



Companies Act 1947

1947 CHAPTER 47

An Act to amend the law relating to companies and unit trusts and to dealing in securities, and in connection therewith to amend the law of bankruptcy and the law relating to the registration of business names. [6th August 1947.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

MANAGEMENT AND ADMINISTRATION.

Meetings and proceedings.

1 Preliminary amendments as to annual general meeting.

- (1) For subsection (1) of section one hundred and twelve of the principal Act (which requires a company to hold a general meeting once at least in every year and not more than fifteen months after the holding of the last preceding general meeting) there shall be substituted the following subsection:—

“(1) Every company shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one annual general meeting of a company and that of the next :

Provided that, so long as a company holds its first annual general meeting within eighteen months of its incorporation, it need not hold it in the year of its incorporation or in the following year.”

Status: This is the original version (as it was originally enacted).

- (2) The power conferred by subsection (3) of the said section one hundred and twelve, where there has been default in holding a company's annual general meeting, to call or direct the calling of a general meeting of the company shall be exercisable by the Board of Trade instead of by the court and shall include power to give such ancillary or consequential directions as the Board think expedient, including directions modifying or supplementing, in relation to the calling, holding and conducting of the meeting, the operation of the company's articles.
- (3) A general meeting held in pursuance of the said subsection (3) shall, subject to any directions of the Board of Trade, be deemed to be an annual general meeting of the company; but, where a meeting so held is not held in the year in which the default in holding the company's annual general meeting occurred, the meeting so held shall not be treated as the annual general meeting for the year in which it is held, unless at that meeting the company resolves that it shall be so treated.
- (4) Where a company resolves that a meeting shall be so treated, a copy of the resolution shall, within fifteen days after the passing thereof, be forwarded to the registrar of companies and recorded by him, and if a company fails to comply with this subsection, the company and every officer of the company who is in default shall be liable to a default fine of two pounds.
- (5) If default is made in complying with any directions of the Board of Trade under the said subsection (3), the company, and every officer of the company who is in default, shall be liable to a fine not exceeding fifty pounds.

2 Length of notice of meetings and of business thereat.

- (1) For paragraph (a) of subsection (1) of section one hundred and fifteen of the principal Act (which, subject to the company's articles, provides that a meeting of a company other than a meeting for the passing of a special resolution may be called by seven days' notice in writing) there shall be substituted the following paragraph:—
 - “(a) a company's annual general meeting maybe called by twenty-one days' notice in writing, and a meeting of a company other than an annual general meeting or a meeting for the passing of a special resolution may be called by fourteen days' notice in writing or, in the case of an unlimited company, by seven days' notice in writing;”
 and, notwithstanding anything in the said subsection (1), any provision of a company's articles shall be void in so far as it provides for the calling of a meeting of the company (other than an adjourned meeting) by shorter notice than that specified in this subsection.
- (2) A meeting of a company shall, notwithstanding that it is called by shorter notice than that specified in the foregoing subsection or in the company's articles, as the case may be, be deemed to have been duly called if it is so agreed—
 - (a) in the case of a meeting called as the annual general meeting, by all the members entitled to attend and vote thereat; and
 - (b) in the case of any other meeting, by a majority in number of the members having a right to attend and vote at the meeting, being a majority together holding not less than ninety-five per cent. in nominal value of the shares giving a right to attend and vote at the meeting, or, in the case of a company not having a share capital, together representing not less than ninety-five per cent. of the total voting rights at that meeting of all the members.

- (3) In the proviso to subsection (2) of section one hundred and seventeen of the principal Act (which enables a resolution of which less than twenty-one days' notice has been given to be passed as a special resolution) for the words " if all the members entitled to attend and vote at any such meeting so agree " there shall be substituted the words " if it is so agreed by a majority in number of the members having the right to attend and vote at any such meeting, being a majority together holding not less than ninety-five per cent. in nominal value of the shares giving that right or, in the case of a company not having a share capital, together representing not less than ninety-five per cent. of the total voting rights at that meeting of all the members " ; and subsection (5) of the said section one hundred and seventeen (which provides for computing the majority on a poll by reference to the votes to which a member is entitled) shall not be taken as applying for the purposes of the said proviso.
- (4) In the provisions of the principal Act hereafter mentioned in this subsection there shall be substituted the longer for the shorter time limit so mentioned, that is to say—
- (a) in subsection (2) of section one hundred and thirteen (which requires a directors' report to be sent to members at least seven days before the statutory meeting of a company which is entitled to commence business) fourteen days for seven days;
 - (b) in paragraph (a) of subsection (1) of section one hundred and thirty (which requires copies of the balance sheet and the documents required to be annexed thereto to be circulated not less than seven days before the meeting at which the balance sheet is to be laid before the company) twenty-one days for seven days;
 - (c) in proviso (a) to subsection (4) of section one hundred and thirty-two (which relates to notice of a proposal to appoint other auditors in place of a company's first auditors) fourteen days for seven days.
- (5) Any document required to be circulated before a meeting by subsection (2) of the said section one hundred and thirteen, or by paragraph (a) of subsection (1) of the said section one hundred and thirty, shall, notwithstanding that it is circulated later than is thereby required, be deemed to have been duly circulated if it is so agreed by all the members entitled to attend and vote at the meeting.
- (6) Where by any provision hereafter contained in this Act special notice is required of a resolution, the resolution shall not be effective unless notice of the intention to move it has been given to the company not less than twenty-eight days before the meeting at which it is moved, and the company shall give its members notice of any such resolution at the same time and in the same manner as it gives notice of the meeting or, if that is not practicable, shall give them notice thereof, either by advertisement in a newspaper having an appropriate circulation or in any other mode allowed by the articles, not less than twenty-one days before the meeting:

Provided that if, after notice of the intention to move such a resolution has been given to the company, a meeting is called for a date twenty-eight days or less after the notice has been given, the notice though not given within the time required by this subsection shall be deemed to have been properly given for the purposes thereof.

3 Circulation of members' resolutions, etc.

- (1) Subject to the following provisions of this section it shall be the duty of a company, on the requisition in writing of such number of members as is hereinafter specified and (unless the company otherwise resolves) at the expense of the requisitionists.

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- (a) to give to members of the company entitled to receive notice of the next annual general meeting notice of any resolution which may properly be moved and is intended to be moved at that meeting;
 - (b) to circulate to members entitled to have notice of any general meeting sent to them any statement of not more than one thousand words with respect to the matter referred to in any proposed resolution or the business to be dealt with at that meeting.
- (2) The number of members necessary for a requisition under the foregoing subsection shall be—
- (a) any number of members representing not less than one twentieth of the total voting rights of all the members having at the date of the requisition a right to vote at the meeting to which the requisition relates; or
 - (b) not less than one hundred members holding shares in the company on which there has been paid up an average sum, per member, of not less than one hundred pounds.

- (3) Notice of any such resolution shall be given, and any such statement shall be circulated, to members of the company entitled to have notice of the meeting sent to them by serving a copy of the resolution or statement on each such member in any manner permitted for service of notice of the meeting, and notice of any such resolution shall be given to any other member of the company by giving notice of the general effect of the resolution in any manner permitted for giving him notice of meetings of the company:

Provided that the copy shall be served, or notice of the effect of the resolution shall be given, as the case may be, in the same manner and, so far as practicable, at the same time as notice of the meeting and, where it is not practicable for it to be served or given at that time, it shall be served or given as soon as practicable thereafter.

- (4) A company shall not be bound under this section to give notice of any resolution or to circulate any statement unless—
- (a) a copy of the requisition signed by the requisitionists (or two or more copies which between them contain the signatures of all the requisitionists) is deposited at the registered office of the company—
 - (i) in the case of a requisition requiring notice of a resolution, not less than six weeks before the meeting; and
 - (ii) in the case of any other requisition, not less than one week before the meeting; and
 - (b) there is deposited or tendered with the requisition a sum reasonably sufficient to meet the company's expenses in giving effect thereto:

Provided that if, after a copy of a requisition requiring notice of a resolution has been deposited at the registered office of the company, an annual general meeting is called for a date six weeks or less after the copy has been deposited, the copy though not deposited within the time required by this subsection shall be deemed to have been properly deposited for the purposes thereof.

- (5) The company shall also not be bound under this section to circulate any statement if, on the application either of the company or of any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter; and the court may order

the company's costs on an application under this section to be paid in whole or in part by the requisitionists, notwithstanding that they are not parties to the application.

- (6) Notwithstanding anything in the company's articles, the business which may be dealt with at an annual general meeting shall include any resolution of which notice is given in accordance with this section, and for the purposes of this subsection notice shall be deemed to have been so given notwithstanding the accidental omission, in giving it, of one or more members.
- (7) In the event of any default in complying with the provisions of this section, every officer of the company who is in default shall be liable to a fine not exceeding five hundred pounds.

4 Right to demand a poll.

- (1) Any provision contained in a company's articles shall be void in so far as it would have the effect either—
 - (a) of excluding the right to demand a poll at a general meeting on any question other than the election of the chairman of the meeting or the adjournment of the meeting; or
 - (b) of making ineffective a demand for a poll on any such question which is made either—
 - (i) by not less than five members having the right to vote at the meeting; or
 - (ii) by a member or members representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting; or
 - (iii) by a member or members holding shares in the company conferring a right to vote at the meeting, being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right.
- (2) The instrument appointing a proxy to vote at a meeting of a company shall be deemed also to confer authority to demand or join in demanding a poll, and for the purposes of the foregoing subsection a demand by a person as proxy for a member shall be the same as a demand by the member.
- (3) Subsection (4) of section one hundred and seventeen of the principal Act (which makes provision as respects the demanding of a poll at meetings for passing extraordinary and special resolutions), and in subsection (5) of that section (which provides that the three-fourths majority of the members needed for an extraordinary or special resolution shall, on a poll demanded in accordance with that section, be computed by reference to the number of votes to which each member is entitled) the words " in accordance with this section ", shall cease to have effect.

5 Voting at meetings.

- (1) Any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person (whether a member or not) as his proxy to attend and vote instead of him, and a proxy appointed to attend and vote instead of a member of a private company shall also have the same right as the member to speak at the meeting:

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Provided that, unless the articles otherwise provide,—

- (a) this subsection shall not apply in the case of a company not having a share capital; and
 - (b) a member of a private company shall not be entitled to appoint more than one proxy to attend on the same occasion; and
 - (c) a proxy shall not be entitled to vote except on a poll.
- (2) In every notice calling a meeting of a company having a share capital there shall appear with reasonable prominence a statement that a member entitled to attend and vote is entitled to appoint a proxy or, where that is allowed, one or more proxies to attend and vote instead of him, and that a proxy need not also be a member; and if default is made in complying with this subsection as respects any meeting, every officer of the company who is in default shall be liable to a fine not exceeding fifty pounds.
- (3) Any provision contained in a company's articles shall be void in so far as it would have the effect of requiring the instrument appointing a proxy, or any other document necessary to show the validity of or otherwise relating to the appointment of a proxy, to be received by the company or any other person more than forty-eight hours before a meeting or adjourned meeting in order that the appointment may be effective thereat.
- (4) If for the purpose of any meeting of a company invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the company's expense to some only of the members entitled to be sent a notice of the meeting and to vote thereat by proxy, every officer of the company who knowingly and wilfully authorises or permits their issue as aforesaid shall be liable to a fine not exceeding one hundred pounds:

Provided that an officer shall not be liable under this subsection by reason only of the issue to a member at his request in writing of a form of appointment naming the proxy or of a list of persons willing to act as proxy if the form or list is available on request in writing to every member entitled to vote at the meeting by proxy.

- (5) On a poll taken at a meeting of a company, a member entitled to more than one vote need not, if he votes, use all his votes or cast all the votes he uses in the same way, and accordingly in subsection (5) of section one hundred and seventeen of the principal Act (which provides that the three-fourths majority of the members needed for an extraordinary or special resolution shall on a poll be computed by reference to the number of votes to which each member is entitled) for the reference to the number of votes to which each member is entitled there shall be substituted a reference to the number of votes cast for and against the resolution.
- (6) This section shall apply to meetings of any class of members of a company as it applies to general meetings of the company.

6 Meetings attended by single member.

It is hereby declared that the directions which may be given—

- (a) by the Board of Trade with respect to a general meeting of a company called by or in pursuance of directions of the Board by virtue of the provisions of this Act relating to the annual general meeting; and
- (b) by the court with respect to a general meeting of a company called in pursuance of an order of the court under subsection (2) of section one hundred

and fifteen of the principal Act (which provides for the calling of meetings of a company where it is impracticable for them to be called in the ordinary way); include a direction that one member present in person or by proxy shall be deemed to constitute a meeting.

7 Exemption from obligation to print certain resolutions, etc.

Notwithstanding anything in subsection (1) of section one hundred and eighteen of the principal Act, an exempt private company, as denned in subsection (4) of section fifty-four of this Act, need not forward to the registrar of companies a printed copy of any resolution or agreement to which that section applies, if instead it forwards a copy in some other form approved by the registrar.

8 Penalty for failure to keep minutes of proceedings.

Where a company fails to make minutes of the proceedings of general meetings or of the proceedings at meetings of its directors or of its managers as required by section one hundred and twenty of the principal Act, the company and every officer of the company who is in default shall be liable to a default fine.

Minorities.

