



# Insolvency Act 1986

## 1986 CHAPTER 45

The First Group of Parts Company Insolvency ; Companies Winding Up

### 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*

#### **212 Summary remedy against delinquent directors, liquidators, etc.**

- (1) This section applies if in the course of the winding up of a company it appears that a person who—
  - (a) is or has been an officer of the company,
  - (b) has acted as liquidator, administrator or administrative receiver of the company, or
  - (c) not being a person falling within paragraph (a) or (b), is or has been concerned, or has taken part, in the promotion, formation or management of the company, has misapplied or retained, or become accountable for, any money or other property of the company, or been guilty of any misfeasance or breach of any fiduciary or other duty in relation to the company.
- (2) The reference in subsection (1) to any misfeasance or breach of any fiduciary or other duty in relation to the company includes, in the case of a person who has acted as liquidator or administrator of the company, any misfeasance or breach of any fiduciary or other duty in connection with the carrying out of his functions as liquidator or administrator of the company.

- (3) The court may, on the application of the official receiver or the liquidator, or of any creditor or contributory, examine into the conduct of the person falling within subsection (1) and compel him—
  - (a) to repay, restore or account for the money or property or any part of it, with interest at such rate as the court thinks just, or
  - (b) to contribute such sum to the company's assets by way of compensation in respect of the misfeasance or breach of fiduciary or other duty as the court thinks just.
- (4) The power to make an application under subsection (3) in relation to a person who has acted as liquidator or administrator of the company is not exercisable, except with the leave of the court, after that person has had his release.
- (5) The power of a contributory to make an application under subsection (3) is not exercisable except with the leave of the court, but is exercisable notwithstanding that he will not benefit from any order the court may make on the application.