

Relief for members and creditors

62. (1) Without limiting the generality of section 212, if any member of a company considers that his or her rights or obligations have been prejudiced by—

- (a) the exercise of any power under this Chapter;
- (b) the non-exercise of any such power; or
- (c) the exercise of any such power in a particular manner,

by the company or the directors of it, the member may apply to the court for an order under section 212.

(2) In any such application where it is proved that the directors of the company have failed to comply with section 60 then, unless the members of the company have adopted a new constitution in accordance with section 59 (1), it shall be presumed, until the contrary is proved, that the directors have exercised their powers in a manner oppressive to the applicant or in disregard of his or her interests as a member.

(3) Where in relation to an existing private company a constitution in the form provided under section 19 comes into being, the person or persons referred to in subsection (5) may apply under this subsection to the court for relief if the constitution prejudices any interest of the person or persons (but only if the person or persons has or have a legal or equitable right to that interest).

(4) On the hearing of an application under subsection (3), the court may grant such relief to the applicant or applicants as the court thinks just.

(5) The persons mentioned in subsection (3) are one or more creditors of the company who hold, or together hold, not less than 15 per cent of the company's debentures entitling the holders to object to alterations of its objects.

(6) The jurisdiction of the court under section 212 as provided for under subsection (1) and the jurisdiction of the court under subsection (3) shall each be exercised having regard to, and, where appropriate subject to, any exercise by the court of its jurisdiction under section 57 in relation to the company concerned.

(7) In this section a reference to a constitution in the form provided under section 19 coming into being is a reference to such a constitution coming into being by reason of—

- (a) its being adopted and registered under section 59; or
- (b) its being prepared by the directors and registered under section 60; or
- (c) the operation of section 61.