in the High Court, out of the office of the Companies Court Registrar at the Royal Courts of Justice.

Use whichever of the following is appropriate:

'In the .....county court'  
(inserting the court name)

or

'In the High Court of Justice Chancery Division  
.....District Registry'  
(inserting the name of the District Registry)

or

'In the High Court of Justice Chancery Division,  
Companies Court'

#### Claimant and defendant details

As the person issuing the claim, you are called the 'claimant'; the person you are suing is called the 'defendant'. You must provide the following information about yourself **and** the defendant according to the capacity on which you are suing and in which the defendant is being sued. When suing or being sued as:-

##### an individual:

All known forenames and surname (whether Mr, Mrs, Miss, Ms or Other e.g. Dr) and residential address (**including** postcode and telephone and any fax or e-mail number) in England and Wales. Where the defendant is a proprietor of a business, a partner in a firm or an individual sued in the name of a club or other unincorporated association, the address for service should be the usual or last known place of residence or principal place of business of the company, firm or club or other unincorporated association.

##### Where the individual is:

##### a firm:

Enter the name of the firm followed by the words 'a firm' e.g. 'Bandbow - a firm' and an address for service which is either a partner's residential address or the principal or last known place of business.

##### a corporation (other than a company):

Enter the full name of the corporation and the address which is either its principal office or any other place where the corporation carries on activities and which has a real connection with the claim.

**a company registered in England and Wales:**

Enter the name of the company and an address which is either the company's registered office or any place of business that has a real, or the most, connection with the claim e.g. the shop where the goods were bought.

**an overseas company (defined by s744 of the Companies Act 1985):**

Enter the name of the company and either the address registered under s691 of the Act or the address of the place of business having a real, or the most, connection with the claim.

**Hearing**

Paragraph 30.3 of the Directors Disqualification Proceedings Practice Direction states that 'When the claim form is issued, the claimant will be given a date for the first hearing of the section 8A application'. Court staff will complete these details when a date for a hearing is fixed, before the claim form is served. However, you must complete the section below this with the details of the order you wish the court to make and fill in the details of your affidavit if you are attaching one to the form.

**Details of your claim**

You should set out the details of your claim here, unless you have chosen to set them out only in an attached affidavit.

**Evidence**

Evidence in section 8A applications must be by affidavit. The affidavit in support of the section 8A application must be filed in court at the same time as the claim form. Any exhibits to the affidavit must be lodged with the court at the same time. Copies of the affidavit and exhibits must be served with the claim form on the defendant.

**Defendant's name and address**

Enter in this box the full name and address of the defendant to be served with the claim form (i.e. one claim form for each defendant).

In the case of a disqualification undertaking given under section 9B of the Act, the defendant to the section 8A application shall be the Office of Fair Trading or specified regulator which accepted the undertaking. In all other cases, the defendant shall be the Secretary of State for Trade and Industry.

Addresses for service on government departments are set out in the List of Authorised government Departments issued by the Cabinet Office under section 17 of the Crown Proceedings Act 1947, which is annexed to the Practice Direction supplementing Part 66 of the Civil Procedure Rules.

**Statement of truth**

This must be signed by you, by your solicitor or your litigation friend, as appropriate.

Where the claimant is a registered company or a corporation the claim must be signed by either the director, treasurer, secretary, chief executive, manager or other officer of the company or (in the case of a corporation) the mayor, chairman, president or town clerk.

**Address for documents**

Insert in this box the address at which you wish to receive documents, if different from the address you have already given under the heading 'Claimant'. The address you give must be either that of your solicitors or your residential or business address and must be in England or Wales. If you live or carry on business outside of England and Wales, you can give some other address within England and Wales.

## Notes for defendant

### Directors disqualification section 8A application

**Please read these notes carefully - they will help you to decide what to do about this claim.**

- You have 14 days from the date on which you were served with the claim form (see below) in which to respond to the claim by completing and returning the acknowledgment of service enclosed with this claim form. The acknowledgement of service should be completed and returned to the court office and a copy sent to the claimant named on the claim form.
- If you **do not return** the acknowledgment of service (Form N503), you will be allowed to attend any hearing of this claim but you will not be allowed to take part in the hearing unless the court gives you permission to do so.

**Court staff can tell you about procedures but they cannot give legal advice. If you need legal advice, you should contact a solicitor or Citizens Advice Bureau immediately**

### Responding to this claim

#### Time for responding

The completed acknowledgment of service must be returned to the court office (and a copy sent to the claimant named on the claim form) within 14 days of the date on which the claim form was served on you. If the claim form was:

- sent by post, the 14 days begins 7 days from the date of the postmark on the envelope.
- delivered or left at your address, the 14 days begins the day after it was delivered.
- handed to you personally, the 14 days begins on the day it was given to you.

