

Protections and remedies for creditors in cases where declaration of solvency made

582. (1) This section applies where a company has passed a resolution to wind up voluntarily.

(2) If, on application to it by a creditor of the company in accordance with subsection (3), the court—

(a) is satisfied that such creditor, together with any creditors supporting him or her in the application, represents one-fifth at least in number or value of the creditors of the company, and

(b) is of opinion that it is unlikely that the company will be able to pay or discharge its debts and other liabilities within the period specified in the declaration concerned referred to in section 207 or 580 (2),

the court may order that all the provisions of this Act relating to a creditors' voluntary winding up shall apply to the winding up of the company.

(3) An application under subsection (2) shall be made within 30 days after the date on which the resolution for voluntary winding up of the company has been advertised under section 581 (1).

(4) If (in a case where the Summary Approval Procedure is employed) an application is made by one or more members of the company in accordance with section 211 to cancel the special resolution referred to in section 202 (1)(a)(i), the court may direct that that application and an application that is made under subsection (2) shall be heard together or may give such other direction in the matter as it thinks just.

(5) If the court makes an order of the kind referred to in subsection (2)—

(a) the person who held the office of liquidator immediately prior to the making of the order, or

(b) if no liquidator is acting, the company to which the order relates,

shall, within 21 days after the date of the making of the order, deliver a certified copy of such order to the Registrar.

(6) If default is made in complying with subsection (5), the person referred to in paragraph (a) of it or, as the case may be, the company concerned and any officer of it who is in default shall be guilty of a category 4 offence.

(7) Section 210 (civil sanctions where opinion as to solvency stated in declaration without reasonable grounds) shall apply in relation to a declaration referred to in section 580 (2) and, for this purpose, references in section 210 to the opinion referred to in section 203 (1)(f), 204 (1)(f), 205 (1)(c), 206 (1)(b) or 207 (1)(b) shall be read as references to the opinion referred to in section 580 (2).