9 Alternative remedy to winding up in cases of oppression.

- (1) Any member of a company who complains that the affairs of the company are being conducted in a manner oppressive to some part of the members (including himself), may make an application to the court by petition for an order under this section.
- (2) If on any such petition the court is of opinion—
 - (a) that the company's affairs are being conducted as aforesaid; and
 - (b) that to wind up the company would unfairly prejudice that part of the members, but otherwise the facts would justify the making of a winding up order on the ground that it was just and equitable that the company should be wound up;

the Court may, with a view to bringing to an end the matters complained of, make such order as it thinks fit, whether for regulating the conduct of the company's affairs in future, or for the purchase of the shares of any members of the company by other members of the company or by the company and, in the case of a purchase by the company, for the reduction accordingly of the company's capital, or otherwise.

- (3) Where an order under this section makes any alteration in or addition to any company's memorandum or articles, then notwithstanding anything in the principal Act but subject to the provisions of the order the company concerned shall not have power without the leave of the court to make any further alteration in or addition to the memorandum or articles inconsistent with the provisions of the order; but, subject to the foregoing provisions of this subsection, the alterations or additions made by the order shall be of the same effect as if duly made by resolution of the company and the principal Act shall apply to the memorandum or articles as so altered or added to accordingly
- (4) An office copy of any order under this section altering or adding to, or giving leave to alter or add to, a company's memorandum or articles shall, within fourteen days

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after the making thereof, be delivered by the company to the registrar of companies for registration; and if a company makes default in complying with this subsection, the company and every officer of the company who is in default shall be liable to a default fine.

- (5) In relation to a petition under this section, section three hundred and five of the principal Act (which confers power among other things to regulate the procedure and fees on winding-up petitions) shall apply as it applies in relation to a winding-up petition and proceedings under this section shall, for the purposes of Part V of the Economy (Miscellaneous Provisions) Act, 1926 (which relates to the Bankruptcy and Companies Winding-up (Fees) Account), be deemed to be proceedings under the principal Act in relation to the winding-up of companies.

10 Extension of time limit under s. 61 (2) of principal Act.

In subsection (2) of section sixty-one of the principal Act (which limits the time allowed a dissenting minority for applying to the court to cancel a variation of the rights attaching to any particular class of shares to seven days after the agreement of the majority is given) for the words " seven days " there shall be substituted the words " twenty-one days ":

Provided that this section shall not apply where the time allowed for applying to the court has already expired before this section comes into force.

11 Acquisition of shares of shareholders dissenting from scheme or contract approved by majority.

- (1) In subsection (1) of section one hundred and fifty-five of the principal Act (which enables a company, where a scheme or contract involving the transfer to it of shares in another company has been approved by the holders of nine-tenths in value of the shares affected, to acquire the shares of the dissentients) the reference to the shares affected shall be taken as referring only to the shares whose transfer is involved, and as not including shares already held at the date of the offer by, or by a nominee for, the transferee company or its subsidiary.
- (2) Where shares in the transferor company of the same class or classes as the shares affected are held as aforesaid to a value greater than one-tenth of the aggregate of their value and that of the shares affected, the said subsection (1) shall apply only if—
- (a) the transferee company offers the same terms to all holders of the shares affected or, where those shares include shares of different classes, of each class of them; and
 - (b) the holders who approve the scheme or contract, besides holding not less than nine-tenths in value of the shares affected, are not less than three-fourths in number of the holders of those shares.
- (3) Where, in pursuance of any such scheme or contract as is mentioned in the said section one hundred and fifty-five, shares in a company are transferred to another company or its nominee, and those shares together with any other shares in the first-mentioned company held by, or by a nominee for, the transferee company or its subsidiary at the date of the transfer comprise or include nine-tenths in value of the shares in the first-mentioned company or of any class of those shares, then—
- (a) the transferee company shall within one month from the date of the transfer (unless on a previous transfer in pursuance of the scheme or contract it

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- has already complied with this requirement) give notice of that fact in the prescribed manner to the holders of the remaining shares or of the remaining shares of that class, as the case may be, who have not assented to the scheme or contract; and
- (b) any such holder may within three months from the giving of the notice to him require the transferee company to acquire the shares in question.
- (4) Where a shareholder gives notice under the last foregoing subsection with respect to any shares, the transferee company shall be entitled and bound to acquire those shares on the terms on which under the scheme or contract the shares of the approving shareholders were transferred to it, or on such other terms as may be agreed or as the court on the application of either the transferee company or the shareholder thinks fit to order.
- (5) In subsection (2) of the said section one hundred and fifty-five (which enables the transferee company, if dissenting shareholders after being given notice under subsection (1) of the company's desire to acquire their shares fail to transfer them, to become registered as holder thereof, without execution of any instrument of transfer, on transmitting to the transferor company a copy of the notice requiring the transfer and on complying with certain other requirements), after the words " transmit a copy of the notice to the transferor company " there shall be inserted the words " together with an instrument of transfer executed on behalf of the shareholder by any person appointed by the transferee company and on its own behalf by the transferee company " , and at the end of the said subsection there shall be added the following proviso:—
- “Provided that an instrument of transfer shall not be required for any share for which a share warrant is for the time being outstanding.”
- (6) Nothing in this section shall apply where the transferee company made its offer to shareholders of the transferor company before the coming into force thereof.

Accounts, directors' report and audit.

12 Books of account.

- (1) For the purposes of subsection (1) of section one hundred and twenty-two of the principal Act (which imposes, on a company the obligation to keep books of account) proper books of account shall not be deemed to be kept with respect to the matters specified in that subsection, if there are not kept such books of account as are necessary to give a true and fair view of the state of the company's affairs and to explain its transactions.
- (2) A company shall not be deemed to comply with the requirements of the said section one hundred and twenty-two by keeping books of account at a place outside Great Britain, unless there are sent to, and kept at a place in, Great Britain and are at all times open to inspection by the directors such accounts and returns with respect to the business dealt with in the books of account kept outside Great Britain as will disclose with reasonable accuracy the financial position of that business at intervals not exceeding six months and will enable the company's balance sheet and profit and loss account to be prepared in accordance with the principal Act and this Act.

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13 Contents of balance sheet and profit and loss account.

- (1) Every balance sheet of a company shall give a true and fair view of the state of affairs of the company as at the end of its financial year, and every profit and loss account of a company shall give a true and fair view of the profit or loss of the company for the financial year.
- (2) A company's balance sheet and profit and loss account shall comply with the requirements of the First Schedule to this Act, so far as applicable thereto.
- (3) Save as expressly provided in the following provisions of this section or in Part III of the said First Schedule, the requirements of the last foregoing subsection and the said First Schedule shall be without prejudice either to the general requirements of subsection (1) of this section or to any other requirements of the principal Act or this Act.
- (4) The Board of Trade may, on the application or with the consent of a company's directors, modify in relation to that company any of the requirements of the principal Act or this Act as to the matters to be stated in a company's balance sheet or profit and loss account (except the requirements of subsection (1) of this section) for the purpose of adapting them to the circumstances of the company.
- (5) Subsections (1) and (2) of this section shall not apply to a company's profit and loss account, if—
 - (a) the company has subsidiaries; and
 - (b) the profit and loss account is framed as a consolidated profit and loss account dealing with all or any of the company's subsidiaries as well as the company, and—
 - (i) complies with the requirements of this Act relating to consolidated profit and loss accounts; and
 - (ii) shows how much of the consolidated profit or loss for the financial year is dealt with in the accounts of the company.
- (6) If any person being a director of a company fails to take all reasonable steps to secure compliance as respects any accounts laid before the company in general meeting with the provisions of this section and with the other requirements of the principal Act and this Act as to the matters to be stated in accounts, he shall, in respect of each offence, be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds:

Provided that a person shall not be sentenced to imprisonment for any such offence unless in the opinion of the court dealing with the case the offence was committed wilfully.

- (7) The following provisions of the principal Act shall cease to have effect, that is to say—
 - (a) so much of section one hundred and twenty-four of that Act as relates to fixed and floating assets;
 - (b) section one hundred and twenty-six of that Act (which requires particulars as to subsidiaries); and
 - (c) any other provision of that Act in so far as it imposes a penalty for default in complying with any requirement of that Act as to the matters to be stated in a company's balance sheet or profit and loss account ;

and in subsection (2) of section one hundred and twenty-three of the principal Act for the reference to the reserve fund, general reserve or reserve account shown specifically

on the balance sheet, or the reserve fund, general reserve or reserve account to be shown specifically on a subsequent balance sheet there shall be substituted a reference to reserves within the meaning of the First Schedule to this Act.

- (8) For the purposes of this Act, except where the context otherwise requires.—
- (a) any reference to a balance sheet or profit and loss account shall include any notes thereon or document annexed thereto giving information which is required by the principal Act or this Act and is thereby allowed to be so given; and
 - (b) any reference to a profit and loss account shall be taken, in the case of a company not trading for profit, as referring to its income and expenditure account, and references to profit or to loss and, if the company has subsidiaries, references to a consolidated profit and loss account shall be construed accordingly.

14 Obligation to lay group accounts before holding company.

- (1) Where at the end of its financial year a company has subsidiaries, accounts or statements (in this Act referred to as "group accounts") dealing as hereinafter mentioned with the state of affairs and profit or loss of the company and the subsidiaries shall, subject to the next following subsection, be laid before the company in general meeting when the company's own balance sheet and profit and loss account are so laid.
- (2) Notwithstanding anything in the foregoing subsection—
- (a) group accounts shall not be required where the company is at the end of its financial year the wholly owned subsidiary of another body corporate incorporated in Great Britain; and
 - (b) group accounts need not deal with a subsidiary of the company if the company's directors are of opinion that—
 - (i) it is impracticable, or would be of no real value to members of the company, in view of the insignificant amounts involved, or would involve expense or delay out of proportion to the value to members of the company; or
 - (ii) the result would be misleading, or harmful to the business of the company or any of its subsidiaries; or
 - (iii) the business of the holding company and that of the subsidiary are so different that they cannot reasonably be treated as a single undertaking;and, if the directors are of such an opinion about each of the company's subsidiaries, group accounts shall not be required:

Provided that the approval of the Board of Trade shall be required for not dealing in group accounts with a subsidiary on the ground that the result would be harmful or on the ground of the difference between the business of the holding company and that of the subsidiary.

- (3) If any person being a director of a company fails to take all reasonable steps to secure compliance as respects the company with the provisions of this section, he shall, in respect of each offence, be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds:

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Provided that a person shall not be sentenced to imprisonment for an offence under this section unless in the opinion of the court dealing with the case the offence was committed wilfully.

- (4) For the purposes of this section a body corporate shall be deemed to be the wholly owned subsidiary of another if it has no members except that other and that other's wholly owned subsidiaries and its or their nominees.

15 Form of group accounts.

- (1) Subject to the next following subsection, the group accounts laid before a holding company shall be consolidated accounts comprising—

- (a) a consolidated balance sheet dealing with the state of affairs of the company and all the subsidiaries to be dealt with in group accounts;
- (b) a consolidated profit and loss account dealing with the profit or loss of the company and those subsidiaries.

- (2) If the company's directors are of opinion that it is better for the purpose—

- (a) of presenting the same or equivalent information about the state of affairs and profit or loss of the company and those subsidiaries; and
- (b) of so presenting it that it may be readily appreciated by the company's members;

the group accounts may be prepared in a form other than that required by the foregoing subsection, and in particular may consist of more than one set of consolidated accounts dealing respectively with the company and one group of subsidiaries and with other groups of subsidiaries, or of separate accounts dealing with each of the subsidiaries, or of statements expanding the information about the subsidiaries in the company's own accounts, or any combination of these forms.

- (3) The group accounts may be wholly or partly incorporated in the company's own balance sheet and profit and loss account.

16 Contents of group accounts.

- (1) The group accounts laid before a company shall give a true and fair view of the state of affairs and profit or loss of the company and the subsidiaries dealt with thereby as a whole, so far as concerns members of the company.

- (2) Where the financial year of a subsidiary does not coincide with that of the holding company, the group accounts shall, unless the Board of Trade on the application or with the consent of the holding company's directors otherwise direct, deal with the subsidiary's state of affairs as at the end of its financial year ending with or last before that of the holding company, and with the subsidiary's profit or loss for that financial year.

- (3) Without prejudice to subsection (1) of this section, the group accounts, if prepared as consolidated accounts, shall comply with the requirements of the First Schedule to this Act, so far as applicable thereto, and if not so prepared shall give the same or equivalent information:

Provided that the Board of Trade may, on the application or with the consent of a company's directors, modify the said requirements in relation to that company for the purpose of adapting them to the circumstances of the company.

17 Financial year of holding company and subsidiary.

- (1) A holding company's directors shall secure that, except where in their opinion there are good reasons against it, the financial year of each of its subsidiaries shall coincide with the company's own financial year.
- (2) Where it appears to the Board of Trade desirable for a holding company or a holding company's subsidiary to extend its financial year so that the subsidiary's financial year may end with that of the holding company, and for that purpose to postpone the submission of the relevant accounts to a general meeting from one calendar year to the next, the Board may on the application or with the consent of the directors of the company whose financial year is to be extended direct that, in the case of that company, the submission of accounts to a general meeting, the holding of an annual general meeting or the making of an annual return shall not be required in the earlier of the said calendar years.

