

## EFFECTS OF A BANKRUPTCY RESTRICTIONS ORDER (“BRO”)

This Schedule deals with the main statutory consequences flowing from a BRO as at the date set out at the end of this document. It is intended for guidance only.

The restrictions may change at any time. It is the sole responsibility of those who are subject to a bankruptcy restrictions order, an interim bankruptcy restrictions order, or who have given a bankruptcy undertaking, to ensure that they comply with the relevant restrictions which may apply to them from time to time as a result of that order or undertaking.

This schedule is limited to the effects of a BRO in England and Wales.

The same restrictions apply where a person is subject to an interim BRO<sup>1</sup> or to a bankruptcy undertaking<sup>2</sup>.

### Main disqualifications and effects

1. Company Directors Disqualification Act 1986, s. 11(1):  
“It is an offence for a person to act as a director of a company or directly or indirectly to take part in or be concerned in the promotion, formation or management of a company, without leave of the court at a time when ... (b) a bankruptcy restrictions order... is in force in respect of him.”
2. This also applies to membership of a Limited Liability Partnership, with appropriate modifications<sup>3</sup>.
3. Insolvency Act 1986, s. 390(5):  
“A person is not qualified to act as an insolvency practitioner while a bankruptcy restrictions order is in force in respect of him.”

Under s.389, it is an offence to act as an insolvency practitioner when not qualified to do so.

4. Insolvency Act 1986, s.31(1):  
“A person commits an offence if he acts as receiver or manager of the property of a company on behalf of debenture holders while (b) a bankruptcy restrictions order is in force in respect of him.”<sup>4</sup>
5. Insolvency Act 1986, s. 360:  
“(1) The bankrupt is guilty of an offence if:

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1 See Insolvency Act 1986, Sch 4A, para 5(4).

2 See Insolvency Act 1986, Sch 4A, para 8.

3 Limited Liability Partnerships Regulations 2001, Reg 4(2).

4 Section derived from the Companies Act 1985, s. 490 and substituted by the Enterprise Act 2002, s. 257(3), Sch 21, para 1.

- (a) either alone or jointly with any other person, he obtains credit to the extent of the prescribed amount [i.e. £500<sup>5</sup>] or more without giving the person from whom he obtains it the relevant information about his status; or
- (b) he engages (whether directly or indirectly) in any business under a name other than that in which he was adjudged bankrupt without disclosing to all persons with whom he enters into any business transaction the name in which he was so adjudged.

(5) This section applies to the bankrupt after discharge while a bankruptcy restrictions order is in force in respect of him.”

6. Charity trustees:

Charities Act 1993<sup>6</sup>, s. 72<sup>7</sup>.

“72. (1) Subject to the following provisions of this section, a person shall be disqualified for being a charity trustee or trustee for a charity if

...

(b) he has been adjudged bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged [or he is the subject of a bankruptcy restrictions order or an interim order]<sup>8</sup>;

...

(2) In subsection (1) above

...

(b) paragraph (b) applies whether the adjudication of bankruptcy or the sequestration [or the making of a bankruptcy restrictions order or an interim order]<sup>9</sup> occurred before or after the commencement of that subsection”.

7. Pensions Act 1995, s.29<sup>10</sup>:

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5 See Insolvency Proceedings (Monetary Limits) (Amendment) Order 2004 (SI 2004/547).

6 As amended by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722), Sch 2, Part 1, para 4.

7 Substituted by the Charities Act 2006, s. 75(1), Sch 8, paras 96, 155.

8 Amended by ss(1): in para (b) words "or he is the subject of a bankruptcy restrictions order or an interim order" in square brackets inserted by SI 2006/1722, art 2(2), Sch 2, Part 1, para 4(a). Date in force: 29 June 2006: see SI 2006/1722, art 1(1).

9 Ss. (2): in para (b) words "or the making of a bankruptcy restrictions order or an interim order" in square brackets inserted by SI 2006/1722, art 2(2), Sch 2, Part 1, para 4(b). Date in force: 29 June 2006: see SI 2006/1722, art 1(1).

10 As amended by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722), Sch 2, Part 1, para 5.

“29. (1) Subject to subsection (5), a person is disqualified for being a trustee of any trust scheme if

...

(b) he has been adjudged bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged or he is the subject of a bankruptcy restrictions order or an interim order,

...

(2) In subsection (1)

...

