

Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Business, Energy and Industrial Strategy and the Ministry of Housing, Communities and Local Government, have been ordered to be published as HL Bill 50 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Lord Greenhalgh has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill are compatible with the Convention rights.

Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill

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Make provision about matters attributable to coronavirus that may not be taken account of in making certain determinations for the purposes of non-domestic rating; and to make provision in connection with the disqualification of directors of companies that are dissolved without becoming insolvent.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Determinations in respect of certain non-domestic rating lists

- (1) This section applies to the making of a relevant determination in relation to a rating list.
- (2) The following are relevant determinations for the purposes of this section—
 - (a) a determination, for the purposes of compiling or maintaining a rating list (whether or not it is still in force), as to whether a hereditament ought or ought not to be shown in the list; 5
 - (b) a determination, for the purposes of maintaining a rating list compiled on 1 April 2017 (whether or not it is still in force), as to the rateable value of a hereditament. 10
- (3) A determination is not a relevant determination for the purposes of this section to the extent that it concerns whether a hereditament or some part of a hereditament—
 - (a) is or is not domestic property, or
 - (b) is or is not exempt from non-domestic rating under Schedule 5 to the LGFA 1988. 15
- (4) In making a relevant determination, no account is to be taken of any matter (whether arising before or after the passing of this Act) that is directly or indirectly attributable to coronavirus.
- (5) But subsection (4) does not apply to any of the following matters (which, accordingly, may be taken into account in making a relevant determination, whether or not the matter is attributable to coronavirus)— 20

- (a) the physical state of the hereditament in respect of which the determination is made, including whether that state affects the mode or category of occupation of the hereditament;
- (b) the quantity of minerals or other substances in or extracted from the hereditament in respect of which the determination is made; 5
- (c) the quantity of refuse or waste material which is brought onto and permanently deposited on the hereditament in respect of which the determination is made.
- (6) For the purposes of this section, matters attributable to coronavirus include (but are not limited to) anything done by any person – 10
- (a) with a view to compliance with any legislation which concerns the incidence or spread of coronavirus,
- (b) with a view to compliance with any other legislation for reasons relating to the incidence or spread of coronavirus, or
- (c) in response to, or otherwise in consequence of, any advice or guidance given by a public authority relating to the incidence or spread of coronavirus. 15
- (7) This section applies to a determination made by reference to a day, or a matter as it is assumed to be on a day, which falls before, as well as on or after, the day on which this Act is passed. 20
- (8) In this section –
- “coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);
- “domestic property” has the meaning given by section 66 of the LGFA 1988; 25
- “hereditament” has the meaning given by section 64 of the LGFA 1988, and the reference in subsection (2)(a) to a determination as to whether a hereditament ought or ought not to be shown in a list includes a determination as to whether something is or is not a hereditament;
- “the LGFA 1988” means the Local Government Finance Act 1988; 30
- “rating list” means a local non-domestic rating list or central non-domestic rating list under Part 3 of the LGFA 1988.
- (9) The Valuation for Rating (Coronavirus) (England) Regulations 2021 (S.I. 2021/398) (which are superseded by the provision made by this section) are revoked.
- 2 Unfit directors of dissolved companies: Great Britain 35**
- (1) The Company Directors Disqualification Act 1986 is amended as follows.
- (2) In section 6 (duty of court to disqualify unfit directors of insolvent companies) –
- (a) in the heading, omit “of insolvent companies”;
- (b) in subsection (1) – 40
- (i) omit “, it is satisfied”;
- (ii) for paragraphs (a) and (b) substitute –
- “(a) the court is satisfied –
- (i) that the person is or has been a director of a company which has at any time become insolvent (whether while the person was a director or subsequently), or 45