18 Meaning of " holding company " and " subsidiary. ".

- (1) For the purposes of the principal Act and this Act, a company shall, subject to the provisions of subsection (3) of this section, be deemed to be a subsidiary of another if, but only if—
 - (a) that other either—
 - (i) is a member of it and controls the composition of its board of directors; or
 - (ii) holds more than half in nominal value of its equity share capital; or
 - (b) the first mentioned company is a subsidiary of any company which is that other's subsidiary.
- (2) For the purposes of the foregoing subsection, the composition of a company's board of directors shall be deemed to be controlled by another company if, but only if, that other company by the exercise of some power exercisable by it without the consent or concurrence of any other person can appoint or remove the holders of all or a majority of the directorships; but for the purposes of this provision that other company shall be deemed to have power to appoint to a directorship with respect to which any of the following conditions is satisfied, that is to say—
 - (a) that a person cannot be appointed thereto without the exercise in his favour by that other company of such a power as aforesaid; or
 - (b) that a person's appointment thereto follows necessarily from his appointment as director of that other company ; or
 - (c) that the directorship .is held by that other company itself or by a subsidiary of it.
- (3) In determining whether one company is a subsidiary of another—
 - (a) any shares held or power exercisable by that other in a fiduciary capacity shall be treated as not held or exercisable by it;
 - (b) subject to the two following paragraphs, any shares held or power exercisable—
 - (i) by any person as a nominee for that other (except where that other is concerned only in a fiduciary capacity); or
 - (ii) by, or by a nominee for, a subsidiary of that other, not being a subsidiary which is concerned only in a fiduciary capacity;shall be treated as held or exercisable by that other;

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- (c) any shares held or power exercisable by any person by virtue of the provisions of any debentures of the first mentioned company or of a trust deed for securing any issue of such debentures shall be disregarded;
 - (d) any shares held or power exercisable by, or by a nominee for, that other or its subsidiary (not being held or exercisable as mentioned in the last foregoing paragraph) shall be treated as not held or exercisable by that other if the ordinary business of that other or its subsidiary, as the case may be, includes the lending of money and the shares are held or power is exercisable as aforesaid by way of security only for the purposes of a transaction entered into in the ordinary course of that business.
- (4) For the purposes of this Act, a company shall be deemed to be another's holding company if, but only if, that other is its subsidiary.
- (5) In this section, the expression " company " includes any body corporate, and the expression " equity share capital " means, in relation to a company, its issued share capital excluding any part thereof which, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution.

19 Directors' report.

The report under subsection (2) of section one hundred and twenty-three of the principal Act of a company's directors shall deal, so far as is material for the appreciation of the state of the company's affairs by its members and will not in the directors' opinion be harmful to the business of the company or of any of its subsidiaries, with any change during the financial year in the nature of the company's business or in the company's subsidiaries, or in the classes of business in which the company has an interest, whether as member of another company or otherwise.

20 General provision as to liability of directors for defective accounts.

A director shall not be liable to fine or imprisonment under section one hundred and twenty-two or one hundred and twenty-three of the principal Act or any provision contained in the sections of this Act relating to a company's accounts for failing to take reasonable steps to comply or secure compliance with any provision of that Act or this Act, if he shows that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that that provision was complied with and was in a position to discharge that duty.

21 Signature and copies of accounts.

- (1) The profit and loss account and, so far as not incorporated in the balance sheet or profit and loss account, any group accounts laid before a company in general meeting shall be annexed to the balance sheet and approved by the board of directors before the balance sheet is signed on their behalf.
- (2) If any copy of a balance sheet is issued, circulated, or published without having a copy annexed thereto of the profit and loss account or any group accounts required by this section to be so annexed, the company and every officer of the company who is in default shall be liable to a fine not exceeding fifty pounds.
- (3) Any member of a company having a share capital, whether he is or is not entitled to receive notices of general meetings of the company, shall be entitled under

paragraph (a) of subsection (1) of section one hundred and thirty of the principal Act to have sent to him a copy of every balance sheet and of the other documents mentioned in that paragraph, and any holder of debentures of a company shall have the same right under that paragraph as a member of the company:

Provided that this subsection shall not require a copy of those documents to be sent to any person of whose address the company is not aware or to more than one of the joint holders of any shares or debentures.

- (4) Subsection (1), and not subsection (2), of the said section one hundred and thirty shall apply in the case of a private company, as of any other company, except in relation to balance sheets laid before the company before the coming into force of this section.

22 Extension of rights and duties of auditors.

- (1) The duties of a company's auditors as laid down by section one hundred and thirty-four of the principal Act shall be extended as follows:—

- (a) they shall report on every profit and loss account and all group accounts laid before the company in general meeting during their tenure of office (as well as on every balance sheet so laid and on the accounts examined by them); and
- (b) their report shall contain (in lieu of the statements required by subsection (1) of the said section one hundred and thirty-four) statements as to the matters mentioned in the Second Schedule to this Act;

and section three hundred and sixty-two of the principal Act (which penalises false statements) shall apply to the auditors' report, as if the reference in the Eleventh Schedule to that Act to subsection (1) of the said section one hundred and thirty-four included a reference to this subsection.

- (2) The rights of a company's auditors as laid down by the said section one hundred and thirty-four shall be extended as follows:—

- (a) as respects their right under subsection (2) of that section to any information or explanation necessary for the performance of their duties, it shall be for them to judge what is necessary for that purpose;
- (b) as respects their right under that subsection of access to the books and accounts and vouchers of the company, any limitation imposed by the proviso to that subsection (which relates to branches outside Europe of certain banks) shall cease to have effect;
- (c) they shall be entitled to attend any general meeting of the company (and not merely the meetings mentioned in subsection (3) of that section) and to receive all notices of and other communications relating to any general meeting which any member of the company is entitled to receive and to be heard at any general meeting which they attend on any part of the business of the meeting which concerns them as auditors.

23 Extension of disqualifications for appointment as auditor.

- (1) A person shall not be qualified for appointment as auditor of a company unless either—

- (a) he is a member of a body of accountants established in the United Kingdom and for the time being recognised for the purposes of this provision by the Board of Trade; or
- (b) he is for the time being authorised by the Board of Trade to be so appointed either as having similar qualifications obtained outside the United Kingdom

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or as having obtained adequate knowledge and experience in the course of his employment by a member of a body of accountants recognised for the purposes of the foregoing paragraph or as having before the passing of this Act practised in Great Britain as an accountant:

Provided that this subsection shall not apply in the case of a private company which at the time of the auditor's appointment is an exempt private company, as defined in subsection (4) of section fifty-four of this Act.

- (2) In subsection (1) of section one hundred and thirty-three of the principal Act (which disqualifies, among others, directors and officers of a company and partners and employees of officers of a company from appointment as auditors of the company)—
- (a) references to an officer of the company shall include any servant of the company, but not an auditor; and
 - (b) paragraph (b) (which relates to partners and employees of officers of the company) shall apply in like manner to partners and employees of directors of the company; and
 - (c) the exception in the said paragraph (b) for private companies shall apply only in the case of a private company which at the time of the auditor's appointment is an exempt private company, as defined in subsection (4) of section fifty-four of this Act.

Nothing in this subsection shall be taken to exclude the application, in relation to the said subsection (1), of the definition of " officer " hereafter contained in this Act.

- (3) A person shall also not be qualified for appointment as auditor of any company if he is, by virtue of the said subsection (1), disqualified for appointment as auditor of any other body corporate which is that company's subsidiary or holding company, or a subsidiary of that company's holding company, or would be so disqualified if the body corporate were a company.
- (4) Notwithstanding anything in the foregoing provisions of this section, a Scottish firm shall be qualified for appointment as auditor of a company if, but only if, all the partners are qualified for appointment as auditor thereof.

24 Appointment and remuneration of auditors.

- (1) The auditors of a company appointed at any annual general meeting shall be appointed to hold office from the conclusion of that, until the conclusion of the next, annual general meeting; and at any annual general meeting a retiring auditor, however appointed, shall be reappointed without any resolution being passed, unless—
- (a) he is not qualified for reappointment; or
 - (b) a resolution has been passed at that meeting appointing somebody instead of him or providing expressly that he shall not be reappointed; or
 - (c) he has given the company notice in writing of his unwillingness to be reappointed;

and, where at an annual general meeting no auditors are appointed or reappointed, the Board of Trade may appoint a person to fill the vacancy.

- (2) The company shall, within one week of the Board's power under the foregoing subsection becoming exercisable, give them notice of that fact, and if a company fails to give notice as required by this subsection the company and every officer of the company who is in default shall be liable to a default fine.

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- (3) Special notice shall be required for a resolution at a company's annual general meeting appointing as auditor a person other than a retiring auditor or providing expressly that a retiring auditor shall not be reappointed.
- (4) On receipt of notice of such an intended resolution as aforesaid the company shall forthwith send a copy thereof to the retiring auditor (if any).
- (5) Where notice is given of such an intended resolution as aforesaid, and the retiring auditor makes with respect thereto representations in writing to the company (not exceeding a reasonable length) and requests their notification to members of the company, the company shall, unless the representations are received by it too late for it to do so.—
 - (a) in any notice of the resolution given to members of the company state the fact of the representations having been made; and
 - (b) send a copy of the representations to every member of the company to whom notice of the meeting is sent (whether before or after receipt of the representations by the company);

and if a copy of the representations is not sent as aforesaid because received too late or because of the company's default, the auditor may (without prejudice to his right to be heard orally) require that the representations shall be read out at the meeting:

Provided that copies of the representations need not be sent out and the representations need not be read out at the meeting if, on the application either of the company or of any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter; and the court may order the company's costs on an application under this section to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.

- (6) Where notice is given of an intended resolution to appoint some person or persons instead of a retiring auditor, and by reason of the death, incapacity or disqualification of that person or of all those persons, as the case may be, the resolution cannot be proceeded with, the retiring auditor shall not be automatically reappointed by virtue of subsection (1) of this section.
- (7) In relation to the first auditors of a company—
 - (a) subsection (4) of section one hundred and thirty-two of the principal Act (which relates to the appointment and term of office of the first auditors) shall have effect with the substitution for the words " until that meeting " of the words " until the conclusion of that meeting ";
 - (b) subsection (5) of this section shall apply to a resolution to remove the first auditors by virtue of subsection (4) of the said section one hundred and thirty-two as it applies in relation to a resolution that a retiring auditor shall not be reappointed.
- (8) The remuneration of the auditors of a company—
 - (a) in the case of an auditor appointed by the directors or by the Board of Trade, may be fixed by the directors or by the Board, as the case may be;
 - (b) subject to the foregoing paragraph shall be fixed by the company in general meeting or in such manner as the company in general meeting may determine;but where the remuneration is not fixed by the company in general meeting, the amount shall be shown under a separate heading in the company's profit and loss

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For the purposes of this subsection, any sums paid by the company in respect of the auditors' expenses shall be deemed to be included in the expression " remuneration. "

25 Construction of references to documents annexed to accounts.

References in the principal Act and this Act to a document annexed or required to be annexed to a company's accounts or any of them shall not include the directors' report or the auditors' report (which are by the principal Act required to be attached to the balance sheet):

Provided that any information which is required by the principal Act or this Act to be given in accounts and is thereby allowed to be given in a statement annexed may be given in the directors' report instead of the accounts and, if any such information is so given, the report shall be annexed to the accounts and the principal Act and this Act shall apply in relation thereto accordingly, except that the auditors shall report thereon only so far as it gives the said information.

Appointment, etc., of directors and secretary.

26 Director and secretary.

- (1) Every company shall have a director and a secretary and a sole director shall not also be secretary nor shall any company—
 - (a) have as secretary to the company a corporation the sole director of which is a sole director of the company; or
 - (b) have as sole director of the company a corporation the sole director of which is secretary to the company.
- (2) For any reference in the principal Act to a company's secretary or other chief officer there shall accordingly be substituted a reference to the company's secretary.
- (3) Anything required or authorised to be done by or to the secretary may, if the office is vacant or there is for any other reason no secretary capable of acting, be done by or to any assistant or deputy secretary or, if there is no assistant or deputy secretary capable of acting, by or to any officer of the company authorised generally or specially in that behalf by the directors.
- (4) A provision requiring or authorising a thing to be done by or to a director and the secretary shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, the secretary.