(b) paragraph (b) applies whether the adjudication of bankruptcy or the sequestration or the making of the bankruptcy restrictions order or interim order occurred before or after the coming into force of that subsection.”

### **Disqualifications from Public Office**

8. Insolvency Act 1986, s. 426A<sup>11</sup>:

“(1) A person in respect of whom a bankruptcy restrictions order has effect shall be disqualified:

- (a) from membership of the House of Commons;
- (b) from sitting or voting in the House of Lords, and
- (c) from sitting or voting in a committee of the House of Lords or a joint committee of both Houses.

...

(5) If a court makes a bankruptcy restrictions order or interim order [or a debt relief restrictions order or an interim debt relief restrictions order,] in respect of a member of the House of Commons or the House of Lords the court shall notify the Speaker of that House.

(6) If the Secretary of State accepts a bankruptcy restrictions undertaking [or a debt relief restrictions undertaking] made by a member of the House of Commons or the House of Lords, the Secretary of State shall notify the Speaker of that House.”<sup>12</sup>

9. Insolvency Act 1986, s. 426B:

“(1) If a court makes a bankruptcy restrictions order or interim order in respect of a member of the Scottish Parliament, the Northern

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<sup>11</sup> Ss. 426A and 426B inserted by s. 266 (1) of the Enterprise Act 2002.

<sup>12</sup> [Insolvency Act 1986 s. 426B Devolution] [(1) If a court makes a bankruptcy restrictions order or interim order in respect of a member of the Scottish Parliament, the Northern Ireland Assembly or the National Assembly for Wales, [or makes a debt relief restrictions order or interim debt relief restrictions order in respect of such a member,] the court shall notify the presiding officer of that body. (2) If the Secretary of State accepts a bankruptcy restrictions undertaking [or a debt relief restrictions undertaking] made by a member of the Scottish Parliament, the Northern Ireland Assembly or the National Assembly for Wales, the Secretary of State shall notify the presiding officer of that body.]

Ireland Assembly or the National Assembly for Wales, the court shall notify the presiding officer of that body.

- (2) If the Secretary of State accepts a bankruptcy restrictions undertaking made by a member of the Scottish Parliament, the Northern Ireland Assembly or the National Assembly for Wales, the Secretary of State shall notify the presiding officer of that body.”
10. Local Government Act 1972, s. 80(1)(b):  
“Subject to the provisions of section 81 below, a person shall be disqualified for being elected or being a member of a local authority, and be disqualified for being or being elected mayor, if he ... (b) is the subject of a bankruptcy restrictions order or interim order...”<sup>13</sup>
11. Greater London Authority Act 1999, s. 21<sup>14</sup>:  
“(1) A person is disqualified from being elected or being the Mayor or an Assembly member if  
...  
[(c) he is the subject of a bankruptcy restrictions order or an interim order]”
12. Industry Act 1975, Sch 3 s. 6(1)(c)<sup>15</sup>:  
“... the members of a tribunal shall hold office for such period as may be determined at the time of their respective appointments and shall be eligible for reappointment but, notwithstanding that the period for which a member was appointed has not expired ... if any member is the subject of a bankruptcy restrictions order or an interim order ... his office shall thereupon become vacant.”
13. Transport Act 1981, Sch 2 s. 3(2)(a)<sup>16</sup>:  
“The office of director is vacated if the director ... is the subject of a bankruptcy restrictions order or an interim order ...”

### **Births, deaths and marriages**

14. A person who is subject to bankruptcy restrictions shall not be qualified for appointment to any registration office of births, deaths or marriages<sup>17</sup>.

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13 Substituted by the Enterprise Act 2002, s. 267(1).

14 As amended by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722), Sch 2, Part 1, para 6.

15 As amended by Enterprise Act 2002 (Disqualification from Office: General) Order 2006.

16 As amended by Enterprise Act 2002 (Disqualification from Office: General) Order 2006.

17 Registration of Births, Deaths and Marriages Regulations 1968 (SI 1968/2049), Reg 5(a)(i) as amended by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722), Sch 2, Part 2, para 7.

