

PART 14 COMPLIANCE AND ENFORCEMENT

CHAPTER 1 Compliance and protective orders

Court may order compliance by company or officer

797. (1) This section applies if a company or an officer of a company—

(a) has failed to comply with a provision of this Act, and

(b) the company or officer has failed to remedy the default within 14 days (or such longer period as may be specified in the notice) after the date of service by any person referred to in subsection (3) on the company or officer of a notice requiring the company or officer to remedy the default.

(2) In any case to which this section applies, the court, on the application of a person specified in subsection (3), may order the company or officer in default to remedy the default within such time as the court specifies.

(3) The court may make the order only on the application of one of the following:

(a) any member of the company;

(b) any creditor of the company;

(c) the Director; or

(d) the Registrar.

(4) In making an order under subsection (2), the court may order that the company or the officers responsible for the default pay all costs of and incidental to the application.

(5) Subject to subsection (6), no order may be made under this section in relation to a default that, in the opinion of the court, constitutes a wrong done to the company an action in respect of which, under the general law, is maintainable by the company alone, as distinct from another by derivative proceedings.

(6) Subsection (5) does not apply if the facts constituting the default in question amount, in the opinion of the court, to the commission of an offence.

(7) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties of this Part and disqualification under Chapter 4 of this Part) on a company or its officers in respect of the default in question.

(8) In this section, “officer” means director, shadow director, promoter, receiver, liquidator,

statutory auditor or secretary.