Nevertheless, most creditors who initiate the procedure set out in s 213(e) and s 214 do so with a view to getting paid. There is nothing illegitimate about that motive – indeed it is the natural motive of any creditor issuing a winding up petition. What he must not intend, however, is to receive payment in preference to the company's other creditors. That is, he must not issue a winding up petition as a means of pressurising the company into making payment, but without any genuine intention of winding it up if no payment is received. To do so is to use the winding up procedure as a debt enforcement mechanism and, arguably, amounts to an abuse of process.

[17.44] The effects of a winding up order are discussed in more detail in the previous chapter. In the context of insolvent companies, particular attention is drawn to the provisions of s 220, CA 1963. That section provides that, absent evidence of fraud or mistake, a voluntary winding up shall be deemed to commence at the time of the passing of a resolution by the company to be wound up voluntarily where such time is prior to the presentation of a winding up petition. In all other cases, namely cases where the company is wound up by the court or a voluntary winding up resolution is passed after the presentation of a winding up petition, the winding up is deemed to have commenced at the date of the presentation of the winding up petition. Attention is also drawn to s 218, CA 1963 which provides that in a winding up by the court, any disposition made by the company of its assets after the commencement of winding up shall be void unless otherwise ordered by the court. The combined effect of these two provisions is especially significant in the case of a winding up under s 213(e), CA 1963 and it further emphasises the point that the procedure is not a debt collection mechanism.

A creditor who issues a petition for the winding up of a company may subsequently receive the full amount of its debt from the company and, on the day of the hearing of the petition, may ask the court to strike it out with no order as to costs. Such a petitioner, along with the company, may be surprised to find that another creditor of the company is present at the hearing of the petition to request that its name be substituted for that of the original petitioner. If the court accedes to that request then the petition will not be struck out and, should the new petitioner succeed in winding up the company, any payment received by the original petitioner will be deemed to be void because it was a disposition of the company's assets made after the commencement of its winding up (the date of presentation of the petition). For a discussion of the circumstances in which a court will allow for the substitution of a petitioner, see **[17.61]**.

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PROCEDURE FOR APPLICATION PURSUANT TO S 213(E), CA 1963[92]

[17.45] The procedure for winding up a company pursuant to s 213(e) is the same as the procedure for winding up companies under any of the other grounds contained in s 213. That procedure is set out in detail in the previous chapter and readers are referred to the section of that chapter entitled 'Procedure for winding up a company pursuant to s 213,

92. A very useful guide concerning winding up applications, and other insolvency-related applications, in the context of English law can be found in Practice Direction (Ch D: Insolvency Proceedings) [2012] BCC 265. While much of the content of that direction is relevant to Irish law, practitioners are advised to exercise caution when applying it since much of its content equally inapplicable in this jurisdiction.

CA 1963'. In this chapter we focus on some specific procedural aspects relevant to an application under s 213(e).

An application for the winding up of a company pursuant to s 213(e) is made by petition verified by affidavit.[93] It is normally heard on a Monday morning as part of the chancery list by a judge appointed to that list by the President of the High Court.[94] The petition is issued, or 'presented', in the central office where it is given a hearing date.[95] It must be advertised at least seven clear days prior to the hearing date in *Iris Oifigiúil* and in two Dublin daily morning newspapers,[96] and such other newspapers as the court may direct.[97] The rules do not specify any particular newspapers in which the advertisements are required to be placed and the petitioner may choose to place them in less traditional papers which are generally more cost effective. The advertisement, which should be in the form 5 of Appendix M, RSC 1986, must state the day on which the petition was presented, the name and address of the petitioner and the name and registered place of business of his solicitor.[98] It should also contain a statement that any person who intends to appear at the hearing of the petition, either to oppose or support it, should send notice of his intention to the petitioner, or to his solicitor no later than 5pm on the day prior to the hearing of the petition.[99] Since petitions are normally heard on Monday mornings, the notice of intention to appear should be sent so that it is received by the petitioner or his solicitor no later than 5pm on the previous Friday. Any person wishing to oppose the petition may do so by filing an affidavit setting out the factual basis for his opposition, which must be filed within seven days of the placement of the last of the three advertisements by the petitioner. Notice of the filing of such affidavit should be given to the petitioner or his solicitor on the same day as it is filed.

