



Companies Act 1948

1948 CHAPTER 38 11 and 12 Geo 6

PART XIII

GENERAL.

Form of Registers, &c.

436 Form of registers, &c.

- (1) Any register, index, minute book or book of account required by this Act to be kept by a company may be kept either by making entries in bound books or by recording the matters in question in any other manner.
- (2) Where any such register, index, minute book or book of account is not kept by making entries in a bound book, but by some other means, adequate precautions shall be taken for guarding against falsification and facilitating its discovery, and where default is made in complying with this subsection, the company and every officer of the company who is in default shall be liable to a fine not exceeding fifty pounds and further shall be liable to a default fine.

Service of Documents.

437 Service of documents on a company.

- (1) A document may be served on a company by leaving it at or sending it by post to the registered office of the company.
- (2) Where a company registered in Scotland carries on business in England, the process of any court in England may be served on the company by leaving it at or sending it by post to the principal place of business of the company in England, addressed to the manager or other head officer in England of the company.

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- (3) Where process is served on a company under subsection (2) of this section the person issuing out the process shall send a copy thereof by post to the registered office of the company.

Offences.

438 Penalty for false statements.

If any person in any return, report, certificate, balance sheet, or other document, required by or for the purposes of any of the provisions of this Act specified in the Fifteenth Schedule hereto, wilfully makes a statement false in any material particular, knowing it to be false, he shall be guilty of a misdemeanour, and shall be liable on conviction in Scotland on indictment to imprisonment for a term not exceeding two years, with or without hard labour, and be liable on summary conviction in England or Scotland to imprisonment for a term not exceeding four months, with or without hard labour, and in either case to a fine in lieu of or in addition to such imprisonment as aforesaid:

Provided that—

- (a) the fine imposed on summary conviction shall not exceed one hundred pounds;
- (b) nothing in this section shall affect the provisions of the Perjury Act, 1911, or the False Oaths (Scotland) Act, 1933.

439 Penalty for improper use of word “limited”.

If any person or persons trade or carry on business under any name or title of which “limited”, or any contraction or imitation of that word, is the last word, that person or those persons shall, unless duly incorporated with limited liability, be liable to a fine not exceeding five pounds for every day upon which that name or title has been used.

440 Provision with respect to default fines and meaning of “officer in default”.

- (1) Where by any enactment in this Act it is provided that a company and every officer of the company who is in default shall be liable to a default fine, the company and every such officer shall, for every day during which the default, refusal or contravention continues, be liable to a fine not exceeding such amount as is specified in the said enactment, or, if the amount of the fine is not so specified, to a fine not exceeding five pounds.
- (2) For the purpose of any enactment in this Act which provides that an officer of a company who is in default shall be liable to a fine or penalty, the expression “officer who is in default” means any officer of the company who knowingly and wilfully authorises or permits the default, refusal or contravention mentioned in the enactment.

441 Production and inspection of books where offence suspected.

- (1) If on an application made—
 - (a) in England, to a judge of the High Court in chambers by the Director of Public Prosecutions, the Board of Trade or a chief officer of police; or

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(b) in Scotland, to one of the Lords Commissioners of Justiciary by the Lord Advocate;

there is shown to be reasonable cause to believe that any person has, while an officer of a company, committed an offence in connection with the management of the company's affairs and that evidence of the commission of the offence is to be found in any books or papers of or under the control of the company, an order may be made—

(i) authorising any person named therein to inspect the said books or papers or any of them for the purpose of investigating and obtaining evidence of the offence; or

(ii) requiring the secretary of the company or such other officer thereof as may be named in the order to produce the said books or papers or any of them to a person named in the order at a place so named.

(2) The foregoing subsection shall apply also in relation to any books or papers of a person carrying on the business of banking so far as they relate to the company's affairs, as it applies to any books or papers of or under the control of the company, except that no such order as is referred to in paragraph (ii) thereof shall be made by virtue of this subsection.

(3) The decision of a judge of the High Court or of any of the Lords Commissioners of Justiciary on an application under this section shall not be appealable.

