Status: Point in time view as at 06/06/2013. This version of this provision has been superseded.
Changes to legislation: Insolvency Act 1986, Section 215 is up to date with all changes known to be in force
on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that
have been made appear in the content and are referenced with annotations. (See end of Document for details)

Insolvency Act 1986

1986 CHAPTER 45

PART IV

WINDING UP OF COMPANIES REGISTERED UNDER THE COMPANIES ACTS

CHAPTER X

MALPRACTICE BEFORE AND DURING LIQUIDATION; PENALISATION OF COMPANIES AND COMPANY OFFICERS; INVESTIGATIONS AND PROSECUTIONS

Penalisation of directors and officers

215   Proceedings under ss. 213, 214.

(1) On the hearing of an application under section 213 or 214, the liquidator may himself give evidence or call witnesses.

(2) Where under either section the court makes a declaration, it may give such further directions as it thinks proper for giving effect to the declaration; and in particular, the court may—

    (a)   provide for the liability of any person under the declaration to be a charge on any debt or obligation due from the company to him, or on any mortgage or charge or any interest in a mortgage or charge on assets of the company held by or vested in him, or any person on his behalf, or any person claiming as assignee from or through the person liable or any person acting on his behalf, and

    (b)   from time to time make such further order as may be necessary for enforcing any charge imposed under this subsection.

(3) For the purposes of subsection (2), "assignee"—

    (a)   includes a person to whom or in whose favour, by the directions of the person made liable, the debt, obligation, mortgage or charge was created, issued or transferred or the interest created, but

2

Insolvency Act 1986 (c. 45)
Part IV – Winding Up of Companies Registered under the Companies Acts
Chapter X – Malpractice before and during Liquidation; Penalisation of Companies and Company
Officers; Investigations and Prosecutions
Document Generated: 2024-07-06

    (b) does not include an assignee for valuable consideration (not including consideration by way of marriage [**F1**or the formation of a civil partnership]) given in good faith and without notice of any of the matters on the ground of which the declaration is made.

(4) Where the court makes a declaration under either section in relation to a person who is a creditor of the company, it may direct that the whole or any part of any debt owed by the company to that person and any interest thereon shall rank in priority after all other debts owed by the company and after any interest on those debts.

(5) Sections 213 and 214 have effect notwithstanding that the person concerned may be criminally liable in respect of matters on the ground of which the declaration under the section is to be made.

Textual Amendments

F1 Words in s. 215(3)(b) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 112**; S.I. 2005/3175, **art. 2(2)** (subject to art. 2(3)-(5))

Modifications etc. (not altering text)

C1 S. 215 applied (with modifications) (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(1), **Sch. 2**

C2 S. 215 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by Banking Act 2009 (c. 1), **ss. 103**, 263(1)(2) (with s. 247); S.I. 2009/296, **arts. 2**, 3, Sch. para. 2

C3 S. 215 applied (with modifications) (S.) (25.2.2009) by The Bank Administration (Scotland) Rules 2009 (S.I. 2009/350), **rule 38**

C4 S. 215 modified (S.) (29.3.2009 at 4.00pm) by The Building Society Special Administration (Scotland) Rules 2009 (S.I. 2009/806), **rule 37**

C5 S. 215 applied (with modifications) (6.6.2013) by The Collective Investment in Transferable Securities (Contractual Scheme) Regulations 2013 (S.I. 2013/1388), Pt. 3reg. 1, Sch. 2 paras. 3, **5** Table (with reg. 24)

C6 S. 215(1)(2)(4)(5) modified (S.) (6.4.2001) by S.S.I. 2001/128, reg. 4(2), **Sch. 3**

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