

DIRECTORS DISQUALIFICATION AND DETERRENCE: RWAMBA V SECRETARY OF STATE FOR BUSINESS, ENERGY AND INDUSTRIAL STRATEGY

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Directors Disqualification and Deterrence: *Rwamba v Secretary of State for Business, Energy and Industrial Strategy*[2020] EWHC 2778 (Ch)

On 20 October 2020 Miles J allowed Mr Rwamba's appeal against the decision of ICC Judge Prentis to dismiss his application for leave to act as a director of two companies, and granted him permission to act. The case is the first reported decision which considers the circumstances in which it may be appropriate to grant a director permission to act notwithstanding the disqualification arose from a failure to comply with conditions attached to a previous grant of permission.

The judgment considered the interaction and balance between the questions of "need" and "public protection" and the element of deterrence. The judge viewed this latter element as being "baked" into the disqualification regime, but that did not mean special weight should be applied to deterrence and against granting permission simply because the disqualification arose from a breach of conditions attached to an earlier permission decision. A fair minded observer of the public would look beyond the headlines. After careful consideration of the circumstances of the case, the judge was satisfied that there was no risk to the public having regard to stringent conditions proposed as part of the application, and that there were good reasons why Mr Rwamba should be granted permission.

The case will be of interest to practitioners who specialise in Company Directors Disqualification Act 1986 proceedings, and applications for leave to act under that Act.

Hugh Sims QC acted for Mr Rwamba on the appeal, instructed by Kaur Maxwell.

Click [here](#) to read a summary of the Judgment