## Education

15. An individual subject to a BRO may not be a member of the Central Sussex College, a further education corporation<sup>18</sup>.
16. A person who is subject to bankruptcy restrictions shall be disqualified for holding, or for continuing to hold, office as a member of a foundation body, as defined in s. 21(4) of the School Standards and Framework Act 1998<sup>19</sup>.
17. A person who is subject to bankruptcy restrictions is disqualified from holding or continuing to hold office as a member of a committee appointed or elected pursuant to the Education (Pupil Referral Units) (Management Committees etc) (England) Regulations 2007<sup>20</sup>.
18. A person who is subject to bankruptcy restrictions is disqualified from holding or continuing to hold office as a temporary governor of a new school<sup>21</sup>.
19. A person who is subject to bankruptcy restrictions is disqualified from holding or continuing to hold office as a governor of a school<sup>22</sup>.
20. A person who is subject to bankruptcy restrictions is disqualified from being a member of a school company<sup>23</sup>.
21. A person who is subject to bankruptcy restrictions is disqualified from being a member of a school PFI company<sup>24</sup>.

## Family

22. A person subject to bankruptcy restrictions may not be a member of the Children and Family Court Advisory and Support Service<sup>25</sup>.
23. A person subject to bankruptcy restrictions may not carry on the business of an adoption support agency<sup>26</sup>.

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18 Central Sussex College (Government) Regulations 2005 (SI 2005/397).

19 Education (Foundation Body) (England) Regulations 2000 (SI 2000/2872), as amended by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722), Sch 2, Part 2, para 15.

20 Education (Pupil Referral Units)(Management Committees etc)(England) Regulations 2007, Sch 2, s. 5(b).

21 School Governance (New Schools) (England) Regulations 2007, Sch 2, s. 5(b).

22 The School Governance (Constitution) (England) Regulations 2007, Sch 6, s. 6(b).

23 The School Companies Regulation 2002 (SI 2002/2978), Sch 1, s. 1(b), as amended by the Education (Disqualification Provisions: Bankruptcy and Mental Health) (England) Regulations 2006.

24 The School Companies (Private Finance Initiative Companies) Regulations 2002, Sch, s. 1(b), as amended by Education (Disqualification Provisions: Bankruptcy and Mental Health) (England) Regulations 2006.

25 The Children and Family Court Advisory and Support Service (Membership, Committee and Procedure) Regulations 2005 (SI 2005/433), Reg 6(d).

26 Adoption Support Agencies (England) and Adoption Agencies (Miscellaneous Amendments) Regulations 2005 (SI 2005/2720), Part 2, Reg 7.

## Financial matters

24. A person shall cease to qualify as an account provider under the Child Trust Funds Regulations 2004 on becoming subject to bankruptcy restrictions and must notify the Commissioners of the Inland Revenue within 30 days of his becoming so<sup>27</sup>.
25. A person who is subject to bankruptcy restrictions shall cease to qualify as a plan manager of a personal equity plan under the Personal Equity Plan Regulations 1989 and shall notify the Commissioners of Inland Revenue forthwith of the fact that an order has been made against him<sup>28</sup>.
26. A person who is subject to bankruptcy restrictions shall cease to qualify as an account manager of an account under the Individual Savings Account Regulations 1998 and shall notify the Commissioners of Inland Revenue within 30 days of the making of the order or interim order of the making of the order or interim order<sup>29</sup>.
27. A person subject to bankruptcy restrictions may not represent a member of a creditors' committee established for the purposes of the administration of a company<sup>30</sup>.
28. A person subject to bankruptcy restrictions may not represent a member of a creditors' committee established for the purposes of the administrative receivership of a company<sup>31</sup>.
29. A person subject to bankruptcy restrictions may not represent a member of a liquidation committee established for the purposes of the winding up of a company<sup>32</sup>.
30. A person subject to bankruptcy restrictions may not represent a member of a creditors' committee established for the purposes of a bankruptcy<sup>33</sup>.

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27 Child Trust Funds Regulations 2004 (SI 2004/1450), Reg 20(1).

28 Personal Equity Plan Regulations 1989 (SI 1989/469), Regulation 15(1)(b), as amended by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722), Sch 2, Part 2, para 8.

29 Individual Savings Account Regulations 1998 (SI 1998/1870), as amended by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722), Art 2(2), Sch 2, Part 2, para 13.

30 Insolvency Rules 1986 (SI 1986/1925), Rule 2.55(4), as substituted by the Insolvency Amendment Rules 2004 (SI 2004/584), Rule 4.

31 Insolvency Rules 1986 (SI 1986/1925), Rule 3.21(4), as substituted by the Insolvency Amendment Rules 2004 (SI 2004/584), Rule 6.