If the claim form was issued in the High Court in London, the acknowledgment of service should be returned to the Companies Court, General Office, Room TM 2.09, Royal Courts of Justice, The Strand, London, WC2A 2LL

#### Completing the acknowledgment of service (N503)

You should complete section A or B as appropriate and all of section C.

#### Statement of truth

This must be signed by you, your solicitor or your litigation friend, as appropriate.

#### Written evidence

Any evidence which you wish to be taken into consideration by the court must be filed in court within 28 days from the date of service of the claim form upon you. The evidence must be in the form of an affidavit.

#### Serving other parties

At the same time as you file your affidavit evidence with the court, you must also send copies of both the form and any written evidence to the claimant named on the claim form.

#### What happens next

The date of the first hearing of the claim is set out under 'hearing'.

## Acknowledgment of service Directors disqualification application

You should read the 'notes for defendant' (Form N500B) attached to the claim form which will tell you how to complete this form, and when and where to send it.

In the	
Claim No.	
Claimant (including ref)	
Defendant	

State the full name of the defendant

--

### Section A

☐ I intend to contest the claim on the grounds that:

☐ I was not a director or shadow director of

--

at the time when my conduct, or the conduct of other persons, is in question.  
(Please insert the name of each of the companies concerned in the box above)

☐ My conduct as a director or shadow director was not as alleged in support of the application for a disqualification order.

☐ I dispute the allegation that my conduct makes me unfit to be involved in the management of a company.

☐ I intend to contest the claim on the grounds that:

(Only complete this if the case has been brought under section 7 of the Company Directors Disqualification Act 1986. In the box below insert the name of any company listed on the claim form after the words 'In the matter of' to which this statement applies)

--

has at no time become insolvent within the meaning of section 6(2) of the Company Directors Disqualification Act 1986.

☐ I intend to contest the claim on the grounds that:

(Only complete this if the case has been brought under section 9A of the Company Directors Disqualification Act 1986. Please insert the name of any relevant company in the box below.)

--

has not committed a breach of competition law within the meaning of section 9A(4) of the Company Directors Disqualification Act 1986.

The court office at

is open between 10 am and 4 pm Monday to Friday. When corresponding with the court, please address forms or letters to the Court Manager and quote the claim number.

N502 Acknowledgment of service - Directors disqualification applications (06.05)

HMCS

## Section B

- ☐ I do not wish to dispute the claim for a disqualification order.
- ☐ I would like to offer evidence with a view to reducing the period of disqualification.

## Section C

- ☐ The claim form was served outside England or Wales and I intend to dispute jurisdiction.  
(You should file your application within 14 days of the date on which you file this acknowledgment of service with the court)

## Section D

### Statement of Truth

\*(I believe)(The defendant believes) that the facts stated in this form are true.

\*I am duly authorised by the defendant to sign this statement.

Full name \_\_\_\_\_

Name of defendant's solicitor's firm \_\_\_\_\_

Signed \_\_\_\_\_ position or office held \_\_\_\_\_

\*(Defendant)(Litigation friend)(Defendant's solicitor) (if signing on behalf of firm or company)

Dated \_\_\_\_\_ \*delete as appropriate

Give an address (including post code) to which notices about this case can be sent to you.

Telephone no.

If applicable	
Ref no.	
Fax no.	
DX no.	
E-mail	



## Acknowledgment of service Directors disqualification section 8A application

You should read the 'notes for defendant' (Form N501B) attached to the claim form which will tell you how to complete this form, and when and where to send it.

In the	
Claim No.	
Claimant (including ref)	
Defendant	

### Section A

- ☐ The defendant currently intends to appear at the hearing of the section 8A application.
- ☐ The defendant currently intends to file evidence on the section 8A application.

### Section B

- ☐ The defendant intends to dispute jurisdiction  
(You should file your application within 14 days of the date on which you file this acknowledgment of service with the court.)

### Section C

#### Statement of Truth

\*(I believe)(The defendant believes) that the facts stated in this form are true.

\*I am duly authorised by the defendant to sign this statement.

Full name \_\_\_\_\_

Name of defendant's solicitor's firm \_\_\_\_\_

Signed \_\_\_\_\_ position or office held \_\_\_\_\_

\*(Defendant)(Defendant's solicitor)

(if signing on behalf of firm or company)

Dated \_\_\_\_\_

*\*delete as appropriate*

Give an address (including post code) to which notices about this case can be sent to you.

Telephone no.

If applicable	
Ref no.	
Fax no.	
DX no.	
E-mail	

The court office at

is open between 10 am and 4 pm Monday to Friday. When corresponding with the court, please address forms or letters to the Court Manager and quote the claim number.

