

Company dissolution is no longer the safe space for directors to hide



You may have seen our blog published on 19 November 2021 commenting on The Ratings (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill. On 15 December 2021, The Ratings (Coronavirus) and Disqualification (Dissolved Companies) Act came into force and introduces new measures to combat director misconduct. Whereas previously, the Insolvency Service's investigation into directors' conduct was limited to directors of only live companies or those entering a form of insolvency, the Act extends the powers of investigation and disqualification of directors under CDDA to include former *directors of dissolved companies*, thus avoiding the need, time and cost of restoring them to the Companies Register first.

The procedure for dissolution is a straightforward and cheap one. However, for those directors who opt for dissolution rather than a liquidation as a means of avoiding an investigation into their conduct under the Company Directors Disqualification Act 1986 ("CDDA") – think again! The CDDA allows the Insolvency Service, acting on behalf of the Secretary of State, to bring disqualification proceedings, in the public interest, against a former director and to seek Orders ranging from 2 to 15 years on grounds that the former director is unfit to act as a director or to be concerned in the management of a company. It is worthy of note that a finding by the court of unfitness need not be limited to circumstances where the conduct is deliberate. Ignorance of the law is no defence. Examples of unfitness include –

1. Allowing a company to continue trading when it cannot pay its debts
2. Allowing a company to continue trading to the detriment of [HMRC](#) (or a general body of creditors)
3. Not keeping proper company accounting records
4. Not sending accounts and returns to Companies House
5. Not paying tax owed by the company



6. Using company money or assets for personal benefit
7. Fraudulent dealings (the Government raised concern that the dissolution process was being misused as a method of fraudulently avoiding repayment of government-backed loans given to business to support them during the Covid-19 pandemic).

If, as a director of a company at risk of insolvency, you are considering whether to opt for dissolution or liquidation, please take legal advice before deciding which option to take; it could make a world of difference to your reputation, finances and future.



[Tania Clench](#)

Legal Director