32 Insolvency Rules 1986 (SI 1986/1925), Rule 4.159(4), as substituted by the Insolvency Amendment Rules (SI 2004/584), Rule 20.

33 Insolvency Rules 1986 (SI 1986/1925), Rule 6.156(4), as substituted by the Insolvency Amendment Rules 2004 (SI 2004/584), Rule 37.

## Health & Medical

31. A person subject to bankruptcy restrictions cannot enter into a general medical services contract under s. 28(q) of the National Health Service Act 1977 with a Primary Care Trust<sup>34</sup> or a personal medical services agreement order under s. 28(c) of the 1977 Act with a Primary Care Trust of Strategic Health Authority<sup>35</sup> and such appointment may be terminated in writing upon a person becoming subject to bankruptcy restrictions<sup>36</sup>.
32. A person subject to bankruptcy restrictions cannot enter into a general dental services contract with a Primary Care Trust<sup>37</sup> nor an agreement for primary dental services with a Relevant Body<sup>38</sup>.
33. A person subject to bankruptcy restrictions cannot enter into a local pharmaceutical services scheme with a Primary Care Trust<sup>39</sup>.
34. The Postgraduate Medical Education and Training Board shall, as soon as is reasonably practicable, make a determination that a Member is unsuitable to continue his membership of the Board once the Board is satisfied that that Member, during his tenure of office as a Member ... (g) is made the subject of bankruptcy restrictions, unless that order has ceased to have effect or has been annulled by the date on which the Board is making its determination<sup>40</sup>.
35. A person is disqualified for being appointed as chairman or other member of the Human Tissue Authority if he is subject to bankruptcy restrictions<sup>41</sup>.
36. A person subject to bankruptcy restrictions is disqualified for appointment as the chairman or as a non-executive member of the Health Protection Agency<sup>42</sup>.

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34 National Health Service (General Medical Services Contracts) Regulations 2004 (SI 2004/291). For Wales see: National Health Service (General Medical Services Contracts) (Wales) Regulations 2004 (SI 2004/478 (W.48)). For Scotland see SI 2004/116.

35 NHS (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627), Reg 5(3)(i)(ii).

36 National Health Service (General Medical Services Contracts) Regulations 2004 (SI 2004/291) Sch 6, Part 8, para 113 and NHS (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627), Sch 5, Part 8, para 105.

37 The National Health Service (General Dental Services Contracts) Regulations 2005 (SI 2005/3361). For Wales, see The National Health Service (General Dental Services Contracts) (Wales) Regulations (SI 2006/490).

38 The National Health Service (Personal Dental Services Agreements) Regulations 2005 (SI 2005/3373). For Wales, see The National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2005 (SI 2006/489).

39 The National Health Service (Local Pharmaceutical Services etc.) Regulations 2006 (SI 2006/552).

40 The Postgraduate Medical Education and Training Board (Members – Removal from Office) Rules Order 2004 (SI 2004/3410), Rule 3(g).

41 Human Tissue Act 2004, s. 13 and Sch 2, para 3(1).

42 The Health Protection Agency Regulations 2005 (SI 2005/408), Reg 3(1)(b).

37. A person subject to bankruptcy restrictions is disqualified for appointment as the chairman or as a non-officer member of the NHS Institute for Innovation and Improvement<sup>43</sup>.
38. A person who is subject to bankruptcy restrictions is disqualified for appointment as the chairman or as a non-officer member of the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG)<sup>44</sup>.
39. A person who is subject to bankruptcy restrictions is disqualified for appointment as the chairman or as a non-officer member of the Health and Social Care Information Centre<sup>45</sup>.
40. A person who is subject to bankruptcy restrictions is disqualified for appointment as the chairman or as a non-officer member of the NHS Blood and Transplant Authority<sup>46</sup>.
41. A person who is subject to bankruptcy restrictions is disqualified for appointment as the chairman or as a non-officer member of the National Institute of Clinical Excellence<sup>47</sup>.
42. A person who is subject to bankruptcy restrictions shall be disqualified for appointment as the chairman or non-executive director of an NHS Trust<sup>48</sup>.
43. A person who is subject to bankruptcy restrictions is disqualified for appointment as chairman or non-officer member of the National Health Service Litigation Authority<sup>49</sup>.
44. A person who is subject to bankruptcy restrictions shall be disqualified for appointment as the chairman or a member of a Health Authority<sup>50</sup>.

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43 The NHS Institute for Innovation and Improvement Regulations 2005 (SI 2005/1447), Reg 3(1)(b).

