

Effect of delivery of notice under section 850, giving of disqualification undertaking on foot thereof and related matters

851. (1) Where a notice is delivered under section 850 (2), the Director and every person who is aware of the notice shall not, during the notice period, make an application under section 842, arising from or in connection with the underlying facts and circumstances, in respect of the person who is the subject of the notice.

(2) Subsections (3) to (5) apply where a person, the subject of a notice delivered under section 850 (2), has, within the notice period—

(a) notified the Director, in the prescribed manner, of his or her willingness to give a disqualification undertaking for the disqualification period, and

(b) returned to the Director the disqualification acceptance document duly signed.

(3) The Director shall, as soon as practicable—

(a) cause the Registrar to be furnished with the prescribed particulars of the disqualification undertaking at such time and in such form and manner as may be prescribed, and the Registrar shall enter the prescribed particulars in the register of persons kept under section 864, and

(b) notify the person of the prescribed particulars of the disqualification undertaking furnished to the Registrar and provide the person with a copy of the disqualification acceptance document executed by or on behalf of the Director.

(4) After the expiry of the notice period, neither the Director nor any other person shall make an application under section 842, arising from or in connection with the underlying facts and circumstances, in respect of the person who has given the disqualification undertaking.

(5) For the duration of the disqualification period beginning on the specified date, the person who has given the disqualification undertaking—

(a) shall not be appointed or act as a director or other officer, statutory auditor, receiver, liquidator or examiner or be in any way, whether directly or indirectly, concerned or take part in the promotion, formation or management of each of the following:

(i) any company within the meaning of section 819 (6);

(ii) any friendly society within the meaning of the Friendly Societies Acts 1896 to 2014;

(iii) any society registered under the Industrial and Provident Societies Acts 1893 to 2014;

and

(b) shall be deemed, for the purposes of this Act, to be subject to a disqualification order.

(6) The Director shall not exercise his or her power under section 850 (2) in relation to a person where—

(a) in the Director's opinion, a period of disqualification, in relation to the person, that is longer than 5 years is warranted by the underlying facts and circumstances, or

(b) the Director is aware that an application under section 842 has already been made in respect of the person arising from or in connection with the underlying facts and circumstances.

(7) Where the person who has given the disqualification undertaking (the “immediate undertaking”) is already disqualified by virtue of an earlier disqualification undertaking or disqualification order, the period specified in the immediate undertaking shall run concurrently with the remaining period for which the person is already subject to disqualification.

(8) In this section—

(a) without prejudice to section 850 (5), “specified date” and “notice period” are to be read in accordance with section 850 (3)(c) and (d), respectively,

(b) “person”, “underlying facts and circumstances” and “disqualification period” are to be read in accordance with section 850 (2), (3)(a) and (3)(b), respectively.