



# Companies Act 1947

## 1947 CHAPTER 47

### PART VIII

#### AMENDMENTS ETC. OF ACTS OTHER THAN PRINCIPAL ACT.

#### 115 Bankruptcy.

- (1) Subsection (1) of section thirty-three of the Bankruptcy Act, 1914, and subsection (1) of section one hundred and eighteen of the Bankruptcy (Scotland) Act, 1913, shall have effect subject to the like amendments as are by subsections (1) to (6) of the section of this Act relating to preferential payments in a winding up made in relation to the winding up of a company other than a company within the stannaries, but with the substitution for references to the company and to the winding up order or resolution of references to the bankrupt and to the receiving order or, in the case of a person dying insolvent, to the deceased and to his death, and also with the omission of so much of subsection (5) of the said section of this Act as relates to subsection (3) of section two hundred and sixty-four of the principal Act.
- (2) The rights conferred by sections forty and forty-one of the Bankruptcy Act, 1914, on the official receiver or trustee in bankruptcy in relation to executions against the goods or other property of the debtor and attachments of debts due to the debtor may be set aside by the court in favour of the creditor to such extent and subject to such terms as the court may think fit.
- (3) In subsection (1) of section forty-four of the Bankruptcy Act, 1914 (which relates to fraudulent preferences), for the reference to three months there shall be substituted a reference to six months, and in the [Act of the Parliament of Scotland, 1696, c. 5](#) (which relates to similar matters), for any reference to sixty days there shall be substituted a reference to six months.
- (4) The provisions of this Act relating to a fraudulent preference of a surety or guarantor shall apply also in relation to the Bankruptcy Act, 1914 (with the necessary modification of any reference to a company), as if a reference to the said section forty-four of that Act were substituted in those provisions for the reference to section two hundred and sixty-five of the principal Act.

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- (5) The provisions of this Act relating to the liability in respect of a rentcharge on land disclaimed under section two hundred and sixty-seven of the principal Act shall apply also in relation to land disclaimed under section fifty-four of the Bankruptcy Act, 1914.
- (6) Subsection (1) of this section shall not apply where the date of the receiving order (or, in relation to the estate of a person dying insolvent, the date of his death) occurred before the coming into force of this section and subsection (3) of this section shall not apply in relation to anything made or done before the coming into force thereof.
- (7) In the application of this section to Scotland, references to the receiving order shall be construed as references to the award of sequestration.

## **116 Registration of business names.**

- (1) The power conferred by section fourteen of the Registration of Business Names Act, 1916, on the registrar under that Act to refuse registration of a business name shall (without prejudice to the specific provisions of that section) extend to any name which is in his opinion undesirable.
- (2) Where registration of a business name is refused under the said section fourteen, any person carrying on business under that name in such circumstances as to require registration under that Act shall be liable under section seven thereof to the same penalties as if he had without reasonable excuse made default in furnishing a statement of particulars with respect to that name.
- (3) So much of any provision of the Registration of Business Names Act, 1916, as requires a person's nationality, of origin to be stated shall cease to have effect.
- (4) So much of section twenty-two of the Registration of Business Names Act, 1916, as provides that references in that Act to a former christian name or surname or to a change of name shall have any special meaning in the case of natural born British subjects shall cease to have effect, and—
  - (a) references in that Act to a former christian name or surname shall not, in the case of any person, include a former christian name or surname where that name or surname has been changed or disused before the person bearing the name had attained the age of eighteen years or has been changed or disused for a period of not less than twenty years; and
  - (b) an individual or firm shall not require to be registered under that Act by reason only of a change of his name, or of the name of a member of the firm, if the change has taken place before the person who has changed his name has attained the age of eighteen years or if not less than twenty years have elapsed since it took place.
- (5) Where by virtue of the last foregoing subsection an individual or firm registered under the Registration of Business Names Act, 1916, no longer requires to be so registered—
  - (a) the registrar, if so requested by the individual or firm, shall remove him or it from the register; and
  - (b) section eleven of that Act shall no longer require the individual or firm to keep exhibited the certificate of registration or a copy thereof;

and where, in any other case, the particulars registered under that Act in respect of any individual or firm include a former name or surname which by virtue of the last foregoing subsection no longer requires to be included among those particulars, the

registrar, if so requested by the individual or firm, shall amend the particulars by leaving out that name or surname.