(4) In this section the expression “chief officer of police ” has (subject to the provisions of the Police Act, 1946 and the Police (Scotland) Act, 1946) the same meaning as in the Police Pensions Act, 1921.

442 Provisions as to summary proceedings.

(1) All offences under this Act made punishable by any fine may be prosecuted under the Summary Jurisdiction Acts, and proceedings under those Acts in respect of any such offence may, notwithstanding anything to the contrary therein, be taken by the Director of Public Prosecutions or by the Board of Trade at any time within twelve months from the date on which evidence sufficient in the opinion of the Director or the Board, as the case may be, to justify the proceedings comes to his or their knowledge:

Provided that proceedings shall not be so taken more than three years after the commission of the offence.

(2) For the purposes of the foregoing subsection, a certificate of the Director of Public Prosecutions or the Board of Trade as to the date on which such evidence as aforesaid came to his or their knowledge shall be conclusive evidence thereof.

(3) In the application of this section to Scotland, any reference to the Director of Public Prosecutions and the first reference to the Board of Trade shall be omitted, and for any reference to evidence sufficient to justify proceedings there shall be substituted a reference to evidence sufficient to justify a report to the Lord Advocate with a view to consideration of the question of proceedings.

(4) Subsection (1) of this section, so far as it relates to the time within which proceedings may be taken, and subsections (2) and (3) thereof shall apply to proceedings in respect of offences under the Companies Act, 1929, or the Companies Act, 1947, that may be prosecuted under the Summary Jurisdiction Acts as it applies to proceedings in respect of the offences mentioned in the said subsection (1):

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Provided that this subsection shall not have effect in relation to any proceedings if the time allowed under the said Acts apart from this section for taking them had already expired before the commencement of this Act.

443 Proceedings on indictment in Scotland against bodies corporate.

- (1) In any proceedings on indictment against a body corporate for an offence against this Act the indictment may be served by—
- (a) delivery of a copy with notice to appear attached thereto at the registered office or, if there is no registered office, at the principal place of business of the body corporate; and
 - (b) delivery in Scotland of a copy of the indictment with notice to appear attached thereto to the secretary or any director or to any person in charge of any principal place of business of the body corporate.

Where a registered letter containing a copy of the indictment has been sent by post to the registered office or principal place of business of the body corporate, an acknowledgment or certificate of the delivery of the letter issued by the Postmaster General in pursuance of regulations under the Post Office Act, 1908, shall be sufficient evidence of the delivery of the letter at the registered office or place of business on the day specified in such acknowledgment or certificate.

- (2) In any such proceedings as aforesaid the body corporate may appear, and any plea or notice on behalf of the body may be tendered or given—
- (a) in the High Court of Justiciary, by counsel or by a representative of the body corporate; and
 - (b) in the sheriff court, by counsel or by a solicitor or by a representative of the body corporate.
- (3) Where at the first diet in any such proceedings as aforesaid the body corporate does not appear or tender any plea in accordance with the provisions of the last foregoing subsection, it shall be deemed to have tendered a plea of not guilty.
- (4) Where at the second diet in any such proceedings as aforesaid the body corporate does not appear in accordance with the provisions of subsection (2) of this section, the court shall, on the motion of the prosecutor, if it is satisfied that the provisions of subsection (1) of this section have been complied with, proceed to hear and dispose of the case in the absence of the body corporate.
- (5) Where in any such proceedings as aforesaid a body corporate is sentenced to a fine, the fine may be recovered in like manner in all respects as if a copy of the sentence certified by the clerk of the court were an extract decree of the Court of Session for the payment of the amount of the fine by the body corporate to the King's and Lord Treasurer's Remembrancer.
- (6) Notwithstanding anything contained in sections twenty-eight or twenty-nine of the Criminal Procedure (Scotland) Act, 1887, it shall not be necessary for a plea tendered by counsel or by a solicitor in accordance with the provisions of subsection (2) of this section to be signed.
- (7) If on the application of the procurator fiscal, a sheriff is satisfied that there is reasonable ground for suspecting that an offence against this Act has been or is being committed by a body corporate, the sheriff shall have the like power to grant warrant for the citation of witnesses and the production of documents and articles as he would have if

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a petition charging an individual with the commission of the offence were presented to him.