[17.46] The petitioner or his solicitor is required to prepare a list of the names and addresses of the persons who have given notice of their intention to appear on the hearing of a petition, and of their respective solicitors. On the day appointed for hearing the petition, a copy of the list (or if no notice of intention to appear has been given, a statement in writing to that effect) must be handed by the petitioner or his solicitor to the registrar prior to the hearing of the petition.[100] When, on the day appointed for the hearing, the matter is called by the court registrar, counsel for the petitioner will ask for any creditors or contributories of the company to be called. If there is an appearance by any creditors or contributories, or indeed by the company itself, the court will hear their submissions before deciding whether or not to proceed with hearing the petition. Where any person opposing the petition has not filed an affidavit in that regard, the court may

93. RSC, O 74 and Appendix M, as substituted by SI 121/2012.

94. RSC, O 74 r 3.

95. RSC, O 74 r 9.

96. RSC, O 74 r 10(1).

97. *Re Connemara Minings Company plc* [2013] IEHC 123 where advertisement was also directed in a London newspaper; see also *Re Harley Medical Group (Irl) Ltd* [2013] IEHC 219 where advertisement was also directed in newspapers circulating in the British Virgin Islands and the British Virgin Islands Gazette.

98. RSC, O 74 r 10(2).

99. RSC, O 74 r 10(2) and r 15.

100. RSC, O 74 r 16 and Appendix M, form 9.

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adjourn the matter to allow such person to set out the nature of his objection on affidavit. Adjournments for any other purpose will not be lightly forthcoming, even if all the parties consent to the adjournment.[101] Petitions presented under s 213 are heard on affidavit and there is no mechanism for such proceedings to be heard by way of plenary hearing. This was explained by Laffoy J in *Re Marble and Granite Tiles Ltd*:

> 'On the hearing of a petition to wind up, the Court determines whether any of the grounds on which a company may be wound up, as set out in s. 213 of the Act of 1963, has been established and on the basis of that determination, as empowered by s. 216 of the Act of 1963, either makes a winding up order or dismisses the petition. While the Court has a broad discretion under s. 216, there is no process whereby a petition to wind up can be referred to plenary hearing.'[102]

Where there is no appearance by any other party or where an objection is not accepted by the court, the petitioner will be permitted to open the petition and affidavit. If his proofs are in order and there is no other reason why the company should not be wound up, the court will make an order for the winding up of the company. A winding up order will not be made conditional on the happening of an event in the future – or, in the words of Laffoy J, the court will not normally make an 'unless' order.[103]

[17.47] The order is required to be advertised by the petitioner once in *Iris Oifigiúil* and in each of the newspapers in which the petition was advertised, unless the court directs otherwise, and must be served upon such persons (if any) and in such manner as the court may direct. The advertisement should comply with form 11 of Appendix M, RSC and should be placed within 12 days of the date of the winding up order or within such time as may be extended by the court.[104] A certified copy of the order must be left by the petitioner or his solicitor at the Examiner's office within 10 days after it has been perfected.[105] Where this is not done then any other person interested in the winding up may leave a certified copy of the order at the Examiner's office and the court may give the carriage and prosecution of the order to such other person. Once the certified copy of the order is left at the Examiner's office then the petitioner or his solicitor must issue a notice to proceed, which is served on all the parties who appeared at the hearing of the petition.[106] The hearing of the notice to proceed enables the court to consider certain preliminary matters and to make appropriate directions as to the conduct of the winding up, including directions as to advertisements and any proceedings which may be taken.

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101. For which, see below.
102. *Re Marble and Granite Tiles Ltd* [2009] IEHC 455.
103. *Re Connemara Minings Company plc* [2013] IEHC 225 where the learned judge said this: 'In any event, in this jurisdiction it is not the practice of the High Court to exercise its jurisdiction under s. 216 by making what is sometimes referred to as an 'unless' order, for instance, by making the type of order suggested by the Petitioner – an order that the Company will be wound up unless the directors undertake not to seek payment of the fees which have accrued and will accrue to them.'
104. RSC, O 74 r 20(2).
105. The Examiner's office is located at 2nd Floor, 15/24 Phoenix Street North, Smithfield, Dublin 7.
106. RSC, O 74 r 21.

