

DISQUALIFICATION

QUESTION

I am worried about being disqualified on what grounds could I be disqualified?

ANSWER

There is no finite list of conduct that may lead to disqualification. But examples include:

- Continuing to trade to the detriment of creditors at a time when the company was insolvent
- Conduct that deliberately deprives creditors of assets
- Fraudulent behaviour
- Failure to keep or deliver up appropriate accounting records
- Failure to prepare and file accounts or make returns to Companies House
- Failure to submit tax returns or pay over to the Crown tax or other money due
- Letting somebody else run the company for you or failing to ensure it is run Properly
- Failure to comply with other regulatory requirements
- Failure to co-operate with the official receiver or insolvency practitioner.

Unfit conduct in overseas companies after 1 October 2015 may also be taken into account.

As Liquidator a report has to be sent to the department of Business Innovation and Skills ("BIS") reporting on the conduct of the Director/s

They have a points system which includes – late filing of accounts etc and the above, they calculate the points then make the decision whether to disqualify you as a director.

See Additional Information sheet for the Insolvency Service Guidelines

ADDITIONAL INFORMATION

<https://www.gov.uk/government/publications/the-insolvency-service-company-investigations-what-we-do>

Insolvent Company Investigations – What we do

Introduction

This guide refers to investigations by the Insolvency Service (the Service) into companies that have entered into formal insolvency proceedings – which means administration, administrative receivership, voluntary and compulsory liquidation – in England, Wales and Scotland.

We provide information elsewhere about our investigations into companies and limited liability partnerships which are actively trading, or which have ceased trading without entering into insolvency proceedings.

To read this, please go to our publication 'Company Investigations – What we do' at www.gov.uk/government/publications/the-insolvency-service-company-investigations-what-we-do.

If our investigation finds unfit conduct by a director, we may make an application to the court to disqualify them from taking part in the management of companies without the court's permission.

Misconduct by directors is only one of many possible reasons a company fails. So in most cases directors who have been involved in a failure should be able to try again, and should only be disqualified if there is evidence of wrongdoing or unfit conduct.

The Company Directors Disqualification Act 1986 (CDDA) aims to maintain the integrity of the business environment. Those who become directors of limited companies should:

- Carry out their duties honestly and responsibly
- Ensure they and the company comply with the law and all relevant regulations
- Exercise adequate skill and care with proper regard to the interests of the company's creditors, customers, shareholders, employees and, in some circumstances, the public.

The majority of directors do this effectively. However, where they do not, the CDDA is a powerful tool we can use against those who abuse the privilege of limited liability.

More information about company director disqualification is available on our website at www.gov.uk/insolvency-service