



## Guidance to the defendant on disqualification

The liquidator has requested that the bankruptcy court make a disqualification order against you.

A disqualification order may be made against a person if he/she is unfit to participate in the management of commercial activities due to grossly irresponsible business conduct. The bankruptcy court may impose a disqualification period of up to three years, and the disqualification is recorded in the Danish Business Authority's disqualification register.

The rules on disqualification are laid down in Title III of the Danish Bankruptcy Act.

### **If you do not agree**

If you do not agree with what the liquidator writes, the bankruptcy court requests that you submit a defence on [www.minretssag.dk](http://www.minretssag.dk). You must also submit the exhibits you think is of importance to the case.

The exhibits should be marked A, B, C, etc.

The defence must state whether you want a meeting to be held in the bankruptcy court. If you do not want a meeting in the bankruptcy court, the case can be decided in writing.

The time limit for when the bankruptcy court must receive the defence is 14 days after you have acknowledged receipt of the bankruptcy court's welcome letter or from the date when the pleading was served on you.

The bankruptcy court may decide that the parties must submit additional pleadings. In that case, you will receive notice to this effect on the case portal.

If the bankruptcy court does not hear from you before the expiry of the time limit, the result may be that the bankruptcy court bases its decision on the liquidator's information about the facts of the case.

### **A meeting in the bankruptcy court**

If you have requested a meeting in the case, you will be summoned by the bankruptcy court.

At the meeting, the liquidator must explain his request, and you will be asked what outcome you would like to see in the case. Next, the liquidator will make a brief presentation of the case, which you will have the opportunity to comment on if needed. Then you and any other witnesses will give evidence.

Generally, witnesses are called by the parties themselves. However, the bankruptcy court can help call witnesses if you inform the court of the witnesses' names and addresses. Finally, you and the liquidator must each give reasons why the bankruptcy court should reach the result that each of you want.

If you do not appear in the bankruptcy court, you will not be able to present your views, and it may also mean that the bankruptcy court bases its decision on the liquidator's information about the facts of the case.

### **Court-assigned counsel**

You may be assigned counsel if you so wish. You must contact the bankruptcy court via [www.minretssag.dk](http://www.minretssag.dk) to be assigned counsel. The expenses for the court-assigned counsel will be paid out of public funds. If a disqualification order is made against you, you must, however, expect that you will have to repay the expenses for the court-assigned counsel.

### **Consequences of disqualification**

If a disqualification order is made against you, it means that you may not participate in the management of a business without having personal and unlimited liability for the obligations of the business.

This means, for example, that you may not participate in company management. If you fail to comply with a disqualification order made against you, it may mean that in connection with a new disqualification case, the bankruptcy court decides you that you will also not be allowed to participate in the management of a business with personal and unlimited liability for the obligations of the business, such as a sole proprietorship or a partnership (disqualification on stricter terms).

If you act in contravention of a disqualification order made against you by participating in the management of a business that is declared bankrupt, the court may decide that you will be liable for the debt not covered by the estate.

If you act in contravention of a disqualification order, you may also incur criminal liability under the Danish Criminal Code for operating a business without being entitled to do so.

### **Registration in the disqualification register**

If a disqualification order is made against you, you will be registered in the Danish Business Authority's register of disqualified persons. The register contains information about when the disqualification took effect and when it expires. The information in the disqualification register may be disclosed to the bankruptcy court, the police and the prosecution service.

If a disqualification order on stricter terms is made against you, so that you are not allowed to participate in the management of a business with personal and unlimited liability for the obligations of the business (such as a sole proprietorship or a partnership), the information recorded will be disclosed to the Danish tax authorities.