

Cases in which independent expert's report not available at required time: powers of court

513. (1) If a petition is presented and the court is satisfied—

(a) that, by reason of exceptional circumstances outside the control of the petitioner, the report of the independent expert is not available in time to accompany the petition, and

(b) that the petitioner could not reasonably have anticipated the circumstances referred to in paragraph (a),

and, accordingly, the court is unable to consider the making of an order under section 509, the court may make an order under this section placing the company concerned under the protection of the court for such period as the court thinks appropriate in order to allow for the submission of the independent expert's report.

(2) That period shall be a period that expires not later than the 10th day after the date of the making of the order concerned or, if the 10th day after that date would fall on a Saturday, Sunday or public holiday, the first following day that is not a Saturday, Sunday or public holiday.

(3) For the avoidance of doubt, the fact that a receiver stands appointed to the whole or any part of the property or undertaking of the company at the time of the presentation of a petition in relation to the company shall not, in itself, constitute, for the purposes of subsection (1), exceptional circumstances outside the control of the petitioner.

(4) If the petition concerned has been presented by any of the persons referred to in section 510 (1)(c) or (d) and an order under subsection (1) is made in relation to the company concerned, the directors of the company shall co-operate in the preparation of the report of the independent expert, particularly in relation to the matters specified in section 511 (3)(a) to (c).

(5) If the directors of the company concerned fail to comply with subsection (4), the petitioner concerned or the independent expert may apply to the court for an order requiring the directors to do specified things by way of compliance with subsection (4) and the court may, as it thinks fit, grant such an order accordingly.

(6) If the report of the independent expert is submitted to the court before the expiry of the period of protection specified in an order under subsection (1), the court shall proceed to consider the petition together with the report as if they were presented in accordance with section 509.

(7) If the report of the independent expert is not submitted to the court before the expiry of the period of protection specified in an order under subsection (1), then, at the expiry of that period, the company concerned shall cease to be under the protection of the court, but without prejudice to the presentation of a further petition.