

Default under section 149 (8) concerning fact of director's becoming disqualified under law of another state

840. (1) In this section—

“relevant change amongst its directors”, in relation to a company, means the change referred to in section 150 (1), namely the case of a director's becoming disqualified under the law of another state (whether pursuant to an order of a judge or a tribunal or otherwise) from being appointed or acting as a director or secretary of a body corporate or an undertaking;

“relevant director” means the director of the company who has become so disqualified under the law of another state;

“statement of particulars of foreign disqualification” means the statement of particulars of disqualification that is required under section 150 (1).

(2) If—

(a) a company fails to comply with the requirement under section 149 (8) to send to the Registrar the notification of the relevant change amongst its directors and that failure is by reason of a default of the relevant director, or

(b) in purported compliance with that requirement, a company sends to the Registrar the notification of the relevant change amongst its directors and, by reason of a default of the relevant director, the statement of particulars of foreign disqualification is false or misleading in a material respect,

the relevant director shall be deemed, for the purposes of this Act, to be subject to a disqualification order for the period specified in subsection (3).

(3) The period of disqualification—

(a) commences—

(i) in the case of a failure referred to in subsection (2)(a), on the expiry of 14 days after the date on which the relevant director has become disqualified, as mentioned in the definition of “relevant change amongst its directors” in subsection (1), under the law of another state, or

(ii) in the case, as referred to in subsection (2)(b), of the sending of a statement of particulars of foreign disqualification to the Registrar that is false or misleading in a material respect, when that statement is delivered to the Registrar,

and

(b) continues only for so much of—

(i) the period of foreign disqualification as remains unexpired as at the date of commencement referred to in paragraph (a), or

(ii) if the person is disqualified under the law of more than one state, and the unexpired periods of disqualification in each of the states are not equal, whichever unexpired period of disqualification is the greatest.

(4) Without limiting the circumstances in which such a default can arise, a failure referred to in—

(a) subsection (2)(a) occurs by reason of a default of the relevant director if the latter has failed in his or her duty under section 150 (3) to give the necessary information to the company so as to enable it to comply with the requirement under section 149 (8) to send to the Registrar the notification of the relevant change amongst its directors, and

(b) subsection (2)(b) occurs by reason of a default of the relevant director if the latter, in purported compliance with the foregoing duty, has given information to the company, for the purposes of the statement of particulars of foreign disqualification, that is false or misleading in a material respect.

(5) This section shall also apply to the additional case that, by virtue of subsection (9) of section 150, subsection (1) of section 150 applies to.

(6) For the purposes of the application of this section to the foregoing additional case, this section shall have effect subject to the following modifications:

(a) the following definition shall be substituted for the definition of “relevant change amongst its directors” in subsection (1):

“ ‘relevant change amongst its directors’, in relation to a company, means the change referred to in subsection (1) of section 150 (as that subsection applies by virtue of subsection (9) of that section), namely the case of a person appointed a director of a company before the commencement of that section and who, subsequent to his or her appointment but before that commencement, becomes disqualified under the law of another state (whether pursuant to an order of a judge or a tribunal or otherwise) from being appointed or acting as director or secretary of a body corporate or an undertaking;”;

(b) in subsection (2), after “section 149 (8)” there shall be inserted “ (10))”;

(c) in subsection (3)(a), there shall be substituted the following for subparagraph (i):

“(i) in the case of a failure referred to in subsection (2)(a), on the expiry of 3 months after the commencement of section 150; or”;

and

(d) in subsection (3)(b), there shall be substituted the following for subparagraph (i):

“(i) the period of foreign disqualification as remains unexpired as at the date that is specified in paragraph (a) to be the date on which the period of disqualification commences;”.