27 Particulars of directors and secretaries.

- (1) Every company shall, in the register of its directors required to be kept by section one hundred and forty-four of the principal Act, include with respect to the secretary of the company the following particulars, that is to say—
 - (a) in the case of an individual, his present christian name and surname, any former christian name and surname and his usual residential address; and
 - (b) in the case of a corporation or a Scottish firm, its corporate or firm name and registered or principal office;
 and accordingly—

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- (i) for any reference in the principal Act to a company's register of directors there shall be substituted a reference to its register of directors and secretaries; and
 - (ii) in subsection (2) of the said section one hundred and forty-four any reference to directors shall include a reference to "the secretary, and in subsection (4) thereof the references to subsections (1) and (2) thereof shall include a reference to this subsection.
- (2) Where there are joint secretaries, the particulars required by the foregoing subsection shall be given with respect to each of them, except that where all the partners in a firm are joint secretaries, the name and principal office of the firm may be stated instead of the said particulars.
- (3) The period within which a company is required to make a return to the registrar of companies under the said subsection (2) of the particulars specified in the said register shall, in relation to the particulars so specified with respect to any person who is the company's secretary at the date of the coming into force of subsection (1) of this section, be fourteen days from that date.
- (4) Any notification to the registrar of companies under the said subsection (2) of a change among the company's directors and secretary or in any of the particulars contained in the said register shall specify the date of the change.
- (5) In subsection (1) of the said section one hundred and forty-four the words " or managers " shall cease to have effect.
- (6) The particulars required by subsection (1) of the said section one hundred and forty-four in the case of an individual who is a director within the meaning of that section—
 - (a) shall, in the case of a company subject to section thirty of this Act, include the date of his birth and shall, in the case of any company, include particulars of any other directorships held by him, except as mentioned in the following paragraph;
 - (b) need not in any case include—
 - (i) particulars of directorships held by him in companies of which the company is the wholly-owned subsidiary, or which are the wholly-owned subsidiaries either of the company or of another company of which the company is the wholly-owned subsidiary; or
 - (ii) his nationality of origin, if his nationality is not his nationality of origin;and paragraph (d) of subsection (1) of section one hundred and forty-five of the principal Act (by which every company to which that section applies is required in all trade catalogues, trade circulars, show cards and business letters to state with respect to every director his nationality of origin, if his nationality is not the nationality of origin) shall cease to have effect.
- (7) Paragraphs (b), (d) and (e) of subsection (4) of section one hundred and forty-five of the principal Act (which relate to the construction for the purposes of that section of references to christian names, surnames and former christian names and surnames) shall apply also for the purposes of the said section one hundred and forty-four and of this section, and for the purposes of paragraph (b) of the last foregoing subsection—
 - (a) the expression " company, " shall include any body corporate incorporated in Great Britain; and

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- (b) a body corporate shall be deemed to be the wholly-owned subsidiary of another if it has no members 'except that other and that other's wholly-owned subsidiaries and its or their nominees.
- (8) For sub-paragraph (ii) of the said paragraph (e) (which excludes, in the case of natural born British subjects, names changed or disused at an age less than eighteen) there shall be substituted the following sub-paragraph:—
- “(ii) in the case of any person, a former christian name or surname where that name or surname was changed or disused before the person bearing the name attained the age of eighteen years or has been changed or disused for a period of not less than twenty years; or”.

28 Appointment of directors to be voted on individually.

- (1) At a general meeting of a company other than a private company, a motion for the appointment of two or more persons as directors of the company by a single resolution shall not be made, unless a resolution that it shall be so made has first been agreed to by the meeting without any vote being given against it.
- (2) A resolution moved in contravention of this section shall be void, whether or not its being so moved was objected to at the time:

Provided that—

- (a) this subsection shall not be taken as excluding the operation of section one hundred and forty-three of the principal Act (which relates to the validity of a director's acts where a defect is discovered in his appointment); and
- (b) where a resolution so moved is passed, no provision for the automatic reappointment of retiring directors in default of another appointment shall apply.
- (3) For the purposes of this section, a motion for approving a person's appointment or for nominating a person for appointment shall be treated as a motion for his appointment.
- (4) Nothing in this section shall apply to a resolution altering the company's articles.

29 Removal of directors.

- (1) A company may by ordinary resolution remove a director before the expiration of his period of office, notwithstanding anything in its articles or in any agreement between it and him:

Provided that this subsection shall not, in the case of a private company, authorise the removal of a director holding office for life on the eighteenth day of July, nineteen hundred and forty-five, whether or not subject to retirement under an age limit by virtue of the articles or otherwise.

- (2) Special notice shall be required of any resolution to remove a director under this section or to appoint somebody instead of a director so removed at the meeting at which he is removed, and on receipt of notice of an intended resolution to remove a director under this section the company shall forthwith send a copy thereof to the director concerned, and the director (whether or not he is a member of the company) shall be entitled to be heard on the resolution at the meeting.

(3) Where notice is given of an intended resolution to remove a director under this section and the director concerned makes with respect thereto representations in writing to the company (not exceeding a reasonable length) and requests their notification to members of the company, the company shall, unless the representations are received by it too late for it to do so—

(a) in any notice of the resolution given to members of the company state the fact of the representations having been made; and

(b) send a copy of the representations to every member of the company to whom notice of the meeting is sent (whether before or after receipt of the representations by the company);

and if a copy of the representations is not sent as aforesaid because received too late or because of the company's default, the director may (without prejudice to his right to be heard orally) require that the representations shall be read out at the meeting:

Provided that copies of the representations need not be sent out and the representations need not be read out at the meeting if, on the application either of the company or of any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter; and the court may order the company's costs on an application under this section to be paid in whole or in part by the director, notwithstanding that he is not a party to the application.

(4) A vacancy created by the removal of a director under this section, if not filled at the meeting at which he is removed) may be filled as a casual vacancy.

(5) A person appointed director in place of a person removed under this section shall be treated, for the purpose of determining the time at which he or any other director is to retire, as if he had become director on the day on which the person in whose place he is appointed was last appointed a director.

(6) Nothing in this section shall be taken as depriving a person removed thereunder of compensation or damages payable to him in respect of the termination of his appointment as director or of any appointment terminating with that as director or as derogating from any power to remove a director which may exist, apart from this section.

30 Retirement of directors under age limit.

(1) Subject to the provisions of this section, no person shall be capable of being appointed a director of a company which is subject to this section if at the time of his appointment he has attained the age of seventy.

(2) Subject as aforesaid, a director of a company which is subject to this section shall vacate his office at the conclusion of the annual general meeting commencing next after he attains the age of seventy:

Provided that acts done by a person as director shall be valid notwithstanding that it is afterwards discovered that his appointment had terminated by virtue of this subsection.

(3) Where a person retires by virtue of the last foregoing subsection, no provision for the automatic reappointment of retiring directors in default of another appointment shall apply; and if at the meeting at which he retires the vacancy is not filled, it may be filled as a casual vacancy.

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- (4) Subsection (2) of this section shall not apply to a director who is in office at the date when it comes into force so as to terminate his then appointment before the conclusion of the third annual general meeting commencing after that date, but shall apply so as to terminate it at the conclusion of that meeting if he has attained the age of seventy before the commencement of the meeting.
- (5) Nothing in the foregoing provisions of this section shall prevent the appointment of a director at any age, or require a director to retire at any time, if his appointment is or was made or approved by the company in general meeting, but special notice shall be required of any resolution appointing or approving the appointment of a director for it to have effect for the purposes of this subsection and the notice thereof given to the company and by the company to its members must state or must have stated the age of the person to whom it relates.
- (6) A person reappointed director on retiring by virtue of subsection (2) of this section, or appointed in place of a director so retiring, shall be treated, for the purpose of determining the time at which he or any other director is to retire, as if he had become director on the day on which the retiring director was last appointed before his retirement; but, except as provided by this subsection, the retirement of a director out of turn by virtue of the said subsection (2) shall be disregarded in determining when any other directors are to retire.
- (7) In the case of a company first registered under the principal Act after the beginning of the year nineteen hundred and forty-seven, this section shall have effect subject to the provisions of the company's articles; and in the case of a company first so registered before the beginning of that year—
 - (a) this section shall have effect subject to any alterations of the company's articles made after the beginning thereof; and
 - (b) if at the beginning thereof the company's articles contained provision for retirement of directors under an age limit or for preventing or restricting appointments of directors over a given age, this section shall not apply to directors to whom that provision applies.
- (8) A company shall be subject to this section if it is not a private company or if, being a private company, it is the subsidiary of a body corporate incorporated in the United Kingdom which is neither a private company nor a company registered under the law relating to companies for the time being in force in Northern Ireland and having provisions in its constitution which would, if it had been registered in Great Britain, entitle it to rank as a private company; and for the purposes of any other section of this Act which refers to a company subject to this section, a company shall be deemed to be subject to this section notwithstanding that all or any of the provisions thereof are excluded or modified by the company's articles.

31 Duty to disclose age to company.

- (1) Any person who is appointed or to his knowledge proposed to be appointed director of a company subject to the last foregoing section at a time when he has attained any retiring age applicable to him as director either under this Act or under the company's articles shall give notice of his age to the company:

Provided that this subsection shall not apply in relation to a person's reappointment on the termination of a previous appointment as director of the company.

- (2) Any person who—

- (a) fails to give notice of his age as required by this section; or
- (b) acts as director under any appointment which is invalid or has terminated by reason of his age;

shall be liable to a fine not exceeding five pounds for every day during which the failure continues or during which he continues to act as aforesaid.

- (3) For the purposes of the last foregoing subsection, a person who has acted as director under an appointment which is invalid or has terminated shall be deemed to have continued so to act throughout the period from the invalid appointment or the date on which the appointment terminated, as the case may be, until the last day on which he is shown to have acted thereunder.

32 Amendment of s. 140 of principal Act.

References in section one hundred and forty of the principal Act (which restricts the appointment or advertisement of a director) to the share qualification of a director or proposed director shall be construed as including only a share qualification required on appointment or within a period determined by reference to the time of appointment, and references in that section to qualification shares shall be construed accordingly.

33 Power to restrain fraudulent persons from managing companies.

- (1) Where—
 - (a) a person is convicted on indictment of any offence in connection with the promotion, formation or management of a company; or
 - (b) in the course of winding up a company it appears that a person—
 - (i) has been guilty of any offence for which he is liable (whether he has been convicted or not) under section two hundred and seventy-five of the principal Act (which relates to the responsibility of directors for fraudulent trading); or
 - (ii) has otherwise been guilty, while an officer of the company, of any fraud in relation to the company or of any breach of his duty to the company;

the court may make an order that that person shall not, without the leave of the court, be a director of or in any way, whether directly or indirectly, be concerned or take part in the management of a company for such period, not exceeding five years, as may be specified in the order.

- (2) In the foregoing subsection the expression " the court ", in relation to the making of an order against any person by virtue of paragraph (a) thereof, includes the court before which he is convicted, as well as any court having jurisdiction to wind up the company, and in relation to the granting of leave means any court having jurisdiction to wind up the company as respects which leave is sought.
- (3) A person intending to apply for the making of an order under this section by the court having jurisdiction to wind up a company shall give not less than ten days' notice of his intention to the person against whom the order is sought, and on the hearing of the application the last mentioned person may appear and himself give evidence or call witnesses.
- (4) An application for the making of an order under this section by the court having jurisdiction to wind up a company may be made by the official receiver, or by the

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liquidator of the company, or by any person who is or has been a member or creditor of the company, and on the hearing of any application for an order under this section by the official receiver or the liquidator, or of any application for leave under this section by a person against whom an order has been made on the application of the official receiver or the liquidator, the official receiver or liquidator shall appear and call the attention of the court to any matters which seem to him to be relevant, and may himself give evidence or call witnesses.

- (5) An order may be made by virtue of sub-paragraph (ii) of paragraph (b) of subsection (1) of this section notwithstanding that the person concerned may be criminally liable in respect of the matters on the ground of which the order is to be made, and for the purposes of the said sub-paragraph (ii) the expression " officer " shall include any person in accordance with whose directions or instructions the directors of the company have been accustomed to act.
- (6) If any person acts in contravention of an order made under this section, he shall, in respect of each offence, be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding five hundred pounds or to both.

Payments to directors.

34 Prohibition of tax free payments to directors.

- (1) It shall not be lawful for a company to pay a director remuneration (whether as director or otherwise) free of income tax or of income tax other than surtax, or otherwise calculated by reference to or varying with the amount of his income tax or his income tax other than surtax, or to or with the rate or standard rate of income tax, except under a contract which was in force on the eighteenth day of July, nineteen hundred and forty-five, and provides expressly, and not by reference to the articles, for payment of remuneration as aforesaid.
- (2) Any provision contained in a company's articles, or in any contract other than such a contract as aforesaid, or in any resolution of a company or a company's directors, for payment to a director of remuneration as aforesaid shall have effect as if it provided for payment, as a gross sum subject to income tax and surtax, of the net sum for which it actually provides.
- (3) This section shall not apply to remuneration due before it comes into force or in respect of a period before it comes into force.

35 Prohibition of loans to directors.

- (1) It shall not be lawful for a company to make a loan to any person who is its director or a director of its holding company, or to enter into any guarantee or provide any security in connection with a loan made to such a person as aforesaid by any other person:

Provided that nothing in this section shall apply either—

- (a) to anything done by a company which is for the time being an exempt private company as defined in subsection (4) of section fifty-four of this Act; or
- (b) to anything done by a subsidiary, where the director is its holding company; or
- (c) subject to the next following subsection, to anything done to provide any such person as aforesaid with funds to meet expenditure incurred or to be incurred

- by him for the purposes of the company or for the purpose of enabling him properly to perform his duties as an officer of the company; or
- (d) in the case of a company whose ordinary business includes the lending of money or the giving of guarantees in connection with loans made by other persons, to anything done by the company in the ordinary course of that business.
- (2) Proviso (c) to the foregoing subsection shall not authorise the making of any loan, or the entering into any guarantee, or the provision of any security, except either—
- (a) with the prior approval of the company given at a general meeting at which the purposes of the expenditure and the amount of the loan or the extent of the guarantee or security, as the case may be, are disclosed; or
- (b) on condition that, if the approval of the company is not given as aforesaid at or before the next following annual general meeting, the loan shall be repaid or the liability under the guarantee or security shall be discharged, as the case may be, within six months from the conclusion of that meeting.
- (3) Where the approval of the company is not given as required by any such condition, the directors authorising the making of the loan, or the entering into the guarantee, or the provision of the security, shall be jointly and severally liable to indemnify the company against any loss arising therefrom.

