

262B. Persons disqualified from being appointed etc. as provisional liquidator or liquidator

- (1) This section does not apply in relation to the Official Receiver and, in addition, subsection (3) does not apply in relation to a members' voluntary winding up.
- (2) The following persons are disqualified from being appointed or nominated for appointment, and from acting, as a provisional liquidator or liquidator of a company—
 - (a) a body corporate;
 - (b) an undischarged bankrupt;
 - (c) a person against whom a disqualification order is in force, other than such a person who has the leave of the court to be appointed or to act as the provisional liquidator or liquidator of the company;
 - (d) a person who has been found under the Mental Health Ordinance (Cap. 136) to be incapable, by reason of mental incapacity, of managing and administering the person's property and affairs;
 - (e) a person who is subject to a guardianship order made under Part IVB of the Mental Health Ordinance (Cap. 136).
- (3) Subject to subsection (1), except with the leave of the court, the following persons are disqualified from being appointed or nominated for appointment, and from acting, as a provisional liquidator or liquidator of a company—
 - (a) a creditor of the company;
 - (b) a debtor of the company;
 - (c) a director of the company, or a person who has been a director of the company;
 - (d) a company secretary of the company, or a person who has been a company secretary of the company;
 - (e) the auditor of the company, or a person who was the auditor of the company at any time on or after the starting day of 2 years before the commencement of the winding up (*former auditor*);
 - (f) a receiver or manager of the property of the company.
- (4) For the purposes of subsection (3)(a), a person is not a creditor of the company only because a debt is owed to the person by the company in the person's capacity as a provisional liquidator or liquidator of the company.
- (5) For the purposes of subsection (3)(e)—
 - (a) if the auditor or the former auditor is a firm, the disqualification under that subsection extends to the following persons—
 - (i) a person who was a partner in the firm when the firm was appointed as the auditor;
 - (ii) a person who became a partner in the firm after the firm had been appointed as the auditor (whether or not the firm had ceased to be the auditor when the person became the firm's partner); and
 - (b) if the auditor or the former auditor is a corporate practice as defined by section 2(1) of the Professional Accountants Ordinance (Cap. 50), the disqualification under that subsection extends to the following persons—
 - (i) a person who was a director of the corporate practice when the corporate practice was appointed as the auditor;
 - (ii) a person who became a director of the corporate practice after the corporate

practice had been appointed as the auditor (whether or not the corporate practice had ceased to be the auditor when the person became its director).

(6) In this section—

court (法院) has the meaning given by section 168R(5);

disqualification order (取消資格令) has the meaning given by section 168R(5);

firm (商號) means a firm as from time to time constituted.