

Ten year limitation period for Jersey directors

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The English High Court has held that the limitation period applicable to claims against Jersey company directors for a breach of duty under the Companies (Jersey) Law 1991 (the **Companies Law**) is 10 years.

Article 74 of the Companies Law requires directors, in exercising their powers and discharging their duties, to act honestly and in good faith with a view to the best interests of the company, and to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. Previous judgments of Jersey's Royal Court have favoured the view that a claim for a breach of these duties should be time-barred only after 10 years, but the Jersey courts have never reached a definitive decision on this point.

Whilst the English High Court's judgment will not bind the Jersey courts, it is nevertheless likely to be regarded as highly persuasive. The English judgment includes a comprehensive consideration of the alternative arguments that the limitation period for a claim for breach of a director's duty under the Companies Law should be three years based directly or by analogy on the Jersey limitation periods for an action in tort or an action against a trustee for breach of trust.

Importantly, this decision applies to non-executive as well as executive directors of Jersey companies. In terms of risk assessment, a 10 year limitation period is therefore an important factor for non-execs to bear in mind when considering taking on any new board position.

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