36 Payments received by directors for loss of office or on retirement.

- (1) It shall not be lawful for a company to make to any director of the company any payment by way of compensation for loss of office, or as consideration for or in connection with his retirement from office, without particulars with respect to the proposed payment (including the amount thereof) being disclosed to the members of the company and the proposal being approved by the company.
- (2) In subsection (3) of section one hundred and fifty of, the principal Act (which requires a director to disclose payments to be made to him as aforesaid, whether by the company or others, where the payments are to be made in connection with the transfer of shares in the company as a result of an offer made to the general body of shareholders) any reference to an offer made to the general body of shareholders shall include a reference to any offer made—
- (a) by or on behalf of some other body corporate with a view to the company's becoming its subsidiary or a subsidiary of its holding company; or
- (b) by or on behalf of an individual with a view to his obtaining the right to exercise or control the exercise of not less than one third of the voting power at any general meeting of the company;
- and to any other offer which is conditional on acceptance to a given extent.
- (3) In subsection (4) of the said section one hundred and fifty (which provides among other things that where a director fails to disclose any such payment as aforesaid as required by the said subsection (3) he shall account therefor to the persons who have sold their shares as a result of the offer) after the words " if the requirements of the last foregoing subsection are not complied with in relation to any such payment as is mentioned in the said subsection " there shall be inserted the words " or if the making of the proposed payment is not approved before the transfer of any shares in pursuance of the offer by a meeting of the shareholders concerned summoned for the purpose ".
- (4) After the said subsection (4) there shall be inserted the following subsections:—

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“(4A) The reference in the last foregoing subsection to the shareholders concerned shall be taken as including not only the holders of shares to which the offer relates but also all other holders of shares of the same class as any of the said shares; and where the shareholders concerned are not all the members of the company and no provision is made by the articles for summoning or regulating such a meeting as is mentioned in the last foregoing subsection, the provisions of this Act and of the company's articles relating to general meetings of the company shall for that purpose apply to the meeting either without modification or with such modifications as the Board of Trade on the application of any person concerned may direct for the purpose of adapting them to the circumstances of the meeting.

(4B) if at a meeting summoned for the purpose of approving any payment as required by the said subsection (4) a quorum is not present and, after the meeting has been adjourned to a later date, a quorum is again not present, the payment shall be deemed for the purposes of that subsection to have been approved.”

- (5) A director's expenses of distributing any sum among persons entitled thereto by virtue of the said subsection (4) shall be borne by him and not retained out of that sum.
- (6) Where in proceedings for the recovery of any payment as having, by virtue of subsections (1) and (2) or subsections (3) and (4) of the said section one hundred and fifty, been received by any person in trust, it is shown that—
- (a) the payment was made in pursuance of any arrangement entered into as part of the agreement for the transfer in question, or within one year before or two years after that agreement or the offer leading thereto; and
 - (b) the company or any person to whom the transfer was made was privy to that arrangement;
- the payment shall be deemed, except in so far as the contrary is shown, to be one to which the subsections apply.
- (7) It is hereby declared that references in this section and in the said section one hundred and fifty to payments made to any director of a company by way of compensation for loss of office, or as consideration for or in connection with his retirement from office, do not include any bona fide payment by way of damages for breach of contract or by way of pension in respect of past services, and for the purposes of this subsection the expression " pension " includes any superannuation allowance, superannuation gratuity or similar payment.

Disclosure of payments to and interest of officers.

37 Register of directors' shareholdings, etc.

- (1) Every company shall keep a register showing as respects each director of the company (not being its holding company) the number, description and amount of any shares in or debentures of the company or any other body corporate, being the company's subsidiary or holding company, or a subsidiary of the company's holding company, which are held by or in trust for him or of which he has any right to become the holder (whether on payment or not):

Provided that the register need not include shares in any body corporate which is the wholly-owned subsidiary of another body corporate, and for this purpose a body

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corporate shall be deemed to be the wholly-owned subsidiary of another if it has no members but that other and that other's wholly-owned subsidiaries and its or their nominees.

- (2) Where any shares or debentures fall to be or cease to be recorded in the said register in relation to any director by reason of a transaction entered into after the coming into force of this section and while he is a director, the register shall also show the date of, and price or other consideration for, the transaction:

Provided that where there is an interval between the agreement for any such transaction and the completion thereof, the date shall be that of the agreement.

- (3) The nature and extent of a director's interest or right in or over any shares or debentures recorded in relation to him in the said register shall, if he so requires, be indicated in the register.
- (4) The company shall not, by virtue of anything done for the purposes of this section, be affected with notice of, or put upon inquiry as to, the rights of any person in relation to any shares or debentures.
- (5) The said register shall, subject to the provisions of this section, be kept at the company's registered office and shall be open to inspection during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that not less than two hours in each day be allowed for inspection) as follows:—
- (a) during the period beginning fourteen days before the date of the company's annual general meeting and ending three days after the date of its conclusion it shall be open to the inspection of any member or holder of debentures of the company; and
 - (b) during that or any other period, it shall be open to the inspection of any person acting on behalf of the Board of Trade,

In computing the fourteen days and the three days mentioned in this subsection, any day which is a Saturday or Sunday or a bank holiday shall be disregarded.

- (6) Without prejudice to the rights conferred by the last foregoing subsection, the Board of Trade may at any time require a copy of the said register, or any part thereof.
- (7) The said register shall also be produced at the commencement of the company's annual general meeting and remain open and accessible during the continuance of the meeting to any person attending the meeting.
- (8) If default is made in complying with the last foregoing subsection, the company and every officer of the company who is in default shall be liable to a fine not exceeding fifty pounds; and if default is made in complying with subsection (1) or (2) of this section, or if any inspection required under this section is refused or any copy required thereunder is not sent within a reasonable time, the company and every officer of the company who is in default shall be liable to a fine not exceeding five hundred pounds and further to a default fine of two pounds.
- (9) In the case of any such refusal, the court may by order compel an immediate inspection of the register.
- (10) For the purposes of this section—

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- (a) any person in accordance with whose directions or instructions the directors of a company are accustomed to act shall be deemed to be a director of the company; and
- (b) a director of a company shall be deemed to hold, or to have any interest or right in or over, any shares or debentures if a body corporate other than the company holds them or has that interest or right in or over them, and either—
 - (i) that body corporate or its directors are accustomed to act in accordance with his directions or instructions; or
 - (ii) he is entitled to exercise or control the exercise of one third or more of the voting power at any general meeting of that body corporate.

38 Particulars in accounts of directors' salaries, pensions, etc.

- (1) In any accounts of a company laid before it in general meeting, 'or in a statement annexed thereto, there shall, subject to and in accordance with the provisions of this section, be shown so far as the information is contained in the company's books and papers or the company has the right to obtain it from the persons concerned—
- (a) the aggregate amount of the directors' emoluments;
 - (b) the aggregate amount of directors' or past directors' pensions; and
 - (c) the aggregate amount of any compensation to directors or past directors in respect of loss of office.

- (2) The amount to be shown under paragraph (a) of subsection (1) of this section—
- (a) shall include any emoluments paid to or receivable by any person in respect of his services as director of the company or in respect of his services, while director of the company, as director of any subsidiary thereof or otherwise in connection with the management of the affairs of the company or any subsidiary thereof; and
 - (b) shall distinguish between emoluments in respect of services as director, whether of the company or its subsidiary, and other emoluments;

and for the purposes of this section the expression " emoluments ", in relation to a director, includes fees and percentages, any sums paid by way of expenses allowance in so far as those sums are charged to United Kingdom income tax, any contribution paid in respect of him under any pension scheme and the estimated' money value of any other benefits received by him otherwise than in cash.

- (3) The amount to be shown under paragraph (b) of the said subsection (1)—
- (a) shall not include any pension paid or receivable under a pension scheme if the scheme is such that the contributions thereunder are substantially adequate for the maintenance of the scheme, but save as aforesaid shall include any pension paid or receivable in respect of any such services of a director or past director of the company as are mentioned in the last foregoing subsection, whether to or by him or, on his nomination or by virtue of dependence on or other connection with him, to or by any other person; and
 - (b) shall distinguish between pensions in respect of services as director, whether of the company or its subsidiary, and other pensions;

and for the purposes of this section the expression " pension " includes any superannuation allowance, superannuation gratuity or similar payment, and the expression " pension scheme " means a scheme for the provision of pensions in respect, of services as director or otherwise which is maintained in whole or in part by means of contributions, and the expression " contribution " in relation to a pension scheme

means any payment (including an insurance premium) paid for the purposes of the scheme by or in respect of persons rendering services in respect of which pensions will or may become payable under the scheme, except that it does not include any payment in respect of two or more persons if the amount paid in respect of each of them is not ascertainable.

- (4) The amount to be shown under paragraph (c) of the said subsection (1)—
- (a) shall include any sums paid to or receivable by a director or past director by way of compensation for the loss of office as director of the company or for the loss, while director of the company or on or in connection with his ceasing to be a director of the company, of any other office in connection with the management of the company's affairs or of any office as director or otherwise in connection with the management of the affairs of any subsidiary thereof; and
 - (b) shall distinguish between compensation in respect of the office of director, whether of the company or its subsidiary, and compensation in respect of other offices;

and for the purposes of this section references to compensation for loss of office shall include sums paid as consideration for or in connection with a person's retirement from office.

- (5) The amounts to be shown under each paragraph of the said subsection (1)—
- (a) shall include all relevant sums paid by or receivable from—
 - (i) the company; and
 - (ii) the company's subsidiaries; and
 - (iii) any other person;except sums to be accounted for to the company or any of its subsidiaries or, by virtue of section one hundred and fifty of the principal Act, to past or present members of the company or any of its subsidiaries or any class of those members; and
 - (b) shall distinguish, in the case of the amount to be shown under paragraph (c) of the said subsection (1), between the sums respectively paid by or receivable from the company, the company's subsidiaries and persons other than the company and its subsidiaries.

- (6) The amounts to be shown under this section for any financial year shall be the sums receivable in respect of that year, whenever paid, or, in the case of sums not receivable in respect of a period, the sums paid during that year, so, however, that where—
- (a) any sums are not shown in the accounts for the relevant financial year on the ground that the person receiving them is liable to account therefor as mentioned in paragraph (a) of the last foregoing subsection, but the liability is thereafter wholly or partly released or is not enforced within a period of two years; or
 - (b) any sums paid by way of expenses allowance are charged to United Kingdom income tax after the end of the relevant financial year;

those sums shall, to the extent to which the liability is released or not enforced or they are charged as aforesaid, as the case may be, be shown in the first accounts in which it is practicable to show them or in a statement annexed thereto and shall be distinguished from the amounts to be shown therein apart from this provision.

- (7) Where it is necessary so to do for the purpose of making any distinction required by this section in any amount to be shown thereunder, the directors may apportion any

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payments between the matters in respect of which they have been paid or are receivable in such manner as they think appropriate.

- (8) If in the case of any accounts the requirements of this section are not complied with, it shall be the duty of the auditors of the company by whom the accounts are examined to include in their report thereon, so far as they are reasonably able to do so, a statement giving the required particulars.
- (9) In this section any reference to a company's subsidiary—
 - (a) in relation to a person who is or was, while a director of the company, a director also, by virtue of the company's nomination, direct or indirect, of any other body corporate, shall, subject to the following paragraph, include that body corporate, whether or not it is or was in fact the company's subsidiary; and
 - (b) shall for the purposes of subsections (2) and (3) be taken as referring to a subsidiary at the time the services were rendered, and for the purposes of subsection (4) be taken as referring to a subsidiary immediately before the loss of office as director of the company.
- (10) Section one hundred and twenty-eight of the principal Act, so far as it relates to directors' remuneration, and section one hundred and forty-eight thereof shall cease to have effect.

39 Particulars in accounts of loans to officers.

- (1) Section one hundred and twenty-eight of the principal Act (which requires loans to officers to be shown in the accounts) shall apply to a loan to any person who has during the company's financial year been an officer of the company made before he became an officer, as it applies to a loan made to an officer of the company.
- (2) The said section one hundred and twenty-eight shall apply to loans made to an officer of the company or to any such person as aforesaid by a subsidiary of the company, or by any person other than the company under a guarantee from or on a security provided by a subsidiary of the company, as it applies to loans made by the company or by any other person under a guarantee from or on a security provided by the company, but as if any reference in subsection (2) of that section to the company were a reference to the subsidiary.
- (3) References in this section to a subsidiary shall be taken as referring to a subsidiary at the end of the company's financial year (whether or not a subsidiary at the date of the loan).

