

Specific disqualification from appointment as liquidator or provisional liquidator

635. (1) None of the following persons shall be qualified to be appointed or act as liquidator of a company:

(a) a person who is, or who within the period of 24 months before the date of the commencement of the winding up has been, an officer or employee of the company;

(b) except with the leave of the court, a parent, spouse, civil partner, brother, sister or child of an officer of the company;

(c) a person who is a partner or in the employment of an officer or employee of the company;

(d) a person who is an undischarged bankrupt;

(e) a person who is not qualified by virtue of a preceding provision of this subsection for appointment as liquidator of any other body corporate which is that company's subsidiary or holding company or a subsidiary of that company's holding company, or would be so disqualified if the body corporate were a company.

(2) References in subsection (1) to—

(a) a child of an officer shall be deemed to include a child of the officer's civil partner who is ordinarily resident with the officer and the civil partner,

(b) an officer or employee of the company include a statutory auditor of the company.

(3) An application for leave under subsection (1)(b) shall be supported by such evidence as the court may require.

(4) If, while acting as liquidator of a company, a person ceases to be qualified to so act by virtue of subsection (1), the person shall thereupon vacate his or her office.

(5) On vacating such office by reason of those circumstances, the person shall give notice in writing that he or she has vacated such office (by reason of those circumstances)—

(a) within 2 days after the date of vacating office, to—

(i) the Registrar,

(ii) the Director, and

(iii) if the person had been authorised pursuant to paragraph 5 of the Table to section 633 to be

appointed as a liquidator — the Supervisory Authority,

and

(b) within 14 days after the date of vacating office, to—

(i) in the case of a winding up by the court, the court and—

(I) if a committee of inspection has been appointed — the members of that committee, or

(II) if no committee of inspection has been appointed — the creditors of the company,

(ii) in the case of a creditors' voluntary winding up—

(I) if a committee of inspection has been appointed — the members of that committee, or

(II) if no committee of inspection has been appointed — the creditors of the company,

or

(iii) in the case of a members' voluntary winding up — the members of the company.

(6) A person who—

(a) acts as a liquidator of a company when he or she is not qualified by virtue of subsection (1) to so act, or

(b) contravenes subsection (4),

shall be guilty of a category 2 offence.

(7) A person who contravenes subsection (5) shall be guilty of a category 3 offence.

(8) Subsections (1) to (7) shall not apply to a winding up commenced before 1 August 1991.

(9) In this section “liquidator” includes a provisional liquidator.