



Eatons

Disqualification Traps for Directors

The Companies Act 2006, most of which is now in force, imposes tough new criteria governing the behaviour of directors.

In particular, when making decisions directors must bear in mind the potential effects of those decisions on various 'stakeholders' (those with an interest in their outcome, such as employees and shareholders) and the environment.

In several circumstances, miscreant directors can be disqualified by the Secretary of State from acting as directors. These include:

- Where the director has been convicted of an offence in connection with a company;
- Where the company becomes insolvent and where the conduct of the director is such that it renders them unfit to be a company director;
- Where there is fraudulent trading or fraud or breach of duty in relation to which the company is wound up;
- Where the company persistently defaults in filing documents with the Registrar of Companies; or
- Where in the view of the Secretary of State it is in the public interest for the director to be disqualified.

It is important to note that disqualification may not necessarily be the result of a criminal offence or because the company with which the director was involved has failed.

Just because a person does not carry the title 'director' or is a non-executive director does not mean they are not subject to these rules. They apply to anyone who acts in a directorial capacity (whether their title is director or not) or who is on the board of directors of a company.

EATONS SOLICITORS

THE OLD LIBRARY,
34 DARLEY STREET,
BRADFORD,
BD1 3LH.

T: 01274 728 327
F: 01274 305 056

ASPECT COURT,
47 PARK SQUARE,
LEEDS,
LS1 2NL.

T: 0113 246 0444
F: 0113 394 4101

49-51 PEGHOLME,
WHARFEBANK BUSINESS
CENTRE, ILKLEY ROAD,
OTLEY, LS21 3JP.

T: 08456 446 006
F: 08456 446 005



Eatons

Disqualification orders can be made for a minimum of two and a maximum of 15 years. Recently, a director was disqualified for refusing to cooperate with an investigation into another company with which he had dealings but of which he was not a director.

For advice on all aspects of litigation, company regulation and contracts and agreements please contact Marcus Baff on Tel: 01274 728 327.

EATONS SOLICITORS

THE OLD LIBRARY,
34 DARLEY STREET,
BRADFORD,
BD1 3LH.

T: 01274 728 327
F: 01274 305 056

ASPECT COURT,
47 PARK SQUARE,
LEEDS,
LS1 2NL.

T: 0113 246 0444
F: 0113 394 4101

49-51 PEGHOLME,
WHARFEBANK BUSINESS
CENTRE, ILKLEY ROAD,
OTLEY, LS21 3JP.

T: 08456 446 006
F: 08456 446 005