- (8) In this section, the expression “representative” in relation to a body corporate against which such proceedings as aforesaid are brought, means an officer or servant of the body corporate duly appointed by it for the purpose of those proceedings. Such appointment need not be under the seal of the body corporate, and a statement in writing purporting to be signed by the managing director of, or by any person having or being one of the persons having the management of the affairs of, the body corporate to the effect that the person named in the statement has been appointed the representative of the body corporate for the purpose of the said proceedings shall be admissible without further proof as evidence that the person has been appointed.
- (9) The foregoing provisions of this section shall apply to offences against the Companies Act, 1929, or the Companies Act, 1947, as they apply to offences against this Act.
- (10) This section shall extend to Scotland only.

444 Application of fines.

The court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in or towards payment of the costs of the proceedings, or in or towards the rewarding the person on whose information or at whose suit the fine is recovered, and subject to any such direction all fines under this Act shall, notwithstanding anything in any other Act, be paid into the Exchequer.

445 Saving as to private prosecutors.

Nothing in this Act relating to the institution of criminal proceedings by the Director of Public Prosecutions shall be taken to preclude any person from instituting or carrying on any such proceedings.

446 Saving for privileged communications.

Where proceedings are instituted under this Act against any person by the Director of Public Prosecutions or by or on behalf of the Lord Advocate, nothing in this Act shall be taken to require any person who has acted as solicitor for the defendant to disclose any privileged communication made to him in that capacity.

Legal Proceedings.

447 Costs in actions by certain limited companies.

Where a limited company is plaintiff or pursuer in any action or other legal proceeding, any judge having jurisdiction in the matter may, if it appears by credible testimony that there is reason to believe that the company will be unable to pay the costs of the defendant if successful in his defence, require sufficient security to be given for those costs, and may stay all proceedings until the security is given.

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448 Power of court to grant relief in certain cases.

- (1) If in any proceeding for negligence, default, breach of duty or breach of trust against an officer of a company or a person employed by a company as auditor (whether he is or is not an officer of the company) it appears to the court hearing the case that that officer or person is or may be liable in respect of the negligence, default, breach of duty or breach of trust, but that he has acted honestly and reasonably, and that, having regard to all the circumstances of the case, including those connected with his appointment, he ought fairly to be excused for the negligence, default, breach of duty or breach of trust, that court may relieve him, either wholly or partly, from his liability on such terms as the court may think fit.
- (2) Where any such officer or person aforesaid has reason to apprehend that any claim will or might be made against him in respect of any negligence, default, breach of duty or breach of trust, he may apply to the court for relief, and the court on any such application shall have the same power to relieve him as under this section it would have had if it had been a court before which proceedings against that person for negligence, default, breach of duty or breach of trust had been brought.
- (3) Where any case to which subsection (1) of this section applies is being tried by a judge with a jury, the judge, after hearing the evidence, may, if he is satisfied that the defendant ought in pursuance of that subsection to be relieved either in whole or in part from the liability sought to be enforced against him, withdraw the case in whole or in part from the jury and forthwith direct judgment to be entered for the defendant on such terms as to costs or otherwise as the judge may think proper.

449 Power to enforce orders.

Orders made by the High Court under this Act may be enforced in the same manner as orders made in an action pending therein.

450 Jurisdiction of stannaries court.

- (1) In the case of a company subject to the stannaries jurisdiction, the court exercising the stannaries jurisdiction shall have and exercise the like jurisdiction and powers, as well on the common law as on the equity side thereof, as the Court of the Vice-Warden of the stannaries possessed before the commencement of the Stannaries Court (Abolition) Act, 1896, by custom, usage or statute in the case of unincorporated companies, but only so far as is consistent with the provisions of this Act and with the constitution of companies as prescribed or required by this Act.
- (2) For the purpose of giving fuller effect to that jurisdiction, all process issuing out of the said court, and all orders, rules, demands, notices, warrants, and summonses required or authorised by the practice of the court to be served on any company, whether registered or not registered, or on any member or contributory thereof, or on any officer, agent or servant thereof, may be served in any part of England without any special order of the judge for that purpose, or by such special order may be served in any part of the British Islands other than Eire, on such terms and conditions as the court may think fit:

Provided that no such service of process out of the limits of the stannaries in any suit or plaint on the common law side of the court shall be effected without the special order of the judge made on a statement of the nature and object of the suit or plaint.

