

Personal liability for debts of company subject to restriction

836. (1) This section applies where a company—

(a) has received a notice under section 825,

(b) after receipt of the notice, carries on business without the requirements of section 819 (3) being fulfilled within a reasonable period of receipt,

(c) is subsequently wound up, and

(d) at the time of commencement of the winding up is unable to pay its debts (taking into account its contingent and prospective liabilities).

(2) On the application of the liquidator or any creditor or contributory of the company, the court may declare that a person shall be personally liable, without any limitation of liability, for all or part of the debts or other liabilities of the company as the court directs if that person—

(a) was an officer of the company while it carried on business without the requirements of section 819 (3) being fulfilled within a reasonable period of receipt of the notice referred to in subsection (1)(a), and

(b) knew or ought to have known that the company had received the notice.

(3) In any proceedings against a person under this section, the court may, if, having regard to the circumstances of the case, it considers that it is just and equitable to do so, grant relief—

(a) in whole or in part from the liability of that person under this section, and

(b) subject to such conditions as the court sees fit.