44 The NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) Regulations 2005 (SI 2005/2415), Reg 3(1)(b).

45 The Health and Social Care Information Centre Regulations 2005 (SI 2005/500), Reg 3(1)(b).

46 The NHS Blood and Transplant (Gwaed a Thrawblaniadau'r GIG) Regulations 2005 (SI 2005/2531), Reg 3(1)(b).

47 The National Institute for Clinical Excellence Regulations 1999 (SI 1999/260), Reg 5(1) as substituted by The National Institute for Clinical Excellence (Amendment) Regulations 2005 (SI 2005/498), Reg 4.

48 National Health Service Trusts (Membership and Procedure) Regulations 1990 (SI 1990/2024), Reg 11(1)(b), as substituted by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722), Art 2(2), Sch 2, Part 2, paras 9(1), (2).

49 The National Health Service Litigation Authority Regulations 1995 (SI 1995/2801), Reg 7(1)(b), as substituted by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722), Art 2(2), Sch 2, Part 2, paras 11(1), 2(b).

50 Health Authorities (Membership and Procedure) Regulations 1996 (SI 1996/707), Reg 10(1)(b), as amended by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722), Art 2(2), Sch 2, Part 2, paras 12(1), (2).

45. A person who is subject to bankruptcy restrictions shall be disqualified for appointment as the chairman or a non-officer member of a Primary Care Trust<sup>51</sup>.
46. A person who is subject to bankruptcy restrictions shall be disqualified for appointment as the chairman or as a non-officer member of the National Treatment Agency<sup>52</sup>.
47. A person who is subject to bankruptcy restrictions shall be disqualified for appointment as the chairman or as a non-executive member or commissioner of the National Health Service Appointments Commission<sup>53</sup>.
48. A person who is subject to bankruptcy restrictions shall be disqualified for appointment as the chairman or as a non-officer member of the National Patient Safety Agency<sup>54</sup>.
49. A person who is subject to bankruptcy restrictions shall be disqualified for appointment as chairman or as a member of the General Social Care Council and a person who, after his appointment as chairman or as a member, becomes the subject of a bankruptcy restrictions order or an interim order shall give notice in writing of the fact to the Secretary of State for Health<sup>55</sup>. The Secretary of State must also terminate such an appointment where a person becomes subject to disqualification for appointment by reason of bankruptcy restrictions against him<sup>56</sup>.
50. A person who is subject to bankruptcy restrictions shall be disqualified for appointment as the chairman or as a non-executive member of the Council for Healthcare Regulatory Excellence<sup>57</sup>.
51. A person who is subject to bankruptcy restrictions shall be disqualified for appointment as chairman, deputy chairman, or as any other member of the Human Fertilisation & Embryology Authority<sup>58</sup>.

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51 Primary Care Trusts (Membership, Procedure and Administration Arrangements) 2000 (SI 2000/89), Reg 5(1)(b), as amended by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722), Sch 2, Part 2, para 14.

52 National Treatment Agency Regulations 2001 (SI 2001/715), Reg 3(1)(b), as amended by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722), Sch 2, Part 2, para 16.

53 Appointments Commission Regulations 2006 (SI 2006/2380) Reg 5(1)(b).

54 National Patient Safety Agency Regulations 2001 (SI 2001/1742), Reg 3(1)(b), as amended by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722), Sch 2, Part 2, para 18.

55 General Social Care Council (Appointments and Procedure) Regulations 2001 (SI 2001/1744), Regulations 4(1)(d) and 6(6), as amended by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722), Sch 2, Part 2, para 19.

56 General Social Care Council (Appointments and Procedure) Regulations 2001 (SI 2001/1744), Reg 6(1)(a)(i).

57 Council for Healthcare Regulatory Excellence (Appointment, Procedure etc) Regulations 2008 (SI 2008/2927), Reg 2(2)(c)(ii).

