

Declaration by court restricting director of insolvent company in being appointed or acting as director etc.

819. (1) On the application of a person referred to in section 820 (1) and subject to subsection (2), the court shall declare that a person who was a director of an insolvent company shall not, for a period of 5 years, be appointed or act in any way, directly or indirectly, as a director or secretary of a company, or be concerned in or take part in the formation or promotion of a company, unless the company meets the requirements set out in subsection (3).

(2) The court shall make a declaration under subsection (1) unless it is satisfied that—

(a) the person concerned has acted honestly and responsibly in relation to the conduct of the affairs of the company in question, whether before or after it became an insolvent company,

(b) he or she has, when requested to do so by the liquidator of the insolvent company, cooperated as far as could reasonably be expected in relation to the conduct of the winding up of the insolvent company, and

(c) there is no other reason why it would be just and equitable that he or she should be subject to the restrictions imposed by an order under subsection (1).

(3) The requirements referred to in subsection (1) are—

(a) the company shall have an allotted share capital of nominal value not less than—

(i) €500,000 in the case of a public limited company (other than an investment company) or a public unlimited company, or

(ii) €100,000 in the case of any other company,

(b) each allotted share shall be paid up to an aggregate amount not less than the amount referred to in paragraph (a), including the whole of any premium on that share, and

(c) each allotted share and the whole of any premium on each allotted share shall be paid for in cash.

(4) In the application of subsection (3) to a company limited by guarantee, paragraphs (a) to (c) of it shall be disregarded and, instead, that subsection shall be read as if it set out both of the following requirements:

(a) that the company's memorandum of association specifies that the amount of the contribution on the part of the member of it, or at least one member of it, being the contribution undertaken to be made by the member as mentioned in section 1176 (2)(d), is not less than €100,000;

(b) that the member whose foregoing contribution is to be not less than that amount is an individual, as distinct from a body corporate.

(5) In the application of subsection (3) to an investment company, paragraphs (a) to (c) of it shall be disregarded and, instead, that subsection shall be read as if it set out both of the following requirements—

(a) that the value of the issued share capital of the company is not less than €100,000,

(b) that an amount of not less than €100,000 in cash has been paid in consideration for the allotment of shares in the company.

(6) Where subsection (1) refers to being appointed or acting as a director or secretary of a company, or taking part in the formation or promotion of a company, “company” means any of the following:

(a) a private company limited by shares;

(b) a designated activity company;

(c) a public limited company;

(d) a company limited by guarantee;

(e) an unlimited company;

(f) an unregistered company.

(7) A prescribed officer of the court shall ensure that the prescribed particulars of a declaration under this section are provided to the Registrar in the prescribed form and manner (if any).