

Civil sanctions where opinion as to solvency stated in declaration without reasonable grounds

210. (1) Where a director of a company makes a declaration without having reasonable grounds for the opinion referred to in section 203 (1)(f), 204 (1)(f), 205 (1)(c), 206 (1)(b) or 207 (1)(b), as the case may be, the court, on the application of—

(a) a liquidator, creditor, member or contributory of the company or, in the case of the opinion referred to in section 206 (1)(b), of the successor company of Part 9), or

(b) the Director of Corporate Enforcement,

may declare that the director shall be personally responsible, without any limitation of liability, for all or any of the debts or other liabilities of the company or successor company, as the case may be.

(2) If a company or, as the case may be, a successor company (within the foregoing meaning) is wound up within 12 months after the date of the making of a declaration and its debts are not paid or provided for in full within 12 months after the commencement of the winding up, it shall be presumed, until the contrary is shown, that each director of, as appropriate—

(a) the company, or

(b) the merging companies,

who made the declaration did not have reasonable grounds for the opinion referred to in section 203 (1)(f), 204 (1)(f), 205 (1)(c), 206 (1)(b) or 207 (1)(b), as the case may be.

(3) If the court makes a declaration under subsection (1), it may give such further directions as it thinks proper for the purpose of giving effect to the declaration.