



Companies Act 1985

1985 CHAPTER 6

PART XIV

INVESTIGATION OF COMPANIES AND THEIR AFFAIRS ; REQUISITION OF DOCUMENTS

Requisition and seizure of books and papers

447 Secretary of State's power to require production of documents

- (1) The powers of this section are exercisable in relation to the following bodies—
 - (a) a company, as defined by section 735(1);
 - (b) a company to which this Act applies by virtue of section 676 or which is registered under section 680;
 - (c) a body corporate incorporated in, and having a principal place of business in, Great Britain, being a body to which any of the provisions of this Act with respect to prospectuses and allotments apply by virtue of section 718 (unregistered companies); and
 - (d) a body corporate incorporated outside Great Britain which is carrying on business in Great Britain or has at any time carried on business there.
- (2) The Secretary of State may at any time, if he thinks there is good reason to do so, give directions to any such body requiring it, at such time and place as may be specified in the directions, to produce such books or papers as may be so specified.
- (3) The Secretary of State may at any time, if he thinks there is good reason to do so, authorise an officer of his, on producing (if so required) evidence of his authority, to require any such body to produce to him (the officer) forthwith any books or papers which the officer may specify.
- (4) Where by virtue of subsection (2) or (3) the Secretary of State or an officer of his has power to require the production of books or papers from any body, he or the officer has the like power to require production of those books or papers from any person who appears to him or the officer to be in possession of them; but where any such

person claims a lien on books or papers produced by him, the production is without prejudice to the lien.

- (5) The power under this section to require a body or other person to produce books or papers includes power—
- (a) if the books or papers are produced—
 - (i) to take copies of them or extracts from them, and
 - (ii) to require that person, or any other person who is a present or past officer of, or is or was at any time employed by, the body in question, to provide an explanation of any of them;
 - (b) if the books or papers are not produced, to require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.
- (6) If the requirement to produce books or papers or provide an explanation or make a statement is not complied with, the body or other person on whom the requirement was so imposed is guilty of an offence and liable to a fine.
- Sections 732 (restriction on prosecutions) and 733(2) and (4) (liability of individuals for corporate default) apply to this offence.
- (7) However, where a person is charged with an offence under subsection (6) in respect of a requirement to produce any books or papers, it is a defence to prove that they were not in his possession or under his control and that it was not reasonably practicable for him to comply with the requirement.
- (8) A statement made by a person in compliance with such a requirement may be used in evidence against him.

448 Entry and search of premises

- (1) The following applies if a justice of the peace is satisfied on information on oath laid by an officer of the Secretary of State, or laid under the Secretary of State's authority, that there are reasonable grounds for suspecting that there are on any premises any books or papers of which production has been required under section 447 and which have not been produced in compliance with that requirement.
- (2) The justice may issue a warrant authorising any constable, together with any other persons named in the warrant and any other constables, to enter the premises specified in the information (using such force as is reasonably necessary for the purpose) and to search the premises and take possession of any books or papers appearing to be such books or papers as are mentioned above, or to take, in relation to any books or papers so appearing, any other steps which may appear to be necessary for preserving them and preventing interference with them.
- (3) A warrant so issued continues in force until the end of one month after the date on which it is issued.
- (4) Any books or papers of which possession is taken under this section may be retained—
 - (a) for a period of 3 months, or
 - (b) if within that period there are commenced any such criminal proceedings as are mentioned in subsection (1)(a) or (b) of the next following section (being proceedings to which the books or papers are relevant), until the conclusion of those proceedings.

Status: This is the original version (as it was originally enacted).

- (5) A person who obstructs the exercise of a right of entry or search conferred by a warrant issued under this section, or who obstructs the exercise of a right so conferred to take possession of any books or papers, is guilty of an offence and liable to a fine.

Sections 732 (restriction on prosecutions) and 733(2) and (4) (liability of individuals for corporate default) apply to this offence.

- (6) In the application of this section to Scotland, the reference to a justice of the peace includes the sheriff and a magistrate.

449 Provision for security of information obtained

- (1) No information or document relating to a body which has been obtained under section 447 or 448 shall, without the previous consent in writing of that body, be published or disclosed, except to a competent authority, unless the publication or disclosure is required—

- (a) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings pursuant to, or arising out of, this Act, the Insider Dealing Act or the Insurance Companies Act 1982, or any criminal proceedings for an offence entailing misconduct in connection with the management of the body's affairs or misapplication or wrongful retainer of its property;
- (b) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings pursuant to, or arising out of, the Exchange Control Act 1947,
- (c) for the purposes of the examination of any person by inspectors appointed under section 431, 432, 442 or 446 in the course of their investigation,
- (d) for the purpose of enabling the Secretary of State to exercise, in relation to that or any other body, any of his functions under this Act, the Insider Dealing Act, the Prevention of Fraud (Investments) Act 1958 and the Insurance Companies Act 1982,
- (e) for the purposes of proceedings under section 448.

- (2) A person who publishes or discloses any information or document in contravention of this section is guilty of an offence and liable to imprisonment or a fine, or both.

Sections 732 (restriction on prosecutions) and 733(2) and (4) (liability of individuals for corporate default) apply to this offence.

- (3) For purposes of this section—

- (a) in relation to information or a document relating to a body other than one carrying on industrial assurance business (as defined by section 1(2) of the Industrial Assurance Act 1923), each of the following is a competent authority—
 - (i) the Secretary of State for Trade and Industry, and any officer of his,
 - (ii) an inspector appointed under this Part by the Secretary of State,
 - (iii) the Treasury, and any officer of the Treasury,
 - (iv) the Lord Advocate,
 - (v) the Director of Public Prosecutions.
 - (vi) any constable, and
 - (vii) any procurator fiscal;
- (b) in relation to information or a document relating to a body carrying on industrial assurance business (as so defined), all the same persons as

above specified are competent authorities, and also the Industrial Assurance Commissioner and any officer of his.

450 Punishment for destroying, mutilating etc. company documents

- (1) A person, being an officer of any such body as is mentioned in paragraphs (a) to (d) of section 447(1) or a body other than as there mentioned, being an insurance company to which Part II of the Insurance Companies Act 1982 applies, who—
 - (a) destroys, mutilates or falsifies, or is privy to the destruction, mutilation or falsification of a document affecting or relating to the body's property or affairs, or
 - (b) makes, or is privy to the making of, a false entry in such a document,is guilty of an offence, unless he proves that he had no intention to conceal the state of affairs of the body or to defeat the law.
- (2) Such a person as above mentioned who fraudulently either parts with, alters or makes an omission in any such document or is privy to fraudulent parting with, fraudulent altering or fraudulent making of an omission in, any such document, is guilty of an offence.
- (3) A person guilty of an offence under this section is liable to imprisonment or a fine, or both.
- (4) Sections 732 (restriction on prosecutions) and 733(2) and (4) (liability of individuals for corporate default) apply to an offence under this section.

451 Punishment for furnishing false information

A person who, in purported compliance with a requirement imposed under section 447 to provide an explanation or make a statement, provides or makes an explanation or statement which he knows to be false in a material particular or recklessly provides or makes an explanation or statement which is so false, is guilty of an offence and liable to imprisonment or a fine, or both.

Sections 732 (restriction on prosecutions) and 733(2) and (4) (liability of individuals for corporate default) apply to this offence.