40 Information as to compromises with creditors and members.

- (1) Where a meeting of creditors or any class of creditors or of members or any class of members is summoned under section one hundred and fifty-three of the principal Act for the purpose of agreeing to a compromise or arrangement, there shall—
 - (a) with every notice summoning the meeting which is sent to a creditor or member, be sent also a statement explaining the effect of the compromise or arrangement and in particular stating any material interests of the directors of the company, whether as directors or as members or as creditors of the company or otherwise, and the effect thereon of the compromise or arrangement, in so far as it is different from the effect on the like interests of other persons; and

- (b) in every notice summoning the meeting which is given by advertisement, be included either such a statement as aforesaid or a notification of the place at which and the manner in which creditors or members entitled to attend the meeting may obtain copies of such a statement as aforesaid.
- (2) Where the compromise or arrangement affects the rights of debenture holders of the company, the said statement shall give the like explanation as respects the trustees of any deed for securing the issue of the debentures as it is required to give as respects the company's directors.
- (3) Where a notice given by advertisement includes a notification that copies of a statement explaining the effect of the compromise or arrangement proposed can be obtained by creditors or members entitled to attend the meeting, every such creditor or member shall, on making application in the manner indicated by the notice, be furnished by the company free of charge with a copy of the statement.
- (4) Where a company makes default in complying with any requirement of this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding five hundred pounds, and for the purpose of this subsection any liquidator of the company and any trustee of a deed for securing the issue of debentures of the company shall be deemed to be an officer of the company:

Provided that a person shall not be liable under this subsection if that person shows that the default was due to the refusal of any other person, being a director or trustee for debenture holders, to supply the necessary particulars as to his interests.
- (5) In this section, the expressions " company " and " arrangement " have the same meanings as in the said section one hundred and fifty-three.

41 General duty to make disclosure.

- (1) It shall be the duty of any director of a company to give notice to the company of such matters relating to himself as may be necessary for the purposes of the four last foregoing sections.
- (2) Any such notice given for the purposes of the first of the said sections shall be in writing and if it is not given at a meeting of the directors, the director giving it shall take reasonable steps to secure that it is brought up and read at the next meeting of the directors after it is given.
- (3) Subsection (1) of this section shall apply—
 - (a) for the purposes of the third of -the said sections, in relation to officers other than directors; and
 - (b) for the purposes of the second and third of them, in relation to persons who are or have at any time during the preceding five years been officers; and
 - (c) for the purposes of the last of them, in relation to trustees for debenture holders;as it applies in relation to directors.
- (4) Any person who makes default in complying with the foregoing provisions of this section shall be liable to a fine not exceeding fifty pounds.
- (5) Where a director, for the purpose of declaring his interest in contracts with the company as required by section one hundred and forty-nine of the principal Act, gives such a general notice of his membership of a specified company or firm as is mentioned

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in subsection (3) of that section, that notice shall be of no effect unless either it is given at a meeting of the directors or he takes reasonable steps to secure that it is brought up and read at the next meeting of the directors after it is given.

Investigations.

42 Inspection of company's affairs on application Of members.

(1) The powers of the Board of Trade under section one hundred and thirty-five of the principal Act in relation to the appointment, on the application of members of a company, of inspectors to investigate the company's affairs shall in the case of an application made after the coming into force of this section be exercisable—

- (a) in the case of a banking company having a share capital, on the like application as if the company were not a banking company; and
- (b) in the case of any company having a share capital, on the application of not less than two hundred members of the company notwithstanding that they hold less than one-tenth of the issued shares as required by subsection (1) of the said section one hundred and thirty-five;

and the power of the Board under subsection (2) of that section to require evidence for the purpose of showing that the applicants are not actuated by malicious motives in requiring the investigation shall not be exercisable in the case of any application made after the coming into force of this section.

(2) For subsection (3) of the said section one hundred and thirty-five (which requires officers and agents of the company to produce books and documents) there shall be substituted the following subsection—

“(3) It shall be the duty of all officers and agents of the company to produce to the inspectors all books and documents of or relating to the company which are in their custody or power and otherwise to give to the inspectors all assistance in connection with the investigation which they are reasonably able to give.”

(3) In the said section one hundred and thirty-five, any reference to officers or to agents shall include past, as well as present, officers or agents as the case may be, and for the purposes of that section the expression " agents " in relation to a company shall include the bankers and solicitors of the company and any persons employed by the company as auditors, whether those persons are or are not officers of the company.

(4) If an inspector appointed under the said section one hundred and thirty-five thinks it necessary for the purpose of his investigation that a person whom he has no power to examine on oath should be so examined, he may apply to the court and the court may if it sees fit order that person to attend and be examined on oath before it on any matter relevant to the investigation, and on any such examination—

- (a) the inspector may take part therein either personally or by solicitor or counsel;
- (b) the court may put such questions to the person examined as the court thinks fit;
- (c) the person examined shall answer all such questions as the court may put or allow to be put to him, but may at his own cost employ a solicitor with or without counsel, who shall be at liberty to put to him such questions as the court may deem just for the purpose of enabling him to explain or qualify any answers given by him;

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and notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, and may thereafter be used in evidence against him:

Provided that, notwithstanding anything in paragraph (c) of this subsection, the court may allow the person examined such costs as in its discretion it may think fit, and any costs so allowed shall be paid as part of the expenses of the investigation.

- (5) If an inspector appointed under the said section one hundred and thirty-five to investigate the affairs of a company thinks it necessary for that purpose to investigate also the affairs of any other body corporate which is or has at any relevant time been the company's subsidiary or holding company or a subsidiary of its holding company or a holding company of its subsidiary, he shall have power so to do, and shall report on the affairs of the other body corporate so far as he thinks the results of his investigation thereof are relevant to the investigation of the affairs of the first mentioned company.
- (6) Where by virtue of the last foregoing subsection an inspector appointed to investigate the affairs of a company investigates also the affairs of another body corporate, any reference in subsections (3) to (5) of the said section one hundred and thirty-five (which relate to the powers of the inspector) and in subsections (1) and (2) of section one hundred and thirty-six of the principal Act (which relate to proceedings on the inspector's report) to the company shall include a reference to the other body corporate.
- (7) The Board of Trade, in addition to furnishing copies of the report of an inspector appointed under the said section one hundred and thirty-five to the company and, if requested, to the applicants for the investigation as required by subsection (6) of that section, shall, if they think fit, furnish a copy thereof on request and on payment of the prescribed fee to any other person who is a member of the company or of any other body corporate dealt with in the report by virtue of subsection (5) of this section, or whose interests as a creditor of the company or of any such other body corporate as aforesaid appear to the Board to be affected, and the Board may also cause any such report to be printed and published.
- (8) In addition to the final report required by the said subsection (6) an inspector so appointed may and, if so directed by the Board of Trade, shall make interim reports to the Board, and the provisions of the principal Act and this Act shall apply in relation thereto as they apply in relation to the final report.

43 Inspection of company's affairs in other cases.

- (1) Without prejudice to their powers under the said section one hundred and thirty-five of the principal Act, the Board of Trade—
 - (a) shall appoint one or more competent inspectors to investigate the affairs of a company and to report thereon in such manner as the Board direct, if—
 - (i) the company by special resolution; or
 - (ii) the court by order;declares that its affairs ought to be investigated by an inspector appointed by the Board; and
 - (b) may do so, if it appears to the Board that there are circumstances suggesting—
 - (i) that its business is being conducted with intent to defraud its creditors or the creditors of any other person or otherwise for a fraudulent or unlawful purpose or in a manner oppressive of any part of its members or that it was formed for any fraudulent or unlawful purpose; or

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- (ii) that persons concerned with its formation or the management of its affairs have in connection therewith been guilty of fraud, misfeasance or other misconduct towards it or towards its members; or
 - (iii) that its members have not been given all the information with respect to its affairs which they might reasonably expect.
- (2) The principal Act and this Act shall apply in relation to an inspector appointed under this section and to his report as they apply in relation to an inspector appointed under the said section one hundred and thirty-five and to his report.
- (3) Where an inspector is appointed under this section in pursuance of an order of the court, the Board of Trade shall furnish a copy of his report to the court as well as to the persons required by subsection (6) of the said section one hundred and thirty-five.
- (4) Section one hundred and thirty-seven of the principal Act (which relates to a company's power itself to appoint inspectors to investigate its affairs) shall cease to have effect, except as respects inspectors appointed before the coming into force of this section _ or appointed to continue an investigation begun by inspectors appointed before the coming into force thereof.

44 Proceedings on inspector's report.

- (1) If, in the case of any body corporate liable to be wound up under the principal Act, it appears to the Board of Trade, from any report on its affairs made to them by an inspector appointed by them under the principal Act or under the last foregoing section, that it is expedient so to do by reason of any such circumstances as are referred to in sub-paragraph (i) or (ii) of paragraph (b) of subsection (1) of the last foregoing section, the Board may, unless the body corporate is already being wound up by the court, present a petition for it to be so wound up if the court thinks it just and equitable that it should be wound up or a petition for an order under section nine of this Act, or both.
- (2) If from any report so made it appears to the Board of Trade that proceedings ought in the public interest to be brought by any body corporate dealt with by the report for the recovery of damages in respect of any fraud, misfeasance or other misconduct in connection with the promotion or formation of that body corporate or the management of its affairs, or for the recovery of any property of the body corporate which has been misapplied or wrongfully retained, they may themselves bring proceedings for that purpose in the name of the body corporate.
- (3) The Board of Trade shall indemnify the body corporate against any costs or expenses incurred by it in or in connection with any proceedings brought by virtue of the last foregoing subsection.
- (4) In subsection (2) of section one hundred and thirty-six of the principal Act (which requires the Director of Public Prosecutions to take criminal proceedings on the inspector's report if he considers that the case requires it) the words " and, further, that it is desirable in the public interest that the proceedings in the prosecution should be conducted by him " shall cease to have effect.

45 Expenses of inspection of company's affairs.

- (1) The expenses of and incidental to an investigation by an inspector appointed by the Board of Trade under the principal Act or under the last but one foregoing section

shall be defrayed in the first instance by the Board of Trade, but the following persons shall, to the extent mentioned, be liable to repay the Board:—

- (a) any person who is convicted on a prosecution instituted as a result of the investigation by the Director of Public Prosecutions or by or on behalf of the Lord Advocate, or who is ordered to pay damages or restore any property in proceedings brought by virtue of subsection (2) of the last foregoing section, may in the same proceedings be ordered to pay the said expenses to such extent as may be specified in the order;
- (b) any body corporate in whose name proceedings are brought as aforesaid shall be liable to the amount or value of any sums or property recovered by it as a result of those proceedings; and
- (c) unless as a result of the investigation a prosecution is instituted by the Director of Public Prosecutions or by or on behalf of the Lord Advocate—
 - (i) any body corporate dealt with by the report, where the inspector was appointed otherwise than of the Board's own motion, shall be liable, except so far as the Board otherwise direct; and
 - (ii) the applicants for the investigation, where the inspector was appointed under section one hundred and thirty-five of the principal Act, shall be liable to such extent (if any) as the Board may direct;

and any amount for which a body corporate is liable by virtue of paragraph (b) of this subsection shall be a first charge on the sums or property mentioned in that paragraph.

- (2) The report of an inspector appointed otherwise than of the Board of Trade's own motion may, if he thinks fit, and shall, if the Board so direct, include a recommendation as to the directions (if any) which he thinks appropriate, in the light of his investigation, to be given under paragraph (c) of the last foregoing subsection.
- (3) For the purposes of this section, any costs or expenses incurred by the Board of Trade in or in connection with proceedings brought by virtue of subsection (2) of the last foregoing section (including expenses incurred by virtue of subsection (3) thereof) shall be treated as expenses of the investigation giving rise to the proceedings.
- (4) Any liability to repay the Board of Trade imposed by paragraphs (a) and (b) of subsection (1) of this section shall, subject to satisfaction of the Board's right to repayment, be a liability also to indemnify all persons against liability under paragraph (c) thereof, and any such liability imposed by the said paragraph (a) shall, subject as aforesaid, be a liability also to indemnify all persons against liability under the said paragraph (b); and any person liable under the said paragraph (a) or (b) or either sub-paragraph of the said paragraph (c) shall be entitled to contribution from any other person liable under the same paragraph or sub-paragraph, as the case may be, according to the amount of their respective liabilities thereunder.
- (5) The expenses to be defrayed by the Board of Trade Under this section shall, so far as not recovered thereunder, be paid out of moneys provided by Parliament, but subsection (3) of section thirteen of the Economy (Miscellaneous Provisions) Act, 1926 (which provides for the issue out of the Bankruptcy and Companies Winding-up (Fees) Account of sums towards meeting the charges estimated by the Board of Trade in respect of salaries and expenses under the principal Act in relation to the winding-up of companies in England) shall have effect as if the said expenses were expenses incurred by the Board under the principal Act in relation to the winding-up of companies in England.

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46 Appointment and powers of inspectors to investigate ownership of company.

