

The High Court

Practice Direction
Applications to restrict directors in voluntary liquidations
Companies Act 1990
Company Law Enforcement Act 2001

From the 24th day of March 2003 the following procedures shall apply in respect of applications to the Court under section 150(1) of the Companies Act 1990 for a declaration that one or more directors of an insolvent company which is in voluntary liquidation be restricted .

These procedures shall be used by a liquidator obliged to make such an application pursuant to section 56 of the Company Law Enforcement Act 2001 and also by the Director of Corporate Enforcement or a receiver making such an application pursuant to section 150(4) of the Companies Act 1990.

These procedures shall also be used in respect of applications for the extension of time pursuant to section 56(2) of the Company Law Enforcement Act 2001.

The forms referred to in this practice direction and appended hereto are to be used where applicable and where not applicable forms of the like character with such variations as the circumstances may require shall be used.

1. An application for a declaration that a director of a company in voluntary liquidation be restricted under section 150(1) of the Companies Act 1990 shall be commenced by originating Notice of Motion ([Form 1](#)) and grounded upon the affidavit of the applicant ([Form 2](#)). Applications in respect of several directors of one company shall be made on one Notice of Motion except where the circumstances otherwise require.
2. Where necessary an application to the Court under section 56(2) of the Company Law Enforcement Act 2001 to extend the time for the making of the application under section 150(1) of the Companies Act 1990 shall be made on the same Notice of Motion.
3. The affidavit grounding the application for restriction shall set out all the facts the applicant considers should be brought to the attention of the court for the purpose of determining
 - i. whether each of the respondents has acted honestly in relation to the conduct of the affairs of the company
 - ii. whether each of the respondents has acted responsibly in relation to the conduct of the affairs of the company
 - iii. whether there is any other reason for which it would be just and equitable to restrict any of the respondents
 - iv. if appropriate whether any of the circumstances set out in s.150(2)(b) apply.

4. Motions shall be issued in the Central Office and made returnable for a date not less than 28 days from the date of issue and shall be served with the grounding affidavit and a copy of this practice direction (excluding [Forms 1 & 2](#)) on the respondent(s) not less than 21 clear days prior to the return date.
5. An appearance to the Notice of Motion ([Form 3](#)) shall be entered in the Central office and served on the applicant or where on record his/her solicitor within 10 days of the date of service of the Notice of Motion.
6. Where an application is opposed a respondent shall file and serve an affidavit setting out the facts upon which the application is opposed and shall file the affidavit in the Central Office and serve it on the applicant or where on record his/her solicitor not less than 4 clear days before the return date or such further time as the court may exceptionally allow.
7. Where no appearance is entered by or on behalf of a respondent the applicant shall file an affidavit of service in the Central Office not less than 2 clear days prior to the return date.
8. Applications for the extension of time for the filing of affidavits by any party shall not be granted save exceptionally where the Court is satisfied that the extension of time is required for good reason.
9. Applications which are duly served may be determined by the court on the return date.

President of the High Court.