



Companies Act 1967

1967 CHAPTER 81

PART III

INSPECTION OF COMPANIES' BOOKS AND PAPERS

109 Power of Board of Trade to require production of documents.

- (1) The Board of Trade may at any time, if they think there is good reason so to do, give directions to any such body as follows, namely.—
- (a) a company formed and registered under the Companies Act 1948;
 - (b) an existing company within the meaning of that Act;
 - (c) a company to which the said Act of 1948 applies by virtue of section 378 thereof or which is registered under that Act by virtue of Part VIII thereof;
 - (d) 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 the said Act of 1948 with respect to prospectuses and allotments apply by virtue of section 435 of that Act;
 - (e) a body corporate incorporated outside Great Britain which is carrying on business in Great Britain or has at any time carried on business therein;
 - (f) a body other than as aforesaid, and whether incorporated or not, which is, or appears to the Board to be, an insurance company to which the Insurance Companies Act 1958 applies;

requiring the body, at such time and place as may be specified in the directions, to produce such books or papers as may be so specified, or may at any time, if they think there is good reason so to do, authorise any officer of theirs, on producing (if required so to do) evidence of his authority, to require any such body as aforesaid to produce to him forthwith any books or papers which the officer may specify.

- (2) Where by virtue of the foregoing subsection the Board of Trade have, or an officer of the Board has, power to require the production of any books or papers from any body, the Board or officer shall have the like power to require production of those books or papers from any person who appears to the Board or officer to be in possession of

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them ; but where any such person claims a lien on books or papers produced by him, the production shall be without prejudice to the lien.

- (3) Any power conferred by or by virtue of this section to require a body or other person to produce books or papers shall include 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.
- (4) If a requirement to produce books or papers or provide an explanation or make a statement which is imposed by virtue of this section is not complied with, the body or other person on whom the requirement was so imposed shall be guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £200, or to both ; but where a person is charged with an offence under this subsection in respect of a requirement to produce any books or papers, it shall be 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.
- (5) A statement made by a person in compliance with a requirement imposed by virtue of this section may be used in evidence against him.

110 Entry and search of premises.

- (1) If a justice of the peace is satisfied on information on oath laid by an officer of the Board of Trade, or laid under the authority of the Board, that there are reasonable grounds for suspecting that there are on any premises any books or papers of which production has been required by virtue of the last foregoing section and which have not been produced in compliance with that requirement, 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 aforesaid, or to take, in relation to any books or papers so appearing, any other steps which may appear necessary for preserving them and preventing interference with them.
- (2) Every warrant issued under this section shall continue in force until the end of the period of one month after the date on which it is issued.
- (3) Any books or papers of which possession is taken under this section may be retained for a period of three months or, 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.
- (4) A person who obstructs the exercise of a right of entry or search conferred by virtue of a warrant issued under this section, or who obstructs the exercise of a right so conferred to take possession of any books or papers, shall be guilty of an offence and liable, on

summary conviction, to imprisonment for a term not exceeding three months, or to a fine not exceeding £200, or to both.

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

111 Provision for security of information.

- (1) No information or document relating to a body which has been obtained under section 109 of this Act or the last foregoing section, or under section 18 (power of Board of Trade to require production of documents) or 19 (entry and search of premises) of the Protection of Depositors Act 1963, 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, the Companies Act 1948, the Insurance Companies Act 1958, the Protection of Depositors Act 1963 or this Act 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 property of its;
 - (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 purpose of enabling the Board of Trade to consider whether or not they should exercise with respect to the body a power conferred on them by Part II of this Act;
 - (d) for the purpose of complying with any requirement, or exercising any power, imposed or conferred by the Companies Act 1948 with respect to reports made by inspectors appointed thereunder by the Board;
 - (e) with a view to the institution by the Board under section 37 of this Act of proceedings with reference to the body or otherwise for the purposes of such proceedings instituted by them under that section ;
 - (f) with a view to the institution by the Board of proceedings for the winding up under the Companies Act 1948 of the body or otherwise for the purposes of proceedings instituted by them for that purpose; or
 - (g) for the purposes of proceedings under the last foregoing section.
- (2) A person who publishes or discloses any information or document in contravention of this section shall be guilty of an offence and liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both;
 - (b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £200, or to both.
- (3) For the 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 shall be a competent authority, namely, the Board of Trade, an officer of theirs, an inspector appointed under the Companies Act 1948 by the Board, the Treasury and an officer of theirs ;
 - (b) in relation to information or a document relating to a body carrying on industrial assurance business (as so defined), each of the following shall be