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- (3) All decrees, orders and judgments of the said court may be enforced in the same manner in which decrees, orders and judgments of the Court of the Vice-Warden of the stannaries could before its abolition have been by law enforced, whether within or beyond the stannaries.

General Provisions as to Board of Trade.

451 Annual report by Board of Trade.

The Board of Trade shall cause a general annual report of matters within this Act to be prepared and laid before both Houses of Parliament.

452 Authentication of documents issued by Board of Trade.

Any approval, sanction or licence or revocation of licence which under this Act may be given or made by the Board of Trade may be under the hand of a secretary or assistant secretary of the Board, or of any person authorised in that behalf by the President of the Board.

453 Orders and certificates of Board to be evidence.

- (1) All documents purporting to be orders or certificates made or issued by the Board of Trade for the purposes of this Act and to be sealed with the seal of the Board, or to be signed by a secretary or assistant secretary of the Board, or any person authorised in that behalf by the President of the Board, shall be received in evidence and deemed to be such orders or certificates without further proof, unless the contrary is shown.
- (2) A certificate signed by the President of the Board of Trade that any order made, certificate issued or act done is the order, certificate or act of the Board shall be conclusive evidence of the fact so certified.

454 Power to alter tables and forms.

- (1) The Board of Trade shall have power by regulations made by statutory instrument to alter or add to the requirements of this Act as to the matters to be stated in a company's balance sheet, profit and loss account and group accounts, and in particular of those of the Eighth Schedule to this Act; and any reference in this Act to the said Eighth Schedule shall be construed as a reference to that Schedule with any alterations or additions made by regulations for the time being in force under this subsection.
- (2) The Board of Trade may by regulations made by statutory instrument—
- (a) alter Table A, the Twelfth Schedule to this Act so that it does not increase the amount of fees payable to the registrar under that Schedule, and the form in the Thirteenth Schedule to this Act; and
 - (b) alter or add to Tables B, C, D, and E in the First Schedule to this Act and the forms in the Second Schedule and Part II of the Sixth Schedule to this Act;
- but no alteration made by the Board of Trade in Table A shall affect any company registered before the alteration, or repeal as respects that company any portion of that Table.

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- (3) No regulations shall be made under subsection (1) of this section so as to render more onerous the requirements therein referred to, unless a draft of the instrument containing the regulations has been laid before Parliament and has been approved by resolution of each House of Parliament.
- (4) A statutory instrument containing regulations made under this section, not being regulations to which the last foregoing subsection applies, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Supplemental.

455 Interpretation.

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them (that is to say):—

“accounts ” includes a company's group accounts, whether prepared in the form of accounts or not;

“agent ” does not include a person's counsel acting as such;

“annual return ” means the return required to be made, in the case of a company having a share capital, under section one hundred and twenty-four, and, in the case of a company not having a share capital, under section one hundred and twenty-five, of this Act;

“articles ” means the articles of association of a company, as originally framed or as altered by special resolution, including, so far as they apply to the company, the regulations contained (as the case may be) in Table B in the Schedule annexed to the Joint Stock Companies Act, 1856, or in Table A in the First Schedule annexed to the Companies Act, 1862, or in that Table as altered in pursuance of section seventy-one of the last-mentioned Act, or in Table A in the First Schedule to the Companies (Consolidation) Act, 1908, or in that Table as altered in pursuance of section one hundred and eighteen of the last-mentioned Act, or in Table A in the First Schedule to the Companies Act, 1929, or in Table A in the First Schedule to this Act;

“bank holiday ” means a day which is a bank holiday under the Bank Holidays Act, 1871:

“book and paper ” and “book or paper ” include accounts, deeds, writings, and documents;

