

Confirmation of proposals

541. (1) The report of the examiner under section 534 shall be set down for consideration by the court as soon as may be after receipt of the report by the court.

(2) The following persons may appear and be heard at a hearing under subsection (1):

- (a) the company concerned;
- (b) the examiner;
- (c) any creditor or member whose claim or interest would be impaired if the proposals were implemented;
- (d) the directors of the company;
- (e) if the company concerned is a company referred to in section 510 (2), (3) or (4) — the Central Bank.

(3) At a hearing under subsection (1), the court may, as it thinks proper, subject to the provisions of this section and sections 542 and 543 —

- (a) confirm,
- (b) confirm subject to modifications, or
- (c) refuse to confirm,

the proposals for the compromise or arrangement concerned (referred to subsequently in this section as “proposals”).

(4) The court shall not confirm any proposals unless—

(a) at least one class of creditors whose interests or claims would be impaired by implementation of the proposals has accepted the proposals, and

(b) the court is satisfied that—

(i) the proposals are fair and equitable in relation to any class of members or creditors that has not accepted the proposals and whose interests or claims would be impaired by implementation, and

(ii) the proposals are not unfairly prejudicial to the interests of any interested party,

and in any case shall not confirm any proposals if the sole or primary purpose of them is the avoidance of payment of tax due.

(5) Without prejudice to subsection (4), the court shall not confirm any proposals in respect of a company to which an examiner has been appointed under section 517 if the proposals would have the effect of impairing the interests of the creditors of the company in such a manner as to unfairly favour the interests of the creditors or members of any company to which it is related, being a company to which that examiner has been appointed examiner under section 509 or, as the case may be, 517.

(6) Where the court confirms proposals (with or without modification), the proposals shall be binding on all the members or class or classes of members, as the case may be, affected by the proposal and also on the company.

(7) Where the court confirms proposals (with or without modification), the proposals shall, notwithstanding any other enactment, be binding on all the creditors or the class or classes of creditors, as the case may be, affected by the proposals in respect of any claim or claims against the company and any person other than the company who, under any enactment, rule of law or otherwise, is liable for all or any part of the debts of the company.