

Declaration to be made in the case of financial assistance for acquisition of shares or transaction with directors

203. (1) Where the restricted activity is a transaction or arrangement that would otherwise be prohibited by section 82 (2) or 239, the declaration shall state—

- (a) the circumstances in which the transaction or arrangement is to be entered into;
- (b) the nature of the transaction or arrangement;
- (c) the person or persons to or for whom the transaction or arrangement is to be made;
- (d) the purpose for which the company is entering into the transaction or arrangement;
- (e) the nature of the benefit which will accrue to the company directly or indirectly from entering into the transaction or arrangement; and
- (f) that the declarants have made a full inquiry into the affairs of the company and that, having done so, they have formed the opinion that the company, having entered into the transaction or arrangement (the “relevant act”), will be able to pay or discharge its debts and other liabilities in full as they fall due during the period of 12 months after the date of the relevant act.

(2) For the purposes of a declaration under this section, in determining whether or not a company will be able to pay or discharge its debts and other liabilities in full, the declarants shall not be required to assume (in circumstances where the following are relevant) either that the company will be called upon to pay moneys on foot of a guarantee given or, as the case may be, that security given will be realised.

(3) A copy of the declaration under this section shall be delivered to the Registrar not later than 21 days after the date on which the carrying on of the restricted activity concerned is commenced.

(4) On application to it by any interested party, the court may, in any case where there has been a failure to comply with subsection (3), declare that the carrying on of the restricted activity concerned shall be valid for all purposes if the court is satisfied that it would be just and equitable to do so.