“company ” means a company formed and registered under this Act or an existing company;

“company limited by guarantee ” and “company limited by shares ” have the meanings assigned to them respectively by subsection (2) of section one of this Act;

“company within the stannaries ” means a company engaged in or formed for working mines within the stannaries;

“contributory ” has the meaning assigned to it by section, two hundred and thirteen of this Act;

“the court ”, used in relation to a company, means the court having jurisdiction to wind up the company;

“the court exercising the stannaries jurisdiction ”, used in relation to any proceedings, means the county court in which the jurisdiction formerly

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exercised by the court of the vice-warden of the stannaries in respect of those proceedings is for the time being vetted;

"creditors' voluntary winding up" has the meaning assigned to it by subsection (4) of section two hundred and eighty-three of this Act;

"debenture" includes debenture stock, bonds and any Other securities of a company whether constituting a charge on the assets of the company or not;

"director" includes any person occupying the position of director by whatever name called;

"document" includes summons, notice, order, and other legal process, and registers;

"dominion register" has the meaning assigned to it by subsection (1) of section one hundred and nineteen of this Act;

"exempt private company" means an exempt private company as defined by subsection (4) of section one hundred and twenty-nine of this Act;

"existing company" means a company formed and registered under the Joint Stock Companies Acts, the Companies Act, 1862, the Companies (Consolidation) Act, 1908, or the Companies Act, 1929, but does not include a company registered under the said Acts, the said Act of 1862 or the said Act of 1908 in Northern Ireland or Eire;

"financial year" means, in relation to any body corporate, the period in respect of which any profit and loss account of the body corporate laid before it in general meeting is made up, whether that period is a year or not;

"the Gazette" means, as respects companies registered in England, the London Gazette and as respects companies registered in Scotland, the Edinburgh Gazette;

"general rules" means general rules made under section three hundred and sixty-five of this Act, and includes forms;

"group accounts" has the meaning assigned to it by subsection (1) of section one hundred and fifty of this Act;

"holding company" means a holding company as defined by section one hundred and fifty-four of this Act;

"issued generally" means, in relation to a prospectus, issued to persons who are not existing members or debenture holders of the company;

"Joint Stock Companies Acts" means the Joint Stock Companies Act, 1856, the Joint Stock Companies Acts, 1856, 1857, the Joint Stock Banking Companies Act, 1857, and the Act to enable Joint Stock Banking Companies to be formed on the principle of limited liability, or any one or more of those Acts, as the case may require, but does not include the Act 7 and 8 Victoria, chapter one hundred and ten;

"members' voluntary winding up" has the meaning assigned to it by subsection (4) of section two hundred and eighty-three of this Act;

"the minimum subscription" has the meaning assigned to it by subsection (2) of section forty-seven of this Act;

"memorandum" means the memorandum of association of a company, as originally framed or as altered in pursuance of any enactment;

"officer", in relation to a body corporate, includes a director, manager or secretary;

"prescribed" means, as respects the provisions of this Act relating to the winding up of companies, prescribed by general rules, and as respects the

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other provisions of this Act, prescribed by statutory instrument made by the Board of Trade;

“private company ” has the meaning assigned to it by subsection (1) of section twenty-eight of this Act;

“prospectus ” means any prospectus, notice, circular, advertisement, or other invitation, offering to the public for subscription or purchase any shares or debentures of a company;

“real ” and “personal ”, as respects Scotland, mean respectively heritable and moveable;

“recognised stock exchange ” means any body of persons which is for the time being a recognised stock exchange for the purposes of the Prevention of Fraud (Investments) Act, 1939;

“the registrar of companies ”, or when used in relation to registration of companies, “the registrar ”, means 'the registrar or other officer performing under this Act the duty of registration of companies in England or Scotland, or in the stannaries, as the case requires;

“resolution for reducing share capital ” has the meaning assigned to it by subsection (2) of section sixty-six of this Act;

“a resolution for voluntary winding up ” has the meaning assigned to it by subsection (2) of section two hundred and seventy-eight of this Act;