- (1) Where it appears to the Board of Trade that there is good reason so to do, they may appoint one or more competent inspectors to investigate and report on the membership of any company and otherwise with respect to the company for the purpose of determining the true persons who are or have been financially interested in the success or failure (real or apparent) of the company or able to control or materially to influence the policy of the company.
- (2) The appointment of an inspector under this section may define the scope of his investigation, whether as respects the matters or the period to which it is to extend or otherwise, and in particular may limit the investigation to matters connected with particular snares or debentures.
- (3) Where an application for an investigation under this section with respect to particular shares or debentures of a company is made to the Board of Trade by members of the company, and the number of applicants or the amount of the shares held by them is not less than that required for an application for the appointment of an inspector under section one hundred and thirty-five of the principal Act, the Board of Trade shall appoint an inspector to conduct the investigation, unless they are satisfied that the application is vexatious, and the inspector's appointment shall not exclude from the scope of his investigation any matter which the application seeks to have included therein, except in so far as the Board of Trade are satisfied that it is unreasonable for that matter to be investigated.
- (4) Subject to the terms of an inspector's appointment his powers shall extend to the investigation of any circumstances suggesting the existence of an arrangement or understanding which, though not legally binding, is or was observed or likely to be observed in practice and which is relevant to the purposes of his investigation.
- (5) For the purposes of any investigation under this section, subsections (3) to (6) of section one hundred and thirty-five of the principal Act, and subsections (4) to (8) of section forty-two of this Act (which relates to the appointment and functions of inspectors under the said section one hundred and thirty-five) shall apply with the necessary modifications of references to the affairs of the company or to those of any other body corporate, so, however, that—
 - (a) the said subsections shall apply in relation to all persons who are or have been, or whom the inspector has reasonable cause to believe to be or have been, financially interested in the success or failure or the apparent success or failure of the company or any other body corporate whose membership is investigated with that of the company, or able to control or materially to influence the policy thereof, including persons concerned only on behalf of others, as they apply in relation to officers and agents of the company or of the other body corporate, as the case may be; and
 - (b) the Board of Trade shall not be bound to furnish the company or any other person with a copy of any report by an inspector appointed under this section or with a complete copy thereof if they are of opinion that there is good reason for not divulging the contents of the report or of parts thereof, but shall cause to be kept by the registrar a copy of any such report or, as the case may be, the parts of any such report, as respects which they are not of that opinion.
- (6) The expenses of any investigation under this section shall be defrayed by the Board of Trade out of moneys provided by Parliament.

47 Power to require information as to persons interested in shares or debentures.

- (1) Where it appears to the Board of Trade that there is good reason to investigate the ownership of any shares in or debentures of a company and that it is unnecessary to appoint an inspector for the purpose, they may require any person whom they have "reasonable cause to believe—
 - (a) to be or to have been interested in those shares or debentures; or
 - (b) to act or to have acted in relation to those shares or debentures as the solicitor or agent of someone interested therein;to give them any information which he has or can reasonably be expected to obtain as to the present and past interests in those shares or debentures and the names and addresses of the persons interested and of any persons who act or have acted on their behalf in relation to the shares or debentures.
- (2) For the purposes of this section, a person shall be deemed to have an interest in a share or debenture if he has any right to acquire" or dispose of the share or debenture or any interest therein or to vote in respect thereof, or if his consent is necessary for the exercise of any of the rights of other persons interested therein, or if other persons interested therein can be required or are accustomed to exercise their rights in accordance with his instructions.
- (3) Any person who fails to give any information required of him under this section, or who in giving any such information makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding five hundred pounds or to both.

48 Power to impose restrictions on shares or debentures.

- (1) Where in connection with an investigation under either of the two last foregoing sections it appears to the Board of Trade that there is difficulty in finding out the relevant facts about any shares (whether issued or to be issued), and that the difficulty is due wholly or mainly to the unwillingness of the persons concerned or any of them to assist the investigation as required by this Act, the Board may by order direct that the shares shall until further order be subject to the restrictions imposed by this section.
- (2) So long as any shares are directed to be subject to the restrictions imposed by this section—
 - (a) any transfer of those shares, or in the case of unissued shares any transfer of the right to be issued therewith and any issue thereof, shall be void;
 - (b) no voting rights shall be exercisable in respect of those shares;
 - (c) no further shares shall be issued in right of those shares or in pursuance of any offer made to the holder thereof;
 - (d) except in a liquidation, no payment shall be made of any sums due from the company on those shares, whether in respect of capital or otherwise.
- (3) Where the Board of Trade make an order directing that shares shall be subject to the said restrictions, or refuse to make an order directing that shares shall cease to be subject thereto, any person aggrieved thereby may apply to the court, and the court may, if it sees fit, direct that the shares shall cease to be subject to the said restrictions.
- (4) Any order (whether of the Board of Trade or of the court) directing that shares shall cease to be subject to the said restrictions which is expressed to be made with a view

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to permitting a transfer of those shares may continue the restrictions mentioned in paragraphs (c) and (d) of subsection (2) of this section, either in whole or in part, so far as they relate to any right acquired or offer made before the transfer.

- (5) Any person who—
- (a) exercises or purports to exercise any right to dispose of any shares which, to his knowledge, are for the time being subject to the said restrictions or of any right to be issued with any such shares; or
 - (b) votes in respect of any such shares, whether as holder or proxy, or appoints a proxy to vote in respect thereof; or
 - (c) being the holder of any such shares, fails to notify of their being subject to the said restrictions any person whom he does not know to be aware of that fact but does know to be entitled, apart from the said restrictions, to vote in respect of those shares whether as holder or proxy;

shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding five hundred pounds or to both.

- (6) Where shares in any company are issued in contravention of the said restrictions, the company and every officer of the company who is in default shall be liable to a fine not exceeding five hundred pounds.
- (7) A prosecution shall not be instituted in England under this section except by or with the consent of the Board of Trade.
- (8) This section shall apply in relation to debentures as it applies in relation to shares.

49 Saving for solicitors and bankers.

Nothing in the foregoing provisions of this Act shall require disclosure to the Board of Trade or to an inspector appointed by them—

- (a) by a solicitor of any privileged communication made to him in that capacity, except as respects the name and address of his client; or
- (b) by a company's bankers as such of any information as to the affairs of any of their customers other than the company.

Register of members and annual return.

50 Power to keep register where made up.

- (1) A company's register of members may be kept at any office of the company where the work of making it up is done, instead of at the company's registered office, and where a company arranges with some other person (in this section referred to as "the agent") for the making up of its register of members to be undertaken on behalf of the company by the agent, the register may be kept at the office of the agent at which the work is done instead of at an office of the company:

Provided that the register shall not be kept—

- (i) in the case of a company registered in England, at a place outside England; or
 - (ii) in the case of a company registered in Scotland, at a place outside Scotland.
- (2) Where the company keeps an index of the names of its members under section ninety-six of the principal Act, the index shall be at all times kept at the same place as the register of members, and where the company keeps a dominion register under section

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one hundred and three of the principal Act, the duplicate of the dominion register required by subsection (3) of section one hundred and four of that Act to be kept at the company's registered office shall, notwithstanding anything in the said subsection (3), be at all times kept at the same place as the company's principal register.

- (3) Every company shall send notice to the registrar of companies of the place where its register of members is kept and of any change in that place:

Provided that a company shall not be bound to send notice under this subsection where the register has, at all times since it came into existence or, in the case of a register in existence at the coming into force of this section, at all times since then, been kept at the registered office of the company.

- (4) Where a company makes default in complying with subsection (2) of this section or makes default for fourteen days in complying with the last foregoing subsection, the company and every officer of the company who is in default shall be liable to a default fine.
- (5) Where the register of members is kept at the agent's office, and by reason of any default of his the company fails to comply with the requirements of subsection (2) or (3) of this section, or with any requirements of the principal Act or this Act as to the inspection or production of the register or as to furnishing copies of the register or any part thereof, the agent shall be liable to the same penalties as if he were an officer of the company who was in default, and any power of the court under the principal Act to make orders for enforcing compliance with the requirements thereof as to inspection and copies shall extend to the making of orders against the agent and the agent's officers and servants.

51 Contents of register of members.

A company's register of members need not state their occupations.

52 Preparation, etc., of annual return.

- (1) A company need not make an annual return, whether under section one hundred and eight of the principal Act (which relates to companies having a share capital) or under section one hundred and nine thereof (which relates to other companies) either in the year of its incorporation or, if it is not required by this Act to hold an annual general meeting during the following year, in that year.
- (2) The date of a company's annual return under the said section one hundred and eight shall be the fourteenth day after its annual general meeting for the year, and the period within which a company's annual return under either of the said sections one hundred and eight and one hundred and nine must, by virtue of subsection (1) of section one hundred and ten of the principal Act, be completed shall be forty-two days after the said meeting, whether or not that meeting is the first or only ordinary general meeting, or the first or only general meeting, of the company in the year.
- (3) So much of the said section one hundred and ten as requires the annual return to be contained in a separate part of the register of members and applies thereto section ninety-eight of the principal Act (which relates to inspection and copies of the register of members) shall cease to have effect.

53 Contents of annual return.

- (1) A company's annual return shall—
- (a) where the register of members is, under the provisions of this Act, not kept at its registered office, state where the register is kept;
 - (b) specify all such particulars with respect to any person who at the date of the return is secretary of the company as are by this Act required to be contained with respect to the secretary in the register of the directors and secretaries of a company, and in the said sections one hundred and eight and one hundred and nine references to the particulars required by that Act to be contained with respect to directors in the said register shall be construed as referring to the particulars required by that Act and this Act to be contained therein with respect to the company's directors.
- (2) Subsection (3) of the said section one hundred and ten (under which, subject to exceptions, the annual return must include a copy of the last balance sheet and the documents required to be annexed thereto, together with the auditors' report thereon) —
- (a) shall apply to every balance sheet laid before the company in general meeting during the period to which the return relates, instead of to the last balance sheet audited by the company's auditors; and
 - (b) shall require a copy of the directors' report accompanying any such balance sheet, certified in the same way as the balance sheet, to be included in the return;
- and every reference in that subsection to a balance sheet, and not only the first reference, shall be taken as including the documents required by law to be annexed thereto.
- (3) The annual return of a company having a share capital may, in any year, if the return for either of the two immediately preceding years has given as at the date of that return the full particulars required by subsections (1) and (2) of the said section one hundred and eight as to past and present members and the shares and stock held and transferred by them, give only such of the particulars required by those subsections as relate to persons ceasing to be or becoming members since the date of the last return and to shares transferred since that date or to changes as compared with that date in the amount of stock held by a member.
- (4) In the case of a company keeping a dominion register—
- (a) references in the last foregoing subsection to the particulars required by subsections (1) and (2) of the said section one hundred and eight shall be taken as not including any such particulars contained in the dominion register, in so far as copies of the entries containing those particulars are not received at the registered office of the company before the date when the return in question is made; and
 - (b) where an annual return is made between the date when any entries are made in the dominion register and the date when copies of those entries are received at the registered office of the company, the particulars contained in those entries, so far as relevant to an annual return, shall be included in the next or a subsequent annual return as may be appropriate having regard to the particulars included in that return with respect to the company's principal register.

- (5) The annual return of a company made next after the expiry of paragraph (1) of regulation two of the Defence (Companies) Regulations, 1940, (under which the annual return of a company having a share capital need not contain any list of members, except in the case of a company's first annual return or of a private company), need not, if that paragraph applied to the annual return last made by the company, give the particulars required by subsections (1) and (2) of the said section one hundred and eight as to past members of the company or as to shares transferred.
- (6) The annual return of a company having a share capital need not in any case state the occupations of the past and present members therein mentioned.

54 Inclusion in annual return of accounts of private companies.

- (1) A private company shall not after the coming into force of this section be exempt from the obligation to include in its annual return a copy of the balance sheet and other documents required by subsection (3) of section one hundred and ten of the principal Act, unless—
 - (a) the conditions mentioned in the next following subsection are satisfied at the date of the return and have been satisfied at all times since the coming into force of this section; and
 - (b) there is sent with the return a certificate signed by the persons signing the certificates required to be so sent by section one hundred and eleven of the principal Act, that to the best of their knowledge and belief the said conditions are and have been satisfied as aforesaid:

Provided that if at any time it is shown that the said conditions are then satisfied in the case of any private company, the Board of Trade may on the application of the company's directors direct that, in relation to any subsequent annual returns of the company, it shall not be necessary for the said conditions to have been satisfied before that time, and the certificates sent with those returns shall in that event relate only to the period since that time.

- (2) The said conditions are—
 - (a) that the conditions contained in the Third Schedule to this Act are satisfied as to the persons interested in the company's shares and debentures; and
 - (b) that the number of persons holding debentures of the company is not more than fifty (joint holders being treated as a single person); and
 - (c) that no body corporate is a director of the company and neither the company nor any of the directors is party or privy to any arrangement whereby the policy of the company is capable of being determined by persons other than the directors, members and debenture holders or trustees for debenture holders.
- (3) A prosecution shall not be instituted in England in respect of any failure of a private company to comply with subsection (3) of section one hundred and ten of the principal Act except by or with the consent of the Board of Trade.
- (4) Any reference in this Act to an exempt private company shall be construed as referring to a company with respect to which the conditions mentioned in subsection (2) of this section are satisfied and have been satisfied at all times since the coming into force of this section or since the giving by the Board of Trade of a direction under the proviso to subsection (1) of this section.

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- (5) References in this section to the said conditions having been satisfied since the coming into force of this section shall, in relation to a company first registered under the principal Act after the coming into force of this section, be construed as referring to the conditions having been satisfied since the company's registration.

55 Signature of annual return, etc., and penalty for false statements.

- (1) The following documents, that is to say.—
- (a) the copy forwarded to the registrar of a company's annual return;
 - (b) the certificate as to any balance sheet included in the annual return; and
 - (c) any certificate as to the annual return of a private company;
- shall be signed both by a director and by the secretary of the company, instead of by one of the persons respectively mentioned in subsections (1) and (3) of section one hundred and ten and section one hundred and eleven of the principal Act.
- (2) Section three hundred and sixty-two of the principal Act (which penalises false statements) shall apply in relation to subsection (1) of each of the two last foregoing sections and in relation to paragraph (b) of subsection (1) and subsection (2) of section one hundred and nine and the said section one hundred and eleven of the principal Act as it applies in relation to paragraphs (n) and (o) of subsection (3) of section one hundred and eight of the principal Act.