- (ii) that the person has been a director of a company which has at any time been dissolved without becoming insolvent (whether while the person was a director or subsequently), and 5
- (b) the court is satisfied that the person’s conduct as a director of that company (either taken alone or taken together with the person’s conduct as a director of one or more other companies or overseas companies) makes the person unfit to be concerned in the management of a company.”; 10
- (c) in subsection (3), after paragraph (c) insert –
- “(d) where the company in question has been dissolved without becoming insolvent, a court which at the time it was dissolved had jurisdiction to wind it up.” 15
- (3) In section 7 (disqualification orders under section 6: applications and acceptance of undertakings) –
- (a) in subsection (2), for the words from “the day” to the end substitute “–
- (a) in a case where the person is or has been a director of a company which has become insolvent, the day on which the company became insolvent, or 20
- (b) in a case where the person has been a director of a company which has been dissolved without becoming insolvent, the day on which the company was dissolved.”; 25
- (b) in subsection (4)(a), after “insolvent” insert “or been dissolved without becoming insolvent”.
- (4) In section 8ZA (order disqualifying person instructing unfit director of insolvent company), in the heading, omit “of insolvent company”. 30
- (5) In section 8ZB (application for order under section 8ZA), in subsection (2), at the end insert “or was dissolved without becoming insolvent.”
- (6) In section 15A (compensation orders and undertakings), in subsection (3)(b), after “company” insert “, or a company which has been dissolved without becoming insolvent,”. 35
- (7) In section 22A (application of Act to building societies), after subsection (3) insert –
- “(3A) In relation to a building society, this Act applies as if –
- (a) sections 6(1)(a)(ii) and (3)(d) and 7(2)(b) were omitted;
- (b) references in sections 7(4)(a), 8ZB(2) and 15A(3)(b) to a company which has been dissolved without becoming insolvent were omitted.” 40
- (8) In section 22B (application of Act to incorporated friendly societies), in subsection (3A), for the words from “sections” to the end substitute “–
- (a) sections 6(1)(a)(ii) and (3)(d), 7(2)(b) and 8ZA to 8ZE were omitted;
- (b) references in sections 7(4)(a) and 15A(3)(b) to a company which has been dissolved without becoming insolvent were omitted.” 45

- (9) In section 22C (application of Act to NHS foundation trusts), after subsection (2) insert –
- “(2A) In relation to an NHS foundation trust, this Act applies as if –
- (a) sections 6(1)(a)(ii) and (3)(d) and 7(2)(b) were omitted;
 - (b) references in sections 7(4)(a), 8ZB(2) and 15A(3)(b) to a company which has been dissolved without becoming insolvent were omitted.”
- (10) In section 22E (application of Act to registered societies), in subsection (4), for paragraph (f) substitute –
- “(f) sections 6(1)(a)(ii) and (3)(d), 7(2)(b) and 8ZA to 8ZE are to be disregarded;
- (g) references in sections 7(4)(a) and 15A(3)(b) to a company which has been dissolved without becoming insolvent are to be disregarded.”
- (11) In section 22F (application of Act to charitable incorporated organisations), in subsection (3), after paragraph (b) insert –
- “(ba) sections 6(1)(a)(ii) and (3)(d) and 7(2)(b) are to be disregarded;
- (bb) references in sections 7(4)(a), 8ZB(2) and 15A(3)(b) to a company which has been dissolved without becoming insolvent are to be disregarded;”
- (12) In section 22G (application of Act to further education bodies), in subsection (3), after paragraph (a) insert –
- “(aa) sections 6(1)(a)(ii) and (3)(d) and 7(2)(b) are to be disregarded;
- (ab) references in sections 7(4)(a), 8ZB(2) and 15A(3)(b) to a company which has been dissolved without becoming insolvent are to be disregarded;”
- (13) In section 22H (application of Act to protected cell companies), in subsection (4), before paragraph (a) insert –
- “(za) sections 6(1)(a)(ii) and (3)(d) and 7(2)(b) are to be disregarded;
- (zb) references in sections 7(4)(a), 8ZB(2) and 15A(3)(b) to a company which has been dissolved without becoming insolvent are to be disregarded;”
- (14) The amendments made by this section have effect in relation to conduct of directors of companies occurring, and in relation to companies dissolved, at any time before, as well as after, the passing of this Act.
- 3 Unfit directors of dissolved companies: Northern Ireland**
- (1) The Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I. 4)) is amended as follows.
- (2) In Article 9 (duty of High Court to disqualify unfit directors of insolvent companies) –
- (a) in the heading, omit “of insolvent companies”;
 - (b) in paragraph (1) –
 - (i) omit “, it is satisfied”;
 - (ii) for sub-paragraphs (a) and (b) substitute –
 - “(a) the Court is satisfied –