58 S. 5 and Sch 1, para 4A to the Human Fertilisation and Embryology Act 1990.

52. A person who is subject to bankruptcy restrictions shall be disqualified for appointment as a member (including as the Chair, Deputy Chair or Panel Chair) of the Midwifery Committee or as a member (including as the Chair, Deputy Chair or Panel Chair) of a Practice Committee of the Midwifery Committee<sup>59</sup>.
53. A person who is subject to bankruptcy restrictions shall be disqualified for appointment as a member of a committee of the General Optical Council<sup>60</sup>.
54. A person who is subject to bankruptcy restrictions shall be disqualified from being appointed as a member of the General Chiropractic Council<sup>61</sup>.
55. A person who is subject to bankruptcy restrictions shall not be appointed as the Chair or non-executive member of the Council for Healthcare Regulatory Excellence<sup>62</sup>.
56. A person who is subject to bankruptcy restrictions shall be disqualified from being appointed as a member of the General Medical Council<sup>63</sup>.
57. A person who is subject to bankruptcy restrictions shall be disqualified from being appointed as a member of the Nursing and Midwifery Council<sup>64</sup>.
58. A person who is subject to bankruptcy restrictions shall be disqualified from being appointed as a member of the Care Quality Commission<sup>65</sup>.
59. A person who is subject to bankruptcy restrictions shall be ineligible to enter into a General Ophthalmic Services Contract<sup>66</sup>.
60. A person who, during the term of a General Ophthalmic Services Contract, becomes subject to bankruptcy restrictions, shall be served a contract termination notice by the Primary Care Trust, terminating the contract forthwith, or from some other specified date<sup>67</sup>.
61. A person who is subject to bankruptcy restrictions shall be disqualified from being appointed as chairman or as a non-executive member or commissioner of the Appointments Commission<sup>68</sup>.

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59 The Nursing and Midwifery Council (Midwifery and Practice Committees)(Constitution) Rules 2008, Rule 8(e)(ii).

60 The General Optical Council (Committee Constitution)(Amendment) Rules 2008, Rule 4(e)(ii).

61 General Chiropractic Council (Constitution) Order 2008 (SI 2008/3047), s. 5(e)(ii).

62 Council for Healthcare Regulatory Excellence (Appointment, Procedure etc) Regulations 2008, Reg 2(c)(ii).

63 General Medical Council (Constitution) Order 2008, s. 5(e)(ii).

64 Nursing and Midwifery Council (Constitution) Order 2008, s. 5(e)(ii).

65 Care Quality Commission (Membership) Regulations 2008, Reg 4, Sch, para 3.

66 General Ophthalmic Services Contracts Regulations 2008, Reg 4(3)(i)(ii).

67 General Ophthalmic Services Contracts Regulations 2008, Sch 1, Part 7, para 44(2)(h)(ii).

68 Appointments Commission Regulations 2006, Reg 5(1)(b).

62. A person subject to bankruptcy restrictions shall be disqualified from appointment to National Information Governance Board<sup>69</sup>.

### **Nuclear industry**

63. The Secretary of State has power to remove the chairman or non-executive member of the Nuclear Decommissioning Authority and the chairman or a member of the Civil Nuclear Police Authority where any person is subject to bankruptcy restrictions<sup>70</sup>.

### **Police and Crime**

64. A person subject to bankruptcy restrictions shall not be eligible for appointment as a member of the British Transport Police Authority<sup>71</sup>.
65. The Secretary of State may by notice in writing remove a person from office as chairman or ordinary member of the Serious Organised Crime Agency if he is subject to bankruptcy restrictions<sup>72</sup>.

### **Transport**

66. The Secretary of State may dismiss a member of the Office of Railway Regulation if he is the subject of a bankruptcy restrictions order (or interim order)<sup>73</sup>.
67. A person who is subject to bankruptcy restrictions cannot be a fiscal representative under the Air Passenger Duty Regulations 1994<sup>74</sup>.
68. A person who is subject to bankruptcy restrictions may not be a member of Aircraft and Shipbuilding Industries Arbitration Tribunal<sup>75</sup>.
69. A person who is subject to bankruptcy restrictions may not be a member of Associated British Ports<sup>76</sup>.

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69 National Information Governance Board Regulations 2008, Reg 3(b).

70 Energy Act 2004, s. 2 and Sch 1, para 1(6) and (7)(b); s. 51 and Sch 10, para 2(5) and (6)(b).

71 Railways and Transport Safety Act 2003, s. 18 and Sch 4, para 7(3).

72 Serious Organised Crime and Police Act 2005, s. 1 and Sch 1, para 4(e).

73 Railways and Transport Safety Act 2003, s. 15 and Sch 1, para 2(c).

74 Air Passenger Duty Regulations 1994, Reg 7(2), as amended by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722), Sch 2, Part 2, para 10.

75 Aircraft and Shipbuilding Industries Act 1977, s. 42(5), as amended by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722), Sch 2, Part 1, para 2.

