

Related company may be required to contribute to debts of company being wound up

599. (1) On the application of the liquidator or any creditor or contributory of a company that is being wound up, the court, if it is satisfied that it is just and equitable to do so, may make the following order.

(2) That order is one that any company that is or has been related to the company being wound up shall pay to the liquidator of that company an amount equivalent to the whole or part of all or any of the debts provable in that winding up.

(3) The court may specify that that order shall be subject to such terms and conditions as the court thinks fit.

(4) In deciding whether it is just and equitable to make an order under this section the court shall have regard to the following matters:

(a) the extent to which the related company took part in the management of the company being wound up;

(b) the conduct of the related company towards the creditors of the company being wound up;

(c) the effect which such order would be likely to have on the creditors of the related company concerned.

(5) No order shall be made under this section unless the court is satisfied that the circumstances that gave rise to the winding up of the company are attributable to the acts or omissions of the related company.

(6) Notwithstanding any other provision, it shall not be just and equitable to make an order under this section if the only ground for making the order is—

(a) the fact that a company is related to another company, or

(b) that creditors of the company being wound up have relied on the fact that another company is or has been related to the first-mentioned company.

(7) For the purposes of this section—

“company” includes any company, and any other body, which is liable to be wound up under this Act;

“creditor” means a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding €10,000 or 2 or more creditors, by assignment or otherwise, to whom in aggregate the company is indebted in a sum exceeding €20,000.

(8) Where an application for an order under this section seeks to require a credit institution to contribute to the debts of a related company, a copy of every such application shall be sent by the applicant

to the Central Bank which shall be entitled to be heard by the court before an order is made.