

Effect of delivery of notice under section 852, giving of restriction undertaking on foot thereof and related matters

853. (1) Where a notice is delivered under section 852 (2), the Director and every person who is aware of the notice shall not, during the notice period, make an application under section 819, arising from or in connection with the underlying facts and circumstances, in respect of the person who is the subject of the notice.

(2) Subsections (3) to (5) apply where a person, the subject of a notice delivered under section 852 (2), has, within the notice period—

(a) notified the Director, in the prescribed manner, of his or her willingness to give a restriction undertaking, and

(b) returned to the Director the restriction acceptance document duly signed.

(3) The Director shall, as soon as practicable—

(a) cause the Registrar to be furnished with the prescribed particulars of the restriction undertaking at such time and in such form and manner as may be prescribed, and the Registrar shall enter the prescribed particulars in the register of persons kept under section 823, and

(b) notify the person of the prescribed particulars of the restriction undertaking furnished to the Registrar and provide the person with a copy of the restriction acceptance document executed by or on behalf of the Director.

(4) After the expiry of the notice period, neither the Director nor any other person shall make an application under section 819, arising from or in connection with the underlying facts and circumstances, in respect of the person who has given the restriction undertaking.

(5) For the duration of the restriction period beginning on the specified date, the person who has given the restriction undertaking—

(a) shall not be appointed or act in any way, directly or indirectly, as a director or secretary of a company (6)) or be concerned in or take part in the promotion or formation of a company (within that meaning) unless the company meets the requirements set out in section 819 (3), and

(b) shall be deemed, for the purposes of this Act, to be subject to a restriction declaration.

(6) The Director shall not exercise his or her power under section 852 (2) in relation to a person where the Director is aware that an application under section 819 has already been made in respect of the person arising from or in connection with the underlying facts and circumstances.

(7) Where the person who has given the restriction undertaking (the “immediate undertaking”) is already restricted by virtue of an earlier restriction undertaking or restriction declaration, the period specified in the immediate undertaking shall run concurrently with the remaining period for which the person is already subject to restriction.

(8) In this section—

(a) without prejudice to section 852 (5), “specified date” and “notice period” are to be read in accordance with section 852 (3)(b) and (c), respectively,

(b) “restriction period”, “person” and “underlying facts and circumstances” are to be read in accordance with section 852 (1), (2) and (3)(a), respectively.