

2003 No. 1367

**INSOLVENCY, ENGLAND AND WALES
COMPANIES**

**The Insolvent Companies (Disqualification of Unfit
Directors) Proceedings (Amendment) Rules 2003**

Made - - - - - 23rd May 2003
Laid before Parliament 27th May 2003
Coming into force - - 20th June 2003

The Lord Chancellor, in the exercise of his powers under section 411 of the Insolvency Act 1986(a) and section 21(2) of the Company Directors Disqualification Act 1986(b), with the concurrence of the Secretary of State, and after consulting the committee in existence for that purpose under section 413 of the Insolvency Act 1986, hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Insolvent Companies (Disqualification of Unfit Directors) Proceedings (Amendment) Rules 2003 and shall come into force on 20th June 2003.

Interpretation

2. In these Rules, references to the “principal Rules” are to the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987(c).

Amendment of principal Rules

3. The principal Rules are amended as set out in the Schedule to these Rules.

Irvine of Lairg, C.

28th April 2003

I concur, on behalf of the Secretary of State

Brian Wilson,
Minister of State for Energy and Construction,
Department of Trade and Industry

23rd May 2003

(a) 1986 c. 45.
(b) 1986 c. 46.
(c) S.I. 1987/2023 amended by S.I. 1999/1023, S.I. 2001/765.

1. Amendment of rule 1 (citation, commencement and interpretation)
 - (1) Rule 1 of the principal Rules shall be amended as follows.
 - (2) At the end of paragraph (3)(b) there is inserted—
“or
(c) by the Office of Fair Trading or (as the case may be) a specified regulator under section 9A of that Act (breach of competition law by undertaking and unfitness to be concerned in the management of a company),”
 2. Amendment of rule 4 (endorsement on claim form)
 - (1) Rule 4 of the principal Rules shall be amended as follows.
 - (2) In sub-paragraph (b)(ii) for the words “under section 8 of that Act” there is substituted “under section 8 or 9A of that Act”
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EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987 (“the principal Rules”) which provide procedures for applications by the Secretary of State or the official receiver for the disqualification of directors by courts in England and Wales under sections 7 and 8 of the Company Directors Disqualification Act 1986 (“the CDDA 1986”).

The CDDA 1986, as amended by the Enterprise Act 2002, enables the Office of Fair Trading and certain sector regulators (listed in section 9E(2) of the CDDA 1986) to make an application to the High Court for a competition disqualification order. The court will be under an obligation to make a competition disqualification order where it is satisfied that the company has committed a breach of competition law, as defined in the CDDA 1986, and where it considers that the conduct of the director in relation to that competition breach makes him unfit to be concerned in the management of a company.

The amendments to the principal Rules provide for the procedures as set out in those Rules to apply to applications in England and Wales made by the Office of Fair Trading or a specified regulator under section 9A of the CDDA 1986.

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