[17.48] Any matters concerning the compulsory winding up of a company subsequent to a winding up order having been made are heard as part of the Examiner's office list or Examiner's court list. It is not uncommon for a liquidation to remain in the Examiner's lists for a number of months and even years, with regular adjournments (which themselves can be for a number of months and years) and such applications being made by the liquidator and other parties as are necessary in the course of the liquidation. Once the liquidation is completed the liquidator applies to the court for 'final orders', including an order that the company be dissolved. A successful application for final orders amounts to a formal acknowledgment that the liquidation is completed and the liquidator is relieved from his role, with appropriate directions as to the payment of the liquidator's costs and the distribution of any remaining proceeds.[107]

Documentation

[17.49] The following documents are required for an application under s 213(e):

(a) a petition;
(b) a verifying affidavit;
(c) an affidavit of service of petition;
(d) an affidavit of fitness;
(e) an affidavit of placing advertisements;
(f) an affidavit of service of statutory demand (if applicable);
(g) copies of advertisements (exhibited in the affidavit);
(h) the proposed liquidator's letter of consent to act as such (exhibited in the verifying affidavit);[108]
(i) a list of creditors or contributories who have indicated an intention to appear.

The documentation should be entitled 'The High Court: In the Matter of [full name of company sought to be wound up] and in the matter of the Companies Acts 1963–2012.'[109]

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Petition[110]

[17.50] The general contents of the petition for the winding up of a company are discussed in the previous chapter and they are equally applicable here. In the specific context of an application under s 213(e) it is important to remember the proofs which are required to be met. First, the petitioner must show that the company is insolvent. The petition should clearly set out which of the methods of proving insolvency contained in s 214 he is seeking to engage. Where the petitioner relies on s 214(a), that is the leaving of a 21-day demand letter at the registered office of the company, then the petition must state the day on which the letter was 'left', the address at which it was left and the identity of the person who left the letter there. It will also be necessary for such person

107. RSC, O 74 r 137.
108. As required by CA 1963, s 276A, inserted by CA 1990, s 133.
109. RSC, O74 r 5 and Appendix M, form 1.
110. RSC, Appendix M, forms 2, 3 and 4.

to swear an affidavit stating that, on the specified date, he left the said letter at the registered office of the company.

The petition will also contain details of the nature of the debt, if any, owed by the company to the petitioner and a statement that the debt remains due and owing. This will often require placing certain documents before the court relating to the debt, such as the contract or judgment giving rise to it. Those documents may be exhibited in the affidavit. There should also be contained in the petition a statement that the company is insolvent and should accordingly be wound up.

Finally, the petition must contain certain statements relating to the EU Insolvency Regulation as well as 'NAMA bank assets'. Those statements are required to be contained in all petition issued under s 213, CA 1963 and they are discussed in the previous chapter.

Verifying affidavit[111]

[17.51] In practice the content of the verifying affidavit will be largely a repetition of the statements contained in the petition. There are, however, at least two crucial differences between the documents. First, the affidavit, unlike the petition, is the evidence supporting the application. Second, the affidavit may exhibit documents to which the petition may only refer. In the context of an application under s 213(e) the affidavit should exhibit the 21-day demand letter,[112] a letter from the proposed liquidator consenting to act as such,[113] contracts or invoices in respect of the debt giving rise to the demand, relevant communications between the parties, and so on. The affidavit should be sworn by the petitioner or, where the petitioner is a company, an authorised officer of the petitioner.[114] It may be supplemented by affidavits of other persons corroborating the evidence in the verifying affidavit.

Affidavit of service of petition

[17.52] A winding up petition issued by any person other than the company is required to be served on the company by 'leaving' a copy with any member, officer or servant of the company at its registered office or, if there is no registered office, at the principal or last known principal place of business of the company if any such can be found.[115] The person effecting service is required to swear an affidavit of service recording the day, time and manner in which he served the petition, as well as the address at which the petition was left and the identity of the person with whom it was left.

Affidavit of fitness

[17.53] An affidavit of fitness is sworn by a person, normally a solicitor, who is acquainted with the proposed liquidator and can vouch that such person has the

111. RSC, Appendix M, forms 6 and 7.
112. The contents of that letter may also be set out verbatim in the body of the petition, however this is not necessary.
113. Strictly speaking, the letter of consent need not be exhibited in any affidavit, however, it is preferable to exhibit if it can be procured prior to the swearing of the affidavit.
114. RSC, O 74 r 12.
115. RSC, O 74 r 11(1).

