

## **EXPLANATORY MEMORANDUM**

### **The Companies (Disqualification Orders) (Amendment) Regulations 2004 No. 1940**

#### **Laying Authority and Purpose**

This explanatory memorandum is laid before Parliament by Command of Her Majesty.

The effect of the statutory instrument will be that the public Register of disqualified directors (held at Companies House) will include all persons disqualified from running a company in Great Britain.

#### **Department Responsible**

Department of Trade and Industry

#### **Description**

The Companies (Disqualification Orders) (Amendment) Regulations 2004 amend regulation 9 of the Companies (Disqualification Orders) Regulations 2001 (S.I. 2001/967) to place obligations on the Secretary of State regarding the retention and disposal of information furnished to her relating to directors disqualification undertakings given in Northern Ireland which were introduced into the law of Northern Ireland from 5 September 2003.

#### **Legislative background**

The Insolvency Act 2000 provides that disqualification orders made in Northern Ireland also disqualify the individual concerned from running a company in Great Britain. It also permits the Secretary of State to accept undertakings, which have the same effect as a disqualification order, from persons in Great Britain whom she believes should be disqualified in the public interest.

Parliament anticipated that Northern Ireland might similarly legislate to accept disqualification undertakings and so gave the Secretary of State a power to provide that such undertakings should have similar effects in Great Britain as a disqualification order made here. For that provision to be of real practical effect it is important that the names of those concerned should be included on the public register of those who are disqualified from running companies.

The power to make the Companies (Disqualification Orders) (Amendment) Regulations 2004 is contained in section 18 of the Company Directors Disqualification Act 1986.

## **Extent**

The statutory instrument applies to Great Britain.

## **European Convention on Human Rights**

In the Minister's view the provisions of The Companies (Disqualification Orders) (Amendment) Regulations 2004 are compatible with the European Convention on Human Rights.

## **Policy background**

Any director deemed to be unfit to run a company (by virtue of disqualification order made by a court or an undertaking given in the United Kingdom) is to be barred from running a company in Great Britain, thereby helping to protect British business and the public. This statutory instrument will assist business and the public to access information on those who are disqualified from running a company. Whilst few disqualifications occur in Northern Ireland, it is important that the information kept on Register of disqualified directors in Great Britain is complete.

## **Impact**

There is no requirement to prepare a Regulatory Impact Assessment since the statutory instrument will not impose any significant costs on business. There are no identifiable costs to the public or the Exchequer.

## **Contact**

Richard Favier – tel: (020) 7637 6421 email: [Richard.Favier@insolvency.gsi.gov.uk](mailto:Richard.Favier@insolvency.gsi.gov.uk)