

Power of court to assess damages against certain persons

612. (1) Subsection (2) applies if in the course of winding up a company it appears that—

(a) any person who has taken part in the formation or promotion of the company, or

(b) any past or present officer, liquidator, provisional liquidator or examiner of the company, or receiver of the property of the company,

has misapplied or retained or become liable or accountable for any money or property of the company, or has been guilty of any misfeasance or other breach of duty or trust in relation to the company.

(2) The court may, on the application of the Director or the liquidator or any creditor or contributory of the company, examine into the conduct of the promoter, officer, liquidator, examiner or receiver, and compel him or her—

(a) to repay or restore the money or property or any part of it respectively with interest at such rate as the court thinks just, or

(b) to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance or other breach of duty or trust as the court thinks just.

(3) This section shall have effect notwithstanding that the person in respect of whom an order has been sought under it may be criminally liable in respect of the matters on the ground of which the order is to be made.