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qualifications and experience to act as liquidator of the company, should the court appoint him to do so. Like the affidavit of service, it is a very brief document (normally no more than a few lines) and does not need to exhibit anything. It was thought that the affidavit of fitness could properly be sworn by a solicitor in the firm of solicitors acting for the petitioner, however, that view is probably incorrect in light of the *dictum* of Laffoy J in *Re Riviera Insurance Ltd:*

> 'I pointed out, as I frequently have to, that it is inappropriate for a member of the firm of solicitors acting for the petitioner to swear the affidavit of suitability as to the proposed official liquidator.'[116]

Thus, the affidavit of fitness should be sworn by a solicitor who is acquainted with the proposed liquidator and is aware of his qualifications and experience, but who is not a member of the firm of solicitors acting for the petitioner.

Affidavit of advertisement

[17.54] This is a brief document sworn by the person who placed the advertisements in *Iris Oifigiúil*. It should contain an averment referring to the fact that the advertisements were placed, the names of the newspapers in which they were placed, and the date on which they appeared in each publication. The relevant extract from each of the three publications, including the advertisements, should be exhibited so that the court is able to see that the advertisements did in fact appear in the specified publications on the specified dates.

The affidavit of advertisement is required to be filed no later than 4.30pm on the Thursday prior to the return date of the petition.[117]

Affidavit of service of statutory demand

[17.55] Where the petitioner is relying on s 214(a) to show that the company is unable to pay its debts then, as we have seen, it must serve a statutory demand on the company by 'leaving' the same at the company's registered address. The person who carries out service of the statutory demand in this manner is required to swear an affidavit of personal service recording the day, time and manner in which he served the demand, as well as the address at which the demand was left and the identity of the person with whom it was left.

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Notice parties

[17.56] For a discussion of the persons which are required to be notified of a winding up petition, see the section of the previous chapter entitled 'Notice parties', at para **[16.155]**.

Jurisdiction

[17.57] For a discussion of the jurisdictional issues, both territorial and temporal, involved in a winding up petition see the section of the previous chapter entitled 'Jurisdiction', at para **[16.159]**.

116. *Re Riviera Insurance Ltd* [2009] IEHC 183.

117. Practice Direction HC55: Winding up Petitions.

Adjournments

[17.58] Section 216, CA 1963 gives the court a broad discretion in respect of the orders, if any, which it may make at the hearing of the petition. The court may, as part of that discretion, adjourn the petition conditionally or unconditionally. The circumstances in which a court will adjourn a winding up petition are particularly significant where the ground for seeking to wind up the company is s 213(e). A common mistake made by petitioners relying on that ground is to assume that adjournments will be granted at the behest of the parties and that, where all the parties consent to it, the court will adjourn the hearing as a matter of course. Such an approach is widely adopted in bankruptcy cases where petitions are often issued without any conviction as to their prosecution and are adjourned many times before payment is eventually received and they are struck out. That approach is not adopted in cases involving winding up petitions, where the courts have categorically and repeatedly stated that the winding up procedure is not to be used as a means of debt collection. To allow the hearing of the petition to be adjourned in order to facilitate negotiations between the parties would clearly be inconsistent with that rule. Quite apart from this matter of principle, there are other reasons why courts are reluctant to grant adjournments in such cases. As we have seen, any dispositions made by a company after the presentation of the petition are deemed to be void upon the making of the winding up order, unless the court orders otherwise.[118] Thus, the company is placed in a state of limbo following the presentation of a petition for its winding up. It can have no confidence in the validity of any transactions entered into by it and third parties may be reluctant to deal with it for that reason. Indeed, in *Re Goode Concrete (In Receivership)*[119] Laffoy J would have been prepared to grant a lengthier than usual adjournment in circumstances where the company was no longer trading. This is because an adjournment, combined with s 218, CA 1963, is not likely to prejudice a company which will not enter into further transactions in the same way as it would a company which is still trading. Moreover, even if the company is not insolvent at the date of presentation of the petition then such presentation, in addition to the potential damage of its advertisement, may well have the effect of pushing it into insolvency. In other words, the longer the period between the presentation and hearing of the petition, the greater the potential damage to the company.