“share ” means share in the share capital of a company, and includes stock except where a distinction between stock and shares is expressed or implied;

“share warrant ” has the meaning assigned to it by subsection (2) of section eighty-three of this Act;

“statutory meeting ” means the meeting required to be held by subsection (1) of section one hundred and thirty of this Act;

“statutory report ” has the meaning assigned to it by subsection (2) of section one hundred and thirty of this Act;

“subsidiary ” means a subsidiary as defined by section one hundred and fifty-four of this Act;

“Table A ” means Table A in the First Schedule to this Act;

“the time of the opening of the subscription lists ” has the meaning assigned to it by subsection (1) of section fifty of this Act;

“unlimited company ” has the meaning assigned to it by subsection (2) of section one of this Act.

- (2) A person shall not be deemed to be within the meaning of any provision in this Act a person in accordance with whose directions or instructions the directors of a company are accustomed to act, by reason only that the directors of the company act on advice given by him in a professional capacity.
- (3) References in this Act to a body corporate or to a corporation shall be construed as not including a corporation sole but as including a company incorporated outside Great Britain, and references therein to a body corporate shall be construed as not including a Scottish firm.
- (4) Any such provision of this Act overriding or interpreting a company's articles as is a re-enacted provision of the Companies Act, 1947, shall, except as provided by this Act, apply in relation to articles in force at the commencement of this Act, as well as to articles coming into force thereafter, and shall apply also in relation to a company's memorandum as it applies in relation to its articles.

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456 Amendments of other Acts.

The Assurance Companies Acts, 1909 to 1946, sections two and-thirteen of the Prevention of Fraud (Investments) Act, 1939, and sections fifty-eight, one hundred and fifteen and one hundred and seventeen of the Companies Act, 1947, shall have effect subject to the amendments specified in the Sixteenth Schedule to this Act.

457 Construction of references in other Acts to subsidiary companies as defined by, and companies registered under, the Companies Act, 1929.

Notwithstanding subsection (1) of section thirty-eight of the Interpretation Act, 1889 (which provides that where an Act repeals and re-enacts, with or without modification, any provisions of a former Act, references in any other Act to the provisions so repealed shall, unless the contrary intention appears, be construed as references to the provisions so re-enacted),—

- (a) references, in whatever terms, in any Act other than this Act to a subsidiary company as defined by the Companies Act, 1929, shall be construed in like manner as if this Act had not passed;
- (b) references in any Act other than this Act to a company formed and registered, or registered, under the Companies Act, 1929, shall, unless the context otherwise requires, be construed as references to a company formed and registered, or registered, under that Act or this Act.

458 Effect of provisions of former Companies Acts as to registration of charges on land and keeping books of account.

- (1) Paragraph (d) of subsection (1) of section ten of the Companies Act, 1907, paragraph (d) of subsection (1) of section ninety-three of the Companies (Consolidation) Act, 1908, and paragraph (d) of subsection (2) of section seventy-nine of the Companies Act, 1929 (by virtue whereof charges created on land by a company required registration under those Acts respectively), shall be deemed never to have applied to a charge for any rent or other periodical sum issuing out of the land.
- (2) Subsection (1) of section two hundred and seventy-four of the Companies Act, 1929 (which penalised the persons responsible where proper books of account were not kept by a company throughout the two years immediately preceding the commencement of the winding up) shall be deemed always to have had effect—
 - (a) as if after the words “the period of two years immediately preceding the commencement of the winding up” there had been inserted the words “or the period between the incorporation of the company and the commencement of the winding up, whichever is the shorter”; and
 - (b) as if, in the phrase “unless he shows that he acted honestly or that in the circumstances in which the business of the company was carried on the default was excusable”, for the word “or” there had been substituted the word “and”.

459 Repeal and savings.

- (1) The enactments mentioned in the first and second columns of Part I of the Seventeenth Schedule to this Act are hereby repealed to the extent specified in the third column of that Part of that Schedule, the provisions of the Companies Act, 1947, mentioned in the first column of Part II of that Schedule are, so far as they are not repealed by the foregoing provisions of this subsection, hereby repealed to the extent specified in the

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second column of that Part of that Schedule, and paragraph (2) of Regulation three of the Defence (Companies) Regulations, 1940, is hereby revoked.

