



BNA's

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News

Other Developments

International Insolvency **Bans of Insolvent Bosses** **Show Record Rise in Britain**

LONDON--The number of company directors banned from running businesses in the United Kingdom surged by 24 percent in just six months, partly as a result of new rules designed to accelerate disqualifications under the 2000 Insolvency Act, the U.K. Department of Trade and Industry said Jan. 2.

DTI said that 935 directors were banned between March and September 2001. The construction industry had the highest number disqualified, accounting for 103 of the total. The computer services industry was second in the dishonesty league, at 75, followed closely by textile and clothing manufacturing, which saw 73 bans.

Competition and Consumer Affairs Minister Melanie Johnson said the increase in disqualifications was the direct result of fast-track procedures allowing DTI to disqualify company directors without going to court. New rules introduced last April under the 2000 Insolvency Act allow cases to proceed by way of agreements with rogue directors. Fifty-seven percent of the 935 banning orders were served under the new fast-track procedures.


The rules apply only to directors whose previous companies had failed. Directors who agree they should be disqualified due to previous misconduct may receive an administrative order to this effect if they choose to avoid expensive legal fees. Under the new rules, directors can give an undertaking not to act as a director for an agreed period between two and 15 years. The undertakings are made to the Insolvency Service, an executive agency of DTI, and they are registered at Companies House. Violation of an undertaking constitutes a criminal offense.

"It is vital that the business community and consumers are protected from irresponsible, incompetent or rogue directors at the earliest opportunity," said Johnson. "We are also determined to clamp down on the minority of fraudulent directors who try to cheat the public. These figures should serve as a warning to all of them--we will not let you get away with it."

The number of directors disqualified since the original Insolvency Act went into effect in 1986 now stands at more than 10,000, of which more than 5,000 were in the last four and a half years. On April 2, 2001, amendments to Section 6 of the 1986 Insolvency Act made by the Insolvency Act 2000 allowed banned directors to avoid the need for a court hearing by offering a "disqualification undertaking" that has exactly the same legal effect as a "disqualification order" made by a court. It usually includes a schedule identifying the unfit conduct upon which it was accepted.

The Insolvency Service's hotline encourages the public to blow the whistle on those who continue to act as directors and defy their ban. Since the hotline was set up in January 1998, over 2,300 calls have been made. In the past six months, 70 calls were reported for

prosecution by official receivers, who become liquidators when a company is declared insolvent by the court. An official receiver has a duty under the 1986 Insolvency Act to investigate the causes of failure and report misconduct.

Anyone who suspects a director is running a company in defiance of a banning order may call the hotline at 0845-601-3546 to check a list of banned directors. 

By Patrick Tracey

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