[17.59] The foregoing principles were set out in a Practice Statement issued by Brightman J in 1977, which continues to be applied in the UK company courts.[120] While no such practice direction has formally been adopted in this jurisdiction, the courts have generally applied the approach suggested by Brightman J. The following is the full text of the Practice Statement:

> '1 The statement I am about to read represents the views of all the judges of the Companies Court and is made with the concurrence of the Vice-Chancellor.
>
> 2 There have recently been a number of cases in which repeated and lengthy unopposed adjournments have been sought after the presentation of a creditor's petition for the compulsory winding up of a company. Such adjournments of

118. CA 1963, s 218.

119. *Re Goode Concrete (In Receivership)* [2012] IEHC 439.

120. [1977] 1 WLR 1066.

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> petitions are often undesirable because the winding up order, if made, dates back to the presentation of the petition, and the adjournments may make the process of liquidation more complex. The books of the company tend to get out of date, and sometimes they are lost, quite apart from any dishonesty. Officers and employees who could provide valuable information sometimes leave and cannot be traced. Further, dispositions made between the presentation of the petition and the making of the winding up order have to be examined to see if they are justifiable, and delay both increases the number of these transactions and makes their examination more difficult.
>
> 3 Whatever may be the rights of the parties to agree on deferring the hearing of ordinary litigation, the special considerations which apply to creditors' winding up petitions require as a general rule that they should be heard promptly. No rigid timetable can or should be laid down, but in normal cases where the debt is admitted, a period of four weeks from the date of the first hearing ought to suffice to enable the petitioning creditor, if still unpaid, to decide whether to press for a winding up order, or whether to rely on other arrangements. Usually this period should also suffice to enable the company to decide whether or not to promote a moratorium or other scheme of arrangement.
>
> 4 It is recognised that in some cases there will be special factors which will justify longer agreed adjournments, or more adjournments than one; an example is where a receiver has been appointed and is realising the assets. But those practising in the Companies Court should realise that in future the court is likely to be reluctant to grant long or repeated adjournments, even with the consent of all concerned, unless there are shown to be cogent grounds for the application.
>
> 5 This statement does not apply to contributories' petitions. Different considerations apply to these, and there will normally be no objection to long or repeated adjournments by consent.'

[17.60] Despite the foregoing, there are cases where it will be 'fair and just' for a court to exercise its discretion in favour of granting an adjournment.[121] In *Re Demaglass Holdings Ltd*,[122] the Chancery Division of the English High Court granted an adjournment for 10 weeks in circumstances where the company was already in receivership and the receiver was likely to realise a greater sum from the sale of its assets if the company was not placed in liquidation. The adjournment, which was contested by the petitioner, was allowed to facilitate the receiver in carrying out the sale since this would raise substantially more money for the company than if it was placed in liquidation. In *Re Coolfadda Developers Ltd*,[123] a provisional liquidator had been appointed to the company. At the hearing of the winding up petition the company applied for an adjournment so that it could complete various building developments which had been commenced and which, once completed, would enable the company to realise additional funds in its winding up. Laffoy J refused to adjourn the petition to allow the work to be completed because to do so would be contrary to the principle and spirit of the companies legislation. A provisional liquidator was appointed to protect the assets of the company until such time as an official liquidator was appointed – he was

121. *Re Bula Ltd* [1990] 1 IR 440.
122. *Re Demaglass Holdings Ltd* [2001] 2 BCLC 633.
123. *Re Coolfadda Developers Ltd* [2009] IEHC 263.

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not mandated to continue trading for an extended period in the hope of maximising the company's assets. The court accepted, however, that it may grant leave to the official liquidator, once appointed, to complete the development work. The Supreme Court upheld the decision of Laffoy J, where Denham J said this:

> 'I am satisfied that there is jurisdiction under the Companies Acts to grant adjournments from time to time on a petition for provisional liquidation of a company. Such jurisdiction is not contrary to the spirit of the legislation. However, it would arise only in exceptional cases where special circumstances exist. An example of such an exceptional case where special circumstances exist may be seen in *MHMH Ltd and Others v. Carwood Barker Holdings Ltd*. [2006] I B.C.L.C. 279. In general a provisional liquidation is a 'stop-gap' measure, however, in exceptional cases the Court has jurisdiction to adjourn the matter from time to time. If such a jurisdiction arises a court has a discretion to exercise to determine whether there should be an adjournment.'[124]