- (2) Nothing in this Act shall affect any Order in Council, order, rule, regulation, appointment, conveyance, mortgage, deed or agreement made, resolution passed, direction given, proceeding taken, instrument issued or thing done under any former enactment relating to companies, but any such Order in Council, order, rule, regulation, appointment, conveyance, mortgage, deed, agreement, resolution, direction, proceeding, instrument or thing shall, if in force, at the commencement of this Act, continue in force, and so far as it could have been made, passed, given, taken, issued or done under this Act shall have effect as if made, passed, given, taken, issued or done under this Act:

Provided that this subsection shall not apply to any such Order in Council, order or rule as is mentioned in any of the three next following subsections or to any regulation having effect by virtue of subsection (2) of section one hundred and twenty of the Companies Act, 1947.

- (3) Any Order in Council under paragraph (e) of the proviso to subsection (1) of section fifty-four of the Companies Act, 1929, which is in force at the commencement of this Act shall have effect as if it were an order of the Treasury under paragraph (e) of the proviso to subsection (1) of section sixty-five of this Act.
- (4) Any order prescribing fees for the purposes of Part III of the Companies Act, 1929, which is in force at the commencement of this Act shall have effect as if it were regulations under sections ninety-eight and one hundred and two of this Act.
- (5) Any rule made with respect to procedure in the Court of Session or in a sheriff court (including appeals from the sheriff court), or with respect to costs and fees, under section three hundred and seventy-four of the Companies Act, 1929, which is in force at the commencement of this Act shall have effect as if it were contained in an Act of Sederunt under section sixteen of the Administration of Justice (Scotland) Act, or under section forty of the Sheriff Courts (Scotland) Act, 1907, as the case may be.
- (6) Nothing in this Act shall affect the operation of section one hundred and thirty-seven of the Companies Act, 1929, as respects inspectors appointed before, or to continue an inspection begun by inspectors appointed before, the commencement of this Act, and section one hundred and seventy-one of this Act shall apply to a report of inspectors appointed under the said section one hundred and thirty-seven as it applies to a report of inspectors appointed under section one hundred and sixty-four of this Act.
- (7) An order made on an application under section two hundred and seventeen or subsection (4) of section two hundred and seventy-five of the Companies Act, 1929, which is in force at the commencement of this Act shall have effect as if it were an order under section one hundred and eighty-eight of this Act.
- (8) Nothing in this Act shall affect any prosecution by a liquidator instituted or ordered by the court to be instituted under section two hundred and seventy-seven of the Companies Act, 1929, and the Board of Trade shall have the same power of directing how any costs and expenses properly incurred by a liquidator in any such prosecution are to be defrayed as they would have had if this Act had not passed.
- (9) Nothing in this Act shall affect—
- (a) the power of a company to alter its memorandum under the provisions of section three of the Mortgage Debenture Act, 1865;

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- (b) the provisions of section five of the Trade Union Act, 1871 (which avoids the registration of a trade union under the enactments relating to companies)';
- (c) the provisions of subsection (4) of section fifty-four of the Finance Act, 1940 (which provides for payment in priority to other debts of duty payable by a company in respect of assets passing on a death by virtue of section forty-six of that Act), of any other enactment (not being one expressly repealed by this Act) relating to preferential payments or of regulations so relating having effect under any enactment;
- (d) the provisions of subsection (2) of section eight of the Exchange Control Act, 1947 (which invalidates the subscription of the memorandum of association of a company by or on behalf of a person resident outside the scheduled territories as defined for the purposes of that Act, unless the subscription is with the permission of the Treasury);
- (e) the provisions of any Regulation of the Defence (Recovery of Fines) Regulations, 1942, or the provisions of any other Defence Regulation so far as not expressly revoked by this Act;
- (f) the enactments set out in the Eighteenth Schedule to this Act, being the enactments continued in force by section two hundred and five of the Companies Act, 1862;

or be construed as repealing any provision of the Assurance Companies Acts, 1909 to 1946:

Provided that, notwithstanding subsection (1) of section thirty-eight of the Interpretation Act, 1889, references in any such enactment or regulations as are mentioned in paragraph (c) of this subsection to provisions of section seventy-eight, two hundred and sixty-four or two hundred and ninety-eight of the Companies Act, 1929, shall be construed as referring both to those provisions and to the corresponding provisions of this Act.