N503 Acknowledgment of service - Directors disqualification section 8A application (06.05)

HMCS

## Pre-trial checklist Directors disqualification

To be completed by, or on behalf of,

--

who is [1<sup>st</sup>][2<sup>nd</sup>][3<sup>rd</sup>][ ] [Claimant][Defendant] in this claim

Name of company to which claim relates

In the	
Claim no.	
Last date for filing with court office	
Date(s) fixed for trial or trial period	
Claimant	
Defendant	

This form must be **completed** and **returned** to the court no later than the date given above. If not, your evidence may be struck out or some other sanction imposed.

If the claim has settled, or settles before the trial date, you must let the court know immediately.

**Legal representatives only:**  
You must **attach** estimates of costs incurred to date, and of your likely overall costs. In substantial cases, these should be provided in compliance with CPR Part 43.

You must also **attach** a proposed timetable for the trial itself.

### A Confirmation of compliance with directions

1. I confirm that I have complied with those directions already given which require action by me.

☐ Yes ☐ No

If you are unable to give confirmation, state which directions you have still to comply with and the date by which this will be done.

Directions	Date

2. I believe that additional directions are necessary before the trial takes place.

☐ Yes ☐ No

If Yes, you should attach an application and a draft order.

*Include in your application all directions needed to enable the claim **to be tried on the date, or within the trial period, already fixed.** These should include any issues relating to experts and their evidence, and any orders needed in respect of directions still requiring action by any other party.*

3. Have you agreed the additional directions you are seeking with the other party(ies)?

☐ Yes ☐ No

### B Witnesses

1. How many witnesses (including yourself) will be giving evidence on your behalf at the trial? (Do not include experts - see Section C)

--

Continued over

## Witnesses continued

2. If the trial date is not yet fixed, are there any days within the trial period you or your witnesses would wish to avoid if possible? *(Do not include experts - see Section C)*

Please give details

Name of witness	Dates to be avoided, if possible	Reason

Please specify any special facilities or arrangements needed at court for the party or any witness (e.g. witness with a disability).

3. Will you be providing an interpreter for any of your witnesses? ☐ Yes ☐ No

## C Experts

*You are reminded that you may not use an expert's report or have your expert give oral evidence unless the court has given permission. If you do not have permission, you must make an application (see section A2 above)*

1. Please give the information requested for your expert(s)

Name	Field of expertise	Joint expert?	Is report agreed?	Has permission been given for oral evidence?
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

2. Has there been discussion between experts? ☐ Yes ☐ No

3. Have the experts signed a joint statement? ☐ Yes ☐ No

4. If your expert is giving oral evidence and the trial date is not yet fixed, is there any day within the trial period which the expert would wish to avoid, if possible? ☐ Yes ☐ No

If Yes, please give details

Name	Dates to be avoided, if possible	Reason

## D Legal representation

1. Who will be presenting your case at the trial? You ☐ Solicitor or Court ☐ 1
2. If the trial date is not yet fixed, is there any day within the trial period that the person presenting your case would wish to avoid, if possible? ☐ Yes ☐ No

If Yes, please give details

Name	Dates to be avoided, if possible	Reason

## E Summary disposal under the Carecraft procedure or by disqualification undertaking

1. Have you considered the possibility of resolving this case by a disqualification undertaking or under the procedure adopted in *Re Carecraft Construction Co. Ltd* [1994] 1 WLR 172 (‘a Carecraft application’). If not this should be considered as soon as possible. ☐ Yes ☐ No
2. Please state whether the case should be listed for a Carecraft disposal or full trial at a time and date to be fixed. ☐ Carecraft ☐ Full trial
3. If such a Carecraft application is to be made, the agreed written statement of facts must be submitted by the claimant as set out in the Practice Direction relating to disqualification proceedings and delivered to the court not later than 2 working days before the date upon which it is intended to make the application and in any event as soon as possible.

## F The trial

1. Has the estimate of the time needed for trial changed? ☐ Yes ☐ No
- If Yes, say how long you estimate the whole trial will take, including both parties’ cross-examination and closing arguments  days  hours  minutes
2. If different from original estimate have you agreed with the other party(ies) that this is now the **total** time needed? ☐ Yes ☐ No
3. Is the timetable for trial you have attached agreed with the other party(ies)? ☐ Yes ☐ No

## G Document and fee checklist

*Tick as appropriate*

I attach to this questionnaire -

- ☐ An application and fee for additional directions
  - ☐ A draft order
  - ☐ Listing fee
  - ☐ A proposed timetable for trial
  - ☐ An estimate of costs

Signed \_\_\_\_\_  
[Counsel][Solicitor][for the][1<sup>st</sup>][2<sup>nd</sup>][3<sup>rd</sup>][\_\_\_\_\_] [redacted]  
[Claimant][Defendant]

Please enter your [firm's] name, reference number and full postal address including (if appropriate) details of DX, fax or e-mail

Postcode

Date \_\_\_\_\_

Tel. no.	
Fax no.	

DX no.	
Ref. no.	

E-mail	
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