[17.61] In *Re Burren Springs Ltd*,[125] the Revenue Commissioners sought to wind up a company which had failed to make payment in respect of various taxes owed by it. The company applied for an adjournment on the basis that it had filed a claim with the Revenue for tax credits and, should the Revenue decide that the company was entitled to the credits, they would wipe out completely the taxes owed by the company. The adjournment was intended to facilitate the Revenue in making a decision in respect of the company's entitlement to the credits. Laffoy J, while sympathising with the position of the company, nevertheless refused the adjournment on the basis that granting an adjournment in the circumstances would be contrary to the court's duty to exercise its discretion in 'a principled manner'. That decision was followed by Hogan J in *Re Heatsolve Ltd*.[126] There, the learned judge refused to adjourn a winding up petition in circumstances where the company believed it would be able to raise the funds required to discharge the petitioner's debt. The company sought an adjournment of 18 months to enable it to raise the funds. Hogan J noted that, while a court may grant a short adjournment (not normally more than a matter of weeks) to allow a company to raise expected funds to discharge a petitioner's debt, it would not grant lengthy adjournments to facilitate a company's survival. A winding up petition could not be used as an alternative to examinership.

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[17.62] Finally, in *Re Genport Ltd*[127] McCracken J refused to wind up the company even though the petitioner's formal proofs were in order. The reason for that decision was, *inter alia*, the fact that the winding up was sought in order to prevent the company from prosecuting litigation which it had commenced against the petitioner's employer. Rather than dismissing the petition, McCracken J decided to stay it generally pending the outcome of the litigation, with liberty for either party to re-enter. In *Re Tradalco Ltd; Bluzwed Metals Ltd v Transworld Metals SA*,[128] Lavan J refused to grant a stay pending

124. [2010] 1 ILRM 342.

125. *Re Burren Springs Ltd* [2011] IEHC 480.

126. *Re Heatsolve Ltd* [2013] IEHC 399.

127. *Re Genport Ltd* (21 November 1996, unreported) HC (McCracken J).

128. *Re Tradalco Ltd; Bluzwed Metals Ltd v Transworld Metals SA* (9 May 2001, unreported) HC (Lavan J).

the outcome of separate proceedings between the parties in Switzerland. That case involved the application of the Lugano Convention, which specifically prevented the judge from granting a stay in the circumstances.

Although none of these authorities concerned applications for adjournments by consent, it is submitted that similar principles will apply in those cases. While the court may be prepared to grant one short adjournment, subsequent adjournments will be granted only in the most exceptional cases. Finally, where an adjournment is granted as a result of information being provided to the court which is untrue and the person giving the information knows it to be untrue then such person may be ordered to pay some or all of the costs of the petition.[129]

Substitution of petitioner

[17.63] Where the petitioner fails to attend at the hearing of the petition, or where he consents to withdraw the petition or have it struck out, the court may substitute as petitioner any person who would have a right to present a petition, and who desires to be substituted.[130] Needham J explained the rationale behind this rule in *DMK Building Materials Pty Limited v CB Baker Timbers Pty Limited*[131] as follows:

> 'The purpose of substitution, in my opinion, is to ensure that once a *prima facie* right to the winding up of a company has arisen, the company should not escape from that position except upon the basis of fair dealing with all its creditors, not merely by paying off the particular [petitioner].'

A court will normally be prepared to accede to an application for substitution, even without the company's consent, since it is preferable that the winding up of a company should be subject to only one petition.[132] A petitioner may be substituted even where the petition has not yet been advertised.[133] However it remains to be seen whether the original petitioner has *locus standi* to oppose the application for substitution in circumstances where he has settled his claim with the company and fears that a winding up order will have the effect of rendering void (pursuant to s 218, CA 1963) any payment made to him by the company as part of the settlement.[134] It is suggested that, while he may have *locus standi* to make such opposition, the argument is not likely to succeed. This is because the company may be wound up if it is unable to pay *any* of its debts, not only the debt owed to the original petitioner.

Restraining the advertisement/presentation of a winding up petition

[17.64] There are two main approaches to challenging a petition for the winding up of a company pursuant to s 213(e). The first is for the company to institute the procedure for

129. *Gamelstaden plc v Brackland Magazines Ltd* [1993] BCC 194.
130. RSC, O 74 r 18.
131. *DMK Building Materials Pty Limited v CB Baker Timbers Pty Limited* [1985] 10 ACLR 16 at p 19.
132. *Re Creative Handbook Limited* [1985] BCLC 1.
133. *Re Lycatel (Ireland) Ltd* [2009] 3 IR 736.
134. *Re Lycatel (Ireland) Ltd* [2009] 3 IR 736.

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