- (i) that the person is or has been a director of a company which has at any time become insolvent (whether while the person was a director or subsequently), or
- (ii) that the person has been a director of a company which has at any time been dissolved without becoming insolvent (whether while the person was a director or subsequently), and
- (b) the Court is satisfied that the person’s conduct as a director of that company (either taken alone or taken together with the person’s conduct as a director of one or more other companies or overseas companies) makes the person unfit to be concerned in the management of a company.”
- (3) In Article 10 (disqualification orders under Article 9: applications and acceptance of undertakings) –
- (a) in paragraph (2), for the words from “the day” to the end substitute “ –
- (a) in a case where the person is or has been a director of a company which has become insolvent, the day on which the company became insolvent, or
- (b) in a case where the person has been a director of a company which has been dissolved without becoming insolvent, the day on which the company was dissolved.”;
- (b) after paragraph (5) insert –
- “(5A) The Department or the official receiver may require any person –
- (a) to furnish the Department or, as the case may be, the official receiver with such information with respect to that person’s or another person’s conduct as a director of a company which has been dissolved without becoming insolvent (whether while the person was a director or subsequently), and
- (b) to produce and permit inspection of such books, papers and other records as are considered by the Department or, as the case may be, the official receiver to be relevant to that person’s or another person’s conduct as such a director,
- as the Department or the official receiver may reasonably require for the purpose of determining whether to exercise, or of exercising, any function under this Article.”
- (4) In Article 11A (order disqualifying person instructing unfit director of insolvent company), in the heading, omit “of insolvent company”.
- (5) In Article 11B (application for order under Article 11A) –
- (a) in paragraph (2), at the end insert “or was dissolved without becoming insolvent.”;
- (b) for paragraph (3) substitute –
- “(3) Paragraphs (5) and (5A) of Article 10 apply for the purposes of this Article as they apply for the purposes of that Article.”

- (6) In Article 11C (disqualification undertaking instead of an order under Article 11A), for paragraph (4) substitute –
“(4) Paragraphs (5) and (5A) of Article 10 apply for the purposes of this Article as they apply for the purposes of that Article.”
- (7) In Article 19A (compensation orders and undertakings), in paragraph (3)(b), after “company” insert “, or a company which has been dissolved without becoming insolvent,”. 5
- (8) In Article 24D (application of Order to building societies), after paragraph (3) insert –
“(3A) In relation to a building society, this Order applies as if – 10
(a) Articles 9(1)(a)(ii) and 10(2)(b) and (5A) were omitted;
(b) references in Articles 11B(2) and 19A(3)(b) to a company which has been dissolved without becoming insolvent were omitted.”
- (9) In Article 25 (application of Order to incorporated friendly societies), in paragraph (3A), for the words from “Articles” to the end substitute “– 15
(a) Articles 9(1)(a)(ii), 10(2)(b) and (5A) and 11A to 11E were omitted;
(b) the reference in Article 19A(3)(b) to a company which has been dissolved without becoming insolvent were omitted.”
- (10) In Article 25A (application of Order to registered societies), in paragraph (2), for sub-paragraph (g) substitute – 20
“(g) Articles 9(1)(a)(ii), 10(2)(b) and (5A) and 11A to 11E are to be omitted;
(h) the reference in Article 19A(3)(b) to a company which has been dissolved without becoming insolvent is to be omitted.” 25
- (11) In Article 25B (application of Order to credit unions), in paragraph (3), for sub-paragraph (c) substitute –
“(c) Articles 9(1)(a)(ii), 10(2)(b) and (5A) and 11A to 11E were omitted;
(ca) the reference in Article 19A(3)(b) to a company which has been dissolved without becoming insolvent were omitted;” 30
- (12) In Article 25C (application of Order to protected cell companies), in paragraph (4), before sub-paragraph (a) insert –
“(za) Articles 9(1)(a)(ii) and 10(2)(b) and (5A) are to be omitted;
(zb) references in Articles 11B(2) and 19A(3)(b) to a company which has been dissolved without becoming insolvent are to be omitted;” 35
- (13) The amendments made by this section have effect in relation to conduct of directors of companies occurring, and in relation to companies dissolved, at any time before, as well as after, the passing of this Act. 40

4 Extent, commencement and short title

- (1) Section 1 extends to England and Wales.
- (2) An amendment made by section 2 or 3 has the same extent as the provision amended.

- (3) This section extends to England and Wales, Scotland and Northern Ireland.
- (4) The following provisions of this Act come into force on the day on which it is passed –
 - (a) section 1;
 - (b) section 2, for the purposes of the exercise by the Secretary of State or the official receiver of powers under section 7(4) of the Company Directors Disqualification Act 1986; 5
 - (c) section 3, for the purposes of the exercise by the Department or the official receiver of powers under Article 10(5A) of the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I. 4)) (inserted by section 3(3)(b)); 10
 - (d) this section.
- (5) Sections 2 and 3 come into force for remaining purposes at the end of the period of two months beginning with the day on which this Act is passed.
- (6) This Act may be cited as the Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Act 2021. 15

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