

3. Return by office-holder

- (1) This section applies where it appears to a liquidator of a company as mentioned in section 2(1)(a) or to a receiver as mentioned in section 2(1)(b) (each of whom is here referred to as **office-holder**) that the company has at any time become insolvent within the meaning of section 168H(2) of the Ordinance.
 - (2) Subject as follows there may be furnished to the Official Receiver by an office-holder at any time during the period of 6 months from the relevant date (defined in subsection (4)) a return with respect to every person who—
 - (a) was, on the relevant date a director or shadow director of the company; or
 - (b) had been a director or shadow director of the company at any time in the 3 years immediately preceding that date.
 - (3) The return shall be made in Form D2 set out in the Schedule, and in the manner and to the extent required by that form.
 - (4) For the purposes of this section, **the relevant date** (有關日期) means—
 - (a) in the case of a company being wound up by the court, the date of the winding up order;
 - (b) in the case of a voluntary winding up by reason of inability to continue business under section 228A of the Ordinance, the date of the delivery to the Registrar of the winding-up statement made under that section; (*14 of 2016 s. 175*)
 - (c) in the case of a company in creditors' voluntary winding up (there having been no certificate of solvency issued by the directors under section 233 of the Ordinance), the date of the passing of the resolution for voluntary winding up; (*28 of 2003 s. 127*)
 - (d) in the case of a company in members' voluntary winding up, the date on which the liquidator forms the opinion that, at the time when the company went into liquidation, its assets were insufficient for the payment of its debts and other liabilities and the expenses of winding up;
 - (e) in the case of the receiver, the date of his appointment.
 - (5) The responsible office-holder shall furnish a return complying with subsections (2) and (3) to the Official Receiver not later than the expiry of the period of 6 months from the relevant date where no return has been so furnished by a day one week before the expiry of that period, and for the purposes of this subsection the responsible office-holder shall be the person in office in relation to the company on the day specified above or where no person is in office on that day the office-holder who vacated office nearest to that day.
 - (6) A return need not be provided under this section if an office-holder has, since the relevant date, made reports to the Official Receiver under section 168I(3) of the Ordinance with respect to all the persons falling within subsection (2) and (apart from this subsection) required to be the subject of return.
 - (7) If a responsible office-holder without reasonable excuse fails to comply with the duty imposed by subsection (5), he is liable to a fine not exceeding level 2. (*E.R. 4 of 2021*)
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