### **117 Prevention of fraud (unit trusts).**

- (1) In the Schedule to the Prevention of Fraud (Investments) Act, 1939 (which relates to the constitution of an authorised unit trust scheme for the purposes of that Act)—
- (a) in paragraph 1 for the reference to the sale price of units there shall be substituted a reference to the manager's prices for units on a sale and a purchase respectively; and at the end of that paragraph there shall be inserted the words " and for entitling the holder of any units to require the manager to purchase them at a price calculated accordingly "; and
  - (b) in paragraph 2 (which relates among other things to securing that the property will be vested in the trustee before unit certificates are issued) after the words " will be vested in him " there shall be inserted the words " or, subject to any prescribed conditions, in a nominee for him approved by the Board of Trade "; and
  - (c) after paragraph 2 there shall be inserted the following paragraph—

“2A For prohibiting or restricting the issue by or on behalf of the manager of advertisements, circulars or other documents containing any statement with respect to the sale price of units, or the payments of other benefits received or likely to be received by holders of units, or containing any invitation to buy units, unless the document in question also contains a statement of the yield from the units.”
- (2) The terms of any trust created before the coming into force of this section in pursuance of a unit trust scheme may, notwithstanding anything in any deed, be varied or supplemented by a deed made between the trustee and the manager under the scheme, and-containing such provisions as may be certified by the Board of Trade to be consequential on the passing of the foregoing subsection.
- (3) The Board of Trade may appoint one or more competent inspectors to investigate and report on the administration of any unit trust scheme within the meaning of the said Act, if it appears to the Board—
- (a) that it is in the interests of unit holders so to do; and
  - (b) that the matter is one of public concern;
- and subsections (3) to (6) of section one hundred and thirty-five of the principal Act and subsection (4) of the section of this Act relating to the inspection of a company's affairs on the application of its members shall apply in relation to an inspector appointed under this section as they apply in relation to an inspector appointed under the said section one hundred and thirty-five, but with the substitution for references to the company and its affairs of references to the manager under the scheme and to the administration of the scheme.
- (4) The expenses of any investigation under the last foregoing subsection shall be defrayed by the Board of Trade out of moneys provided by Parliament.

### **118 Consequential amendments.**

- (1) Notwithstanding the extension by this Act of section three hundred and fifty-four of the principal Act to prospectuses not issued generally, any reference in section two or

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section thirteen of the Prevention of Fraud (Investments) Act, 1939, to a prospectus to which the said section three hundred and fifty-four applies shall be construed as not including such a prospectus; but any reference in the said sections two and thirteen—

- (a) to a prospectus to which section thirty-five of the principal Act applies shall include a reference to a prospectus to which that section would apply if not excluded by section sixty-four of this Act;
  - (b) to a prospectus complying with the said section thirty-five shall be construed as a reference to its complying with that section as amended by this Act or not being required to comply therewith because excluded by section sixty-four of this Act;
  - (c) to a prospectus complying with Part XII of the principal Act shall be construed as a reference to its complying therewith as so amended;
  - (d) to a document containing the matters which would be required by the said section three hundred and fifty-four shall be construed as a reference to its containing the matters, and being issued with the consents, which would be required by that section as so amended.
- (2) Any reference in the said section thirteen of the Prevention of Fraud (Investments) Act, 1939, to a subsidiary company shall be construed in accordance with the definition contained in this Act, but, subject to the foregoing provision of this subsection, nothing in this Act shall affect any reference to a subsidiary company contained in any Act other than the principal Act and this Act.
- (3) The Assurance Companies Acts, 1900 to 1946, shall have effect as if—
- (a) in subsection (4) of section two of the Assurance Companies (Winding up) Act, 1933, as substituted by the Assurance Companies (Winding Up) Act, 1935, the reference to subsections (3), (4) and (5) of section one hundred and thirty-five of the principal Act included the provisions of this Act amending those subsections and also subsections (4), (5) and (6) of the section of this Act relating to the inspection of a company's affairs on the application of its members, and the reference in subsection (4) of the said section two to an officer or agent of the company were to be construed accordingly; and
  - (b) the powers conferred on the Board of Trade and the Industrial Assurance Commissioner respectively by virtue of subsection (3) of section seven of the Assurance Companies Act, 1946, to make regulations providing for the modification, in consequence of the passing of that Act, of the forms set out in the Schedules to the Assurance Companies Act, 1909, extended to the modification, having regard to the provisions of the First Schedule to this Act, of any form set out in the Schedules to either of those Acts.