EXPLANATORY MEMORANDUM TO

The Disqualified Directors Compensation Orders (Fees) Order (Northern Ireland) 2026

[SR 2026 No.17]

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department for the Economy ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under Article 361(1)(b) of the Insolvency (Northern Ireland) 1989 and is subject to the affirmative resolution procedure.

2. Purpose

2.1. The Disqualified Directors Compensation Orders (Fees) (Northern Ireland) Order 2026 ("the Order") makes provision for the Department to charge a fee to cover the costs of fulfilling its statutory duty to distribute compensation awards to creditors

3. Background

3.1. Paragraph 8, of Schedule 8, of the Small Business, Enterprise and Employment Act 2015 ("SBEEA") inserted Article 19A into the Company Directors Disqualification (Northern Ireland) Order 2002 ("CDDO").

3.2. This provision gave the Department the power to apply to the Court for an order requiring a disqualified director to compensate creditors for the loss incurred as a result of the conduct for which he or she was disqualified. Alternatively, the Department can accept a voluntary undertaking from a disqualified director to the same effect. The provision came into force on 1 October 2015. The CDDO allows the Court to order the compensation award to be paid to the Department for the benefit of creditors. The Department must then perform the function of distributing the compensation award to creditors. That work will be done by the Insolvency Service.

3.3. This Order makes provision for charging fees for the function of distributing sums paid to the Department. Pursuant to Article 2, the fee is to be satisfied out of the sum to be paid to a creditor in respect of the compensation order or undertaking. Its amount is to be calculated on the basis of the hourly rates set out in the Schedule and any necessary disbursements or expenses properly incurred.

3.4. Article 3 of the Order sets out when Value Added Tax must also be applied.

4. Consultation

4.1. In 2013 the then Department of Business, Innovation & Skills carried out a consultation, amongst other things, on measures to strengthen the director disqualification regime and for tackling misconduct by directors. The

Government response to the consultation was published in April 2014, and the proposals made included those to provide a new ground for disqualifying a director convicted abroad of a company-related offence; changes to the matters that a court must takeinto account when considering a disqualification and measures to provide a process for pursuing compensation for creditors following the disqualification of a director. Part 9 of the Act contains measures that seek to put these proposals into legislation: enhancing the transparency of UK company ownership and increasing trust in UK business.

4.2. Included in the consultation were proposals for securing better compensation for creditors in cases involving misconduct by directors.The consultation showed that the majority respondents broadly supported the proposal to give courts the power to make compensatory awards against directors it has disqualified. Most respondents agreed it would help make directors more accountable for their actions.

4.3. There has been no further consultation with regard to the Order.

5. Equality Impact

5.1. The issue of equality was considered. It was concluded that formal equality screening was not necessary as this orderdoes not have any differential impact on any of the section 75 groups.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment has not been prepared as there is no impact on business, charities, social enterprise or voluntary bodies.

7. Financial Implications

7.1. There will be no cost to the public purse.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that the order is not incompatible with any of the Convention rights, do not discriminate against a person or class of person on the grounds of religious belief or political opinion and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable

10. Parity or Replicatory Measure

10.1. This order is in line with the the Disqualified Directors Compensation Orders (Fees) (England and Wales) Order 2016 (S.I. 2016/1047) applying in GB.]

11. Additional Information

11.1. Not applicable