STATUTORY INSTRUMENTS

2016 No. 890

INSOLVENCY, ENGLAND AND WALES

The Compensation Orders (Disqualified Directors) Proceedings (England and Wales) Rules 2016

Made - - - -	*7th September 2016*
Laid before Parliament	*8th September 2016*
Coming into force - -	*1st October 2016*

The Lord Chancellor has consulted the committee existing for the purposes of section 413 of the Insolvency Act 1986(**1**).

The Lord Chancellor, with the concurrence of the Secretary of State and the Chancellor of the High Court (the latter nominated by the Lord Chief Justice under section 411(7) of the Insolvency Act 1986), makes the following Rules in exercise of the power conferred by section 411(1) of the Insolvency Act 1986, read in conjunction with section 21(2) of the Company Directors Disqualification Act 1986(**2**).

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Compensation Orders (Disqualified Directors) Proceedings (England and Wales) Rules 2016.

(2) These Rules come into force on 1st October 2016.

(3) In these Rules—

"the Act" means the Company Directors Disqualification Act 1986 and a reference to a numbered section is to that section of that Act;

"CPR" followed by a Part or rule by number means that Part or rule with that number in the Civil Procedure Rules 1998(**3**);

"practice direction" means a direction as to the practice and procedure of any court within the scope of the Civil Procedure Rules 1998;

"registrar" has the same meaning as in rule 13.2(3A) of the Insolvency Rules 1986(**4**); and

(**1**) 1986 c.45.
(**2**) 1986 c.46; section 21(2) was amended by the Small Business, Enterprise and Employment Act 2015 (c.26), Schedule 7, paragraph 16.
(**3**) S.I. 1998/3132. Relevant amending instruments (those amending Part 8) are S.I. 2000/221, 2000/1317, 2001/256, 2001/4015, 2008/2178, 2011/88, 2013/1974 and 2014/407.
(**4**) S.I. 1986/1925. Relevant amending instruments are S.I. 2010/686 and 2014/817.

"relevant party" means—

(a) the defendant (in the case of an application under section 15A(1)(**5**)); or

(b) the Secretary of State (in the case of an application under section 15C(1)(**6**)).

Application

2.—(1) Subject to paragraph (2), these Rules apply to an application under the Act made on or after 1st October 2016—

(a) by the Secretary of State for a compensation order against a person under section 15A(1); and

(b) by a person who is subject to a compensation undertaking under section 15A(2) for variation or revocation of that undertaking under section 15C(1).

(2) These Rules apply to applications where the courts in England and Wales—

(a) have made a disqualification order against the person;

(b) have jurisdiction to make a disqualification order against the person (in a case where proceedings for a disqualification order have or are being commenced); or

(c) would have had jurisdiction to make a disqualification order against the person (in a case where the person is subject to disqualification undertaking).

Form and conduct of applications

3.—(1) The Civil Procedure Rules 1998, and any relevant practice direction, apply in respect of applications under these Rules, except where these Rules make different provision.

(2) An application must be made by claim form and the claimant must use the CPR Part 8 (alternative procedure for claims) procedure.

(3) In the case of an application under section 15C(1), the Secretary of State is the defendant for the purposes of the Civil Procedure Rules 1998.

(4) CPR rule 8.1(3) (power of the court to order the claim to continue as if the claimant had not used the Part 8 procedure), CPR rule 8.2 (contents of the claim form) and CPR rule 8.7 (Part 20 claims) do not apply to applications under these Rules.

(5) Rule 7.47 (appeals and reviews of court orders in corporate insolvency) and rule 7.49A (procedure on appeal) of the Insolvency Rules 1986 apply to applications under these Rules.

The claimant's case

4.—(1) The claimant must, at the time when the claim form is issued, file in court evidence in support of the application.

(2) The claimant must serve on the relevant party with the claim form copies of the evidence under paragraph (1).

(3) The evidence must be by one or more affidavits or witness statements, which must include—

(a) in the case of an application under section 15A(1), a statement—

(i) of the disqualification order or undertaking in respect of which the application is being brought, or of the proceedings for a disqualification order either commenced or being commenced alongside the application;

(ii) of the loss it is alleged has been caused by the conduct in respect of which—

(**5**) Section 15A was inserted by the Small Business, Enterprise and Employment Act 2015, section 110.
(**6**) Section 15C was inserted by the Small Business, Enterprise and Employment Act 2015, section 110.

(aa) the defendant is subject to the disqualification order or undertaking, or

(bb) proceedings for a disqualification order have been or are being commenced;

(iii) identifying the creditor or creditors to whom it is alleged loss has been caused;

(iv) identifying particulars of the order the claimant is seeking under section 15B(1)(**7**); and

(v) of any other matters considered to be of relevance to the application; and

(b) in the case of an application under section 15C(1), the compensation undertaking (or a copy).

(4) In the case of an application under section 15A(1), where the insolvent company as referred to in section 15A(3)(b) is in administration or liquidation, or there is an administrative receiver of that company, the claimant must also give notice of the claim to the administrator, liquidator or administrative receiver within 14 days of the claim form being issued.

(5) The notice under paragraph (4) must identify particulars of the order the claimant is seeking under section 15B(1).

Endorsements etc. on claim form

5.—(1) The following information must be endorsed on the claim form—

(a) that the application is made in accordance with these Rules;

(b) in the case of an application under section 15A(1), that the court has the power to make such an order in respect of loss it is alleged has been caused by the defendant's conduct;

(c) in the case of an application under 15C(1), that the court has the power to reduce the amount of a compensation undertaking offered and accepted under section 15A(2) or to provide that such an undertaking is not to have effect; and

(d) that any evidence which the relevant party wishes the court to take into consideration must be filed in court in accordance with the time limit under rule 7(1).

(2) The time limit referred to in paragraph (1)(d) must be set out in the claim form.

Acknowledgment of service

6.—(1) The claim form served on the relevant party must be accompanied by an acknowledgment of service and CPR rule 8.3(2) (dealing with the contents of an acknowledgment of service) does not apply.

(2) In the case of an application under section 15A(1), the acknowledgment of service must state that the defendant should indicate—

(a) whether the defendant is contesting the disqualification on which the application is based by—

(i) contesting the making of a disqualification order (either before it has been made or by way of an appeal), or

(ii) applying for a disqualification undertaking to cease to be in force;

(b) whether the defendant disputes that the conduct on which the application is based caused the loss alleged in the application; or

(c) whether the defendant, while not resisting the application, intends to adduce mitigating factors with a view to justifying a reduced level of compensation.

(3) In the case of an application under section 15C(1)—

(**7**) Section 15B was inserted by the Small Business, Enterprise and Employment Act 2015, section 110.