76 Transport Act 1981, Sch 2, para 3(2), as amended by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722), Sch 2, Part 1, para 3.

70. A person shall be treated as having ceased to act as a fiscal representative under the Air Passenger Duty Regulations 1994 if he is subject to bankruptcy restrictions<sup>77</sup>.

### **Tribunals**

71. A person subject to bankruptcy restrictions cannot be appointed or continue as a member of the Valuation Tribunal Service<sup>78</sup> or a Valuation Tribunal<sup>79</sup>.
72. A person who is subject to bankruptcy restrictions may not be a member of a tribunal established by the Secretary of State under Schedule 3 to the Industry Act 1975<sup>80</sup>.

### **Trustees**

73. A person who is subject to bankruptcy restrictions is disqualified from being a charity trustee or trustee for a charity<sup>81</sup>.
74. A person who is subject to bankruptcy restrictions is disqualified from being a trustee of any trust scheme set up under the Pensions Act 1995<sup>82</sup>.

### **Utilities and public contracts**

75. Under the Utilities Contracts Regulations 2006<sup>83</sup>, a utility may treat an economic operator as ineligible or decide not to select an economic operator in accordance with the Regulations on the grounds that they are subject to bankruptcy restrictions.
76. Under the Public Contracts Regulations 2006<sup>84</sup>, a contracting authority shall treat as ineligible and shall not elect as an economic operator in accordance with the Regulations a person who is subject to bankruptcy restrictions.
77. Under the Housing and Regeneration Act 2008, the Secretary of State may dismiss an appointed member of the Office for Tenants and Social Landlords if satisfied that the member is subject to bankruptcy restrictions<sup>85</sup>.

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77 Air Passenger Duty Regulations 1994 (SI 1994/1738), as amended by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722) art 2(2), Sch 2, Pt 2, para 10.

78 Local Government Act 2003, s. 105 and Sch 4, para. 2(1)(b).

79 Valuation and Community Charge Tribunals Regulations 1989, Reg 9(a), as amended by the Valuation Tribunals (Amendment) (England) Order 2004 (SI 2004/482), paras 2(1) and 2(3).

80 Industry Act 1975, Sch 3, paragraph 6(1)(c), as amended by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722), Sch 2, Part 1, para 1.

81 Charities Act 1993, s. 72, amended by Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722).

82 Pensions Act 1995, s. 29, amended by Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (SI 2006/1722).

83 SI 2006/6, Reg 26.

84 SI 2006/5, Reg 23.

85 Housing and Regeneration Act 2008, Part 2, s. 84.

78. The person appointing a non-executive member of the Statistics Board established under the Statistics and Registration Act 2007 may dismiss a person by notice in writing on the grounds that he is subject to bankruptcy restrictions<sup>86</sup>.
79. The Secretary of State may by notice in writing remove the chairman or member of the Independent Barring Board if satisfied that that person is subject to bankruptcy restrictions<sup>87</sup>.

### **Miscellaneous**

80. A lasting power of attorney is subject to revocation relating to the property and affairs of the person making the power where he is subject of a bankruptcy restrictions order. In the event the donee of such a power becomes subject to a bankruptcy restrictions order, the appointment is terminated and (generally) the power revoked other than in relation to the patient's personal welfare<sup>88</sup>.
81. Where the donor or attorney under an enduring power of attorney is bankrupt merely because an interim bankruptcy restrictions order has effect in respect of him, the power is suspended for so long as the order has effect<sup>89</sup>.
82. A person subject to bankruptcy restrictions (including an interim order) may be dismissed as a member of the Office of the Renewable Fuels Agency<sup>90</sup>.
83. The Secretary of State may remove a chairman of the Board of the Gangmasters Licensing Authority, or any representative member of the Board, from office if that person is subject to a bankruptcy restrictions order<sup>91</sup>.

**July 2009**

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86 Statistics and Registration Service Act 2007, s. 4(4).  
87 Safeguarding Vulnerable Groups Act 2006, s. 1 and Sch 1, para 2(4).  
88 Mental Capacity Act 2005 ss. 13, 64(3).  
89 Mental Capacity Act 2005, s. 66(3) and Sch 4 para (2)8.  
90 Renewable Transport Fuel Obligations Order 2007 Sch, s. 2(c).  
91 Gangmasters (Licensing Authority) Regulations 2005 (SI 2005/448), Reg 5(4)(d).