

Related companies

517. (1) Subject to subsections (2), (3), (6) and (8), where the court appoints an examiner to a company, it may, at the same or any time thereafter, make an order—

(a) appointing the examiner to be examiner for the purposes of this Act to a related company; or

(b) conferring on the examiner, in relation to such company, all or any of the functions conferred on him or her in relation to the first-mentioned company.

(2) In deciding whether to make an order under subsection (1), the court shall have regard to whether the making of the order would be likely to facilitate the survival of the company, or of the related company, or both, and the whole or any part of its or their undertaking, as a going concern.

(3) However, the court shall not, in any case, make such an order unless it is satisfied that there is a reasonable prospect of the survival of the related company, and the whole or any part of its undertaking, as a going concern.

(4) A related company to which an examiner is appointed by an order under subsection (1) shall be deemed to be under the protection of the court for the period beginning on the date of the making of the order and continuing for the period during which the company to which it is related is under such protection.

(5) Where an examiner stands appointed to 2 or more related companies, he or she shall have the same functions in relation to each company, taken separately, unless the court otherwise directs.

(6) The court shall not make an order under this section unless—

(a) the court is satisfied that the related company has no obligations in relation to a bank asset that has been transferred to the National Asset Management Agency or a NAMA group entity, or

(b) if the related company has any such obligation—

(i) a copy of the application for the order has been served on that Agency, and

(ii) the court has heard that Agency in relation to the making of the order.

(7) In subsection (6) “bank asset” and “NAMA group entity” have the same respective meanings as in the National Asset Management Agency Act 2009 .

(8) The Circuit Court shall only have jurisdiction to make an order referred to in subsection (1)(a) or (b) if the related company is a company that, in respect of the latest financial year of it that has ended prior to the relevant time referred to in subsection (1), fell to be treated as a small company by virtue of section 350.

(9) For the purposes of subsection (8), if the latest financial year of the company concerned ended within 3 months prior to the relevant time referred to in subsection (1), the reference in subsection (8) to the latest financial year of the company shall be read as a reference to the financial year of the company that preceded its latest financial year (but that reference shall only be so read if that preceding financial year ended no more than 15 months prior to the relevant time referred to in subsection (1)).