- (10) Subject to the provisions of the last foregoing subsection, any document referring to any former enactment relating to companies shall be construed as referring to the corresponding enactment of this Act.
- (11) Any person appointed to any office under or by virtue of any former enactment relating to companies shall be deemed to have been appointed to that office under or by virtue of this Act.
- (12) Any register kept under any former enactment relating to companies shall be deemed part of the register to be kept under the corresponding provisions of this Act.
- (13) All funds and accounts constituted under this Act shall be deemed to be in continuation of the corresponding funds and accounts constituted under the former enactments relating to companies.
- (14) Nothing in this Act shall affect—
 - (a) the incorporation of any company registered under any enactment hereby repealed;
 - (b) Table B in the Schedule annexed to the Joint Stock Companies Act, 1856, or any part thereof, so far as the same applies to any company existing at the commencement of this Act;
 - (c) Table A in the First Schedule annexed to the Companies Act, 1862, or any part thereof, either as originally contained in that schedule or as altered in

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pursuance of section seventy-one of that Act, so far as the same applies to any company existing at the commencement of this Act;

- (d) Table A in the First Schedule to the Companies (Consolidation) Act, 1908, or any part thereof, either as originally contained in that Schedule or as altered in pursuance of section one hundred and eighteen of that Act, so far as the same applies to any company existing at the commencement of this Act;
 - (e) Table A in the First Schedule to the Companies Act, 1929, or any part thereof, so far as the same applies to any company existing at the commencement of this Act.
- (15) Where any offence, being an offence for the continuance of which a penalty was provided, has been committed under any former enactment relating to companies, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act, in the same manner as if the offence had been committed under the corresponding provisions of this Act.
- (16) Save to the extent to which it is otherwise provided by subsection (9) of this section, the mention of particular matters in this section shall be without prejudice to the general application of section thirty-eight of the Interpretation Act, 1889, with respect to the effect of repeals.
- (17) In this section the expression “former enactment relating to companies ” means the Companies Act, 1929, and any enactment repealed by that Act or by the Companies (Consolidation) Act, 1908.

460 Provisions as to winding-up proceedings commenced before 1st November, 1929.

- (1) The provisions of this Act with respect to winding up (other than sections three hundred and thirty-six, three hundred and fifty-six and three hundred and twenty-four as applied for the purposes of the last-mentioned section and subsection (2) of this section) shall not apply to any company of which the winding up commenced before the first day of November, nineteen hundred and twenty-nine, but every such company shall be wound up in the same manner and with the same incidents as if the Companies Act, 1929, and this Act (apart from the enactments aforesaid) had not passed, and, for the purposes of the winding up, the Act or Acts under which the winding up commenced shall be deemed to remain in full force.
- (2) A copy of every order staying the proceedings in a winding up commenced as aforesaid shall forthwith be forwarded by the company, or otherwise as may be prescribed, to the registrar of companies, who shall make a minute of the order in his books relating to the company.

461 Application to Northern Ireland.

- (1) Nothing in this Act, except the provisions thereof which relate expressly to companies registered or incorporated in Northern Ireland or outside Great Britain, shall apply to or in relation to companies registered or incorporated in Northern Ireland.
- (2) Nothing in this Act, except where it is expressly provided to the contrary, shall affect the law in force in Northern Ireland at the commencement of this Act.

462 Short title and commencement.

- (1) This Act may be cited as the Companies Act, 1948.

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- (2) This Act shall come into operation on the first day of July, nineteen hundred and forty-eight, being the day on which, by virtue of orders of the Board, of Trade under section one hundred and twenty-three of the Companies Act, 1947, all the provisions of that Act will first be in operation, and immediately after all those provisions are in operation.