

Independent expert's report

511. (1) In addition to the matters specified in section 512, a petition shall be accompanied by a report in relation to the company prepared by a person who is either the statutory auditor of the company or a person who is qualified to be appointed as an examiner of the company.

(2) The person who undertakes the preparation of that report is referred to in this Part as the “independent expert”.

(3) The report of the independent expert shall comprise the following:

(a) the names and addresses of the officers of the company;

(b) the names of any other bodies corporate of which the directors of the company are also directors;

(c) a statement as to the affairs of the company, showing in so far as it is reasonably possible to do so, particulars of the company's assets and liabilities (including contingent and prospective liabilities) as at the latest practicable date, the names and addresses of its creditors, the securities held by each of them and the dates when the securities were given to each of them;

(d) his or her opinion as to whether any deficiency between the assets and liabilities of the company has been satisfactorily accounted for or, if not, as to whether there is evidence of a substantial disappearance of property that is not adequately accounted for;

(e) his or her opinion as to whether the company, and the whole or any part of its undertaking, would have a reasonable prospect of survival as a going concern and a statement of the conditions which he or she considers are essential to ensure such survival, whether as regards the internal management and controls of the company or otherwise;

(f) his or her opinion as to whether the formulation, acceptance and confirmation of proposals for a compromise or scheme of arrangement would offer a reasonable prospect of the survival of the company, and the whole or any part of its undertaking, as a going concern;

(g) his or her opinion as to whether an attempt to continue the whole or any part of the undertaking would be likely to be more advantageous to the members as a whole and the creditors as a whole than a winding-up of the company;

(h) recommendations as to the course he or she thinks should be taken in relation to the company including, if warranted, draft proposals for a compromise or scheme of arrangement;

(i) his or her opinion as to whether the facts disclosed would warrant further inquiries with a view to proceedings under sections 610 and 611 or section 722;

(j) details of the extent of the funding required to enable the company to continue trading during the period of protection and the sources of that funding;

(k) his or her recommendations as to which liabilities incurred before the presentation of the petition should be paid;

(l) his or her opinion as to whether the work of the examiner would be assisted by a direction of the court in relation to the role or membership of any creditor's committee referred to in section 538; and

(m) such other matters as he or she thinks relevant.