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a competent authority, namely, the Board of Trade, an officer of theirs, an inspector appointed as aforesaid, the Industrial Assurance Commissioner, an officer of his, the Treasury and an officer of theirs.

112 Consequential cesser of powers under section 14 of the Insurance Companies Act 1958 and section 18 of the Protection of Depositors Act 1963.

In consequence of the enactment of the three last foregoing sections, no notice shall be served under subsection (1) of section 14 (investigation of company of doubtful solvency) of the Insurance Companies Act 1958 after the passing of this Act, and no direction shall be given under subsection (1) or authorisation conferred under subsection (2) of section 18 of the Protection of Depositors Act 1963 after the passing of this Act.

113 Penalization of destruction, mutilation, of company documents.

- (1) A person, being an officer of any such body as is mentioned in paragraphs (a) to (e) of section 109(1) of this Act or a body other than as aforesaid, being an insurance company to which the Insurance Companies Act 1958 applies, who destroys, mutilates or falsifies, or is privy to the destruction, mutilation or falsification of a document affecting or relating to the property or affairs of the body, or makes or is privy to the making of a false entry in such a document, shall, unless he proves that he had no intention to conceal the state of affairs of the body or to defeat the law, be guilty of an offence.
- (2) Such a person as aforesaid who fraudulently either parts with, alters or makes an omission in any such document, or who is privy to fraudulent parting with, fraudulent altering or fraudulent making of an omission in, any such document, shall be guilty of an offence.
- (3) A person guilty of an offence under this section shall be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both ;
 - (b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £200, or to both.

114 Penalization of furnishing false information under Part III.

- (1) A person who, in purported compliance with a requirement imposed under section 109 of this Act 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 shall be guilty of an offence.
- (2) A person guilty of an offence under this section shall be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both;
 - (b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £200, or to both.

115 Application, for purposes of Part III, of certain provisions of Parts I and II.

- (1) Subsections (2) to (5) (both inclusive) of section 49 of this Act shall apply to, and in connection with, summary proceedings for offences under this Part of this Act and to informations relating to offences thereunder which are triable summarily as they apply to, and in connection with, such proceedings for offences under the Companies Act 1948 and Part I of this Act and to informations relating to offences thereunder that are triable summarily.
- (2) Sections 88, 89 (as read with 102(3)) and 91 of this Act shall have effect in relation to offences under this Part of this Act as they have effect in relation to offences under Part II of this Act.

116 Saving for solicitors and bankers.

- (1) Nothing in this Part of this Act shall compel the production by a solicitor of a document containing a privileged communication made by or to him in that capacity or authorise the taking of possession of any such document which is in his possession.
- (2) The Board of Trade shall not, under section 109 of this Act, require, or authorise an officer of theirs to require, the production by a person carrying on the business of banking of a document relating to the affairs of a customer of his unless either it appears to them that it is necessary so to do for the purpose of investigating the affairs of the first-mentioned person or the customer is a person on whom a requirement has been imposed by virtue of that section.

117 Interpretation of Part III.

References in this Part of this Act to books or papers shall be construed as if they were contained in the Companies Act 1948.

118 Extent of Part III.

This Part of this Act shall not extend to Northern Ireland.