Registered office and name.

56 Establishment of registered office.

In section ninety-two of the principal Act (which requires a company to have a registered office not later than the twenty-eighth day after its incorporation, and to give notice of the situation of and of any change in its registered office within twenty-eight days of its incorporation or of the change) for the words " twenty-eighth " and " twenty-eight " there shall respectively be substituted the words " fourteenth " and " fourteen ".

57 Amendments as to publication of name.

Section ninety-three of the principal Act (which relates to the publication by a company of its name) shall have effect as if it had been enacted with—

- (a) in paragraph (c) of subsection (1) thereof, the words " in all business letters of the company and in all notices and other official publications of the company " for the words " in all notices, advertisements and other official publications of the company "; and
- (b) in paragraph (b) of subsection (4) thereof, the words " any business letter of the company or any notice or other official publication of the company " for the words " any notice, advertisement, or other official publication of the company."

58 Extension of Registration of Business Names Act, 1916, to companies.

- (1) In section one of the Registration of Business Names Act, 1916 (which requires registration under that Act of all individuals and firms carrying on business under

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a business name), there shall be inserted after paragraph (c) thereof the following paragraph:—

“(d) every company as defined in the Companies Act, 1929, carrying on business under a business name which does not consist of its corporate name without any addition;”.

- (2) Subsection (1) of section three (which "relates to the particulars to be registered), and the proviso to section five (which relates to the time for registration), of the first-mentioned Act shall apply in relation to registration by virtue of this section as if references therein to the passing of that Act were references to the coming into force of this section.
- (3) Section thirteen of that Act (which relates to the removal of names from the register where a firm or individual ceases to carry on business) shall apply in relation to a company registered under that Act by virtue of this section, which ceases to carry on business in such circumstances as to require registration thereunder, as it applies in relation to a firm which ceases to carry on business, but with the substitution for the reference to the partners in the firm of a reference to the directors and any liquidator of the company.

PART II

SHARE CAPITAL AND DEBENTURES.

Allotment.

59 Applications for, and allotment of, shares and debentures.

- (1) No allotment shall be made of any shares in or debentures of a company in pursuance of a prospectus issued generally (that is to say issued to persons who are not existing members or debenture holders of the company), and no proceedings shall be taken on applications made in pursuance of a prospectus so issued, until the beginning of the third day after that on which the prospectus is first so issued or such later time (if any) as may be specified in the prospectus.

The beginning of the said third day or such later time as aforesaid is hereafter in this Act referred to as " the time of the opening of the subscription lists ".

- (2) In the foregoing subsection, the reference to the day on which the prospectus is first issued generally shall be construed as referring to the day on which it is first so issued as a newspaper advertisement:

Provided that, if it is not so issued as a newspaper advertisement before the third day after that on which it is first so issued in any other manner, the said reference shall be construed as referring to the day on which it is first so issued in any manner.

- (3) The validity of an allotment shall not be affected by any contravention of the foregoing provisions of this section but, in the event of any such contravention, the company and every officer of the company who is in default shall be liable to a fine not exceeding five, hundred pounds.
- (4) In the application of this section to a prospectus offering shares or debentures for sale, the foregoing subsections shall have effect with the substitution of references to sale

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for references to allotment, and with the substitution for the reference to the company and every officer of the company who is in default of a reference to any person by or through whom the offer is made and who knowingly and wilfully authorises or permits the contravention.

- (5) An application for shares in or debentures of a company which is made in pursuance of a prospectus issued generally shall not be revocable until after the expiration of the third day after the time of the opening of the subscription lists, or the giving before the expiration of the said third day, by some person responsible under section thirty-seven of the principal Act for the prospectus, of a public notice having the effect under that section of excluding or limiting the responsibility of the person giving it.
- (6) In reckoning for the purposes of this and the next succeeding section the third day after another day, any intervening day which is a Saturday or Sunday or which is a bank holiday in any part of Great Britain shall be disregarded, and if the third day (as so reckoned) is itself a Saturday or Sunday or, such a bank holiday there shall for the said purposes be substituted the first day thereafter which is none of them.

60 Allotment of shares and debentures to be dealt in on stock exchange.

- (1) Where a prospectus, whether issued generally or not, states that application has been or will be made for permission for the shares or debentures offered thereby to be dealt in on any stock exchange, any allotment made on an application in pursuance of the prospectus shall, whenever made, be void if the permission has not been applied for before the third day after the first issue of the prospectus or if the permission has been refused before the expiration of three weeks from the date of the closing of the subscription lists or such longer period not exceeding six weeks as may, within the said three weeks, be notified to the applicant for permission by or on behalf of the stock exchange.
- (2) Where the permission has not been applied for as aforesaid, or has been refused as aforesaid, the company shall forthwith repay without interest all money received from applicants in pursuance of the prospectus, and, if any such money is not repaid within eight days after the company becomes liable to repay it, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of five per cent. per annum from the expiration of the eighth day:

Provided that a director shall not be liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

- (3) All money received as aforesaid shall be kept in a separate bank account so long as the company may become liable to repay it under the last foregoing subsection; and, if 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 five hundred pounds.
- (4) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section shall be void.
- (5) Section ninety-four of the principal Act shall have effect as if in subsection (1) thereof (which restricts the right of a company to commence business or exercise borrowing powers in cases where the company has issued a prospectus inviting the public to subscribe for its shares) there were inserted after paragraph (b) thereof the following paragraph:—

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- “(bb) no money is or may become liable to be repaid to applicants for any shares or debentures which have been offered for public subscription by reason of any failure to apply for or obtain permission for the shares or debentures to be dealt in on any stock exchange and”.
- (6) For the purposes of this section, permission shall not be deemed to be refused if it is intimated that the application for it, though not at present granted, will be given further consideration.
- (7) This section shall have effect—
- (a) in relation to any shares or debentures agreed to be taken by a person underwriting an offer thereof by a prospectus as if he had applied therefor in pursuance of the prospectus; and
 - (b) in relation to a prospectus offering shares for sale with the following modifications, that is to say—
 - (i) references to sale shall be substituted for references to allotment;
 - (ii) the persons by whom the offer is made, and not the company, shall be liable under subsection (2) to repay money received from applicants, and references to the company's liability under that subsection shall be construed accordingly; and
 - (iii) for the reference in subsection (3) to the company and every officer of the company who is in default there shall be substituted a reference to any person by or through whom the offer is made and who knowingly and wilfully authorises or permits the default.

Prospectus.

61 Facts to be stated in prospectus to which s. 35 of principal Act applies.

- (1) The matters required by section thirty-five of the principal Act together with Part I of the Fourth Schedule thereto to be stated in any prospectus issued generally shall not include the contents of the company's memorandum or the other particulars specified in paragraph 1 of the said Part I, but shall include—
- (a) the time of the opening of the subscription lists;
 - (b) the number, description and amount of any shares in or debentures of the company which any person has, or is entitled to be given, an option to subscribe for, together with the following particulars of the option, that is to say—
 - (i) the period during which it is exercisable;
 - (ii) the price to be paid for shares or debentures subscribed for under it;
 - (iii) the consideration (if any) given or to be given for it or for the right to it;
 - (iv) the names and addresses of the persons to whom it or the right to it was given or, if given to existing shareholders or debenture holders as such, the relevant shares or debentures;and references in this paragraph to subscribing for shares or debentures shall include acquiring them from a person to whom they have been allotted or "agreed to be allotted with a view to his offering them for sale;
 - (c) as respects any such property purchased or acquired, or proposed to be purchased or acquired, by the company as is mentioned in paragraph 8 of

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the said Part I, short particulars of any transaction relating to that property completed within the two preceding years in which any vendor of the property to the company or any person who is, or was at the time of the transaction, a promoter or a director or proposed director of the company had any interest direct or indirect;

- (d) the amount or estimated amount of the expenses of the issue and the persons by whom any preliminary expenses stated in pursuance of paragraph ii of the said Part I or any expenses of the issue stated in pursuance of this paragraph have been paid or are payable;
 - (e) any benefit given within the two preceding years or intended to be given to any promoter and not required to be stated by paragraph 12 of the said Part I, and the consideration for the giving of any such benefit;
 - (f) the general nature of all contracts required to be stated by paragraph 13 of the said Part I.
- (2) The said paragraph 8 shall not apply to any property if—
- (a) the contract for its purchase or acquisition was entered into in the ordinary course of the company's business, the contract not being made in contemplation of the issue nor the issue in consequence of the contract; or
 - (b) the amount of the purchase money is not material;
- and in paragraph 9 of Part I of the said Fourth Schedule the expression " any such property as aforesaid " shall be construed accordingly.
- (3) The requirements of the said paragraph 13 as to the inspection of the contracts referred to in that paragraph shall cease to have effect.
- (4) In paragraph (c) of subsection (1) of this section, the expression " vendor " in relation to any property has the same meaning as it has in relation thereto in the said paragraph 8 by virtue of paragraphs 2, 3 and 4 of Part III of the said Fourth Schedule; but the operation of the said paragraph (c) shall not be limited by paragraph of the said Part III (which excludes, in the case of a prospectus issued more than two years after the company is entitled to commence business, the operation of the provisions of that Schedule relating, among other things, to the interest of directors).

62 Reports to be set out in prospectus to which s. 35 of the principal Act applies.

- (1) Part II of the said Fourth Schedule to the principal Act (which specifies the reports as to the finances of the company and of any business proposed to be purchased which are to be set out in any prospectus issued generally) and, so far as it relates to the said Part II, Part III of that Schedule shall have effect with the amendments for which provision is made by this section.
- (2) The said reports shall be required to relate to five, instead of three, years and accordingly—
 - (a) for the word " three ", wherever used in the expression " three financial years " or in the expression " three years " in the said Part II and in paragraph 5 of the said Part III there shall be substituted the word " five ";
 - (b) in the said paragraph 5 immediately before the words " two years or one year " in both places where those words occur there shall be inserted the words " four years, three years ".
- (3) The report by the auditors of the company required by paragraph 1 of the said Part II shall relate to the assets and liabilities of the company at the last date to which the

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accounts of the company were made up as well as to profits and dividends as provided by that paragraph, and the report by accountants required by paragraph 2 thereof shall relate to the assets and liabilities of the business to be purchased at the last date to which the accounts of the business were made up as well as to profits as provided by that paragraph; and references in those paragraphs to profits, shall be construed as referring to profits or losses, as the case may be.

- (4) Where the company has subsidiaries, the said auditors' report shall be required—
- (a) in addition to dealing separately with the company's profits or losses, to deal either—
 - (i) as a whole with the combined profits or losses of its subsidiaries, so far as they concern members of the company; or
 - (ii) individually with the profits or losses of each subsidiary, so far as they concern members of the company;or, instead of dealing separately with the company's profits or losses, to deal as a whole with the profits or losses of the company and, so far as they concern members of the company, with the combined profits or losses of its subsidiaries; and
 - (b) in addition to dealing separately with the company's assets and liabilities, to deal either—
 - (i) as a whole with the combined assets and liabilities of its subsidiaries, with or without the company's assets and liabilities; or
 - (ii) individually with the assets and liabilities of each subsidiary;and to indicate as respects the assets and liabilities of the subsidiaries the allowance to be made for persons other than the members of the company.
- (5) If—
- (a) the proceeds, or any part of the proceeds, of the issue of the shares or debentures are or is to be applied directly ' or indirectly in any manner resulting in the acquisition by the company of shares in any other body corporate; and
 - (b) by reason of that acquisition or anything to be done in consequence thereof or in connection therewith that body corporate will become a subsidiary of the company;

paragraph 2 of the said Part II shall apply as if the said proceeds were to be applied in the purchase of the business of the body corporate; and a report set out in the prospectus by virtue of this subsection—

- (i) shall indicate how the profits or losses of the other body corporate dealt with by the report would, in respect of the shares to be acquired, have concerned members of the company and what allowance would have fallen to be made, in relation to assets and liabilities so dealt with, for holders of other shares, if the company had at all material times held the shares to be acquired; and
 - (ii) where the other body corporate has subsidiaries, shall deal with, the profits or' losses and the assets and liabilities of the body corporate and its subsidiaries in manner provided by the last foregoing subsection in relation to the company and its subsidiaries.
- (6) Any report by accountants required by the said paragraph 2 shall be made by accountants qualified under this Act for appointment as auditors of a company which is not an exempt private company as defined in subsection (4) of section fifty-four of this Act and. shall not be made by any accountant who is an officer or servant, or a partner of or in the employment of an officer or servant, of the company or of

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the company's subsidiary or holding company or of a subsidiary of the company's holding company; and for the purposes of this subsection the expression " officer " shall include a proposed director but not an auditor.

- (7) Any report required by the said Part II shall either indicate by way of note any adjustments as respects the figures of any profits or losses or assets and liabilities dealt with by the report which appear to the persons making the report necessary or shall make those adjustments and indicate that adjustments have been made.

63 Issue and registration of prospectus.

- (1) A prospectus inviting persons to subscribe for shares in or debentures of a company and including a statement purporting to be made by an expert shall not be issued unless—

- (a) he has given and has not, before delivery of a copy of the prospectus for registration, withdrawn his written consent to the issue thereof with the statement included in the form and context in which it is included; and
- (b) a statement that he has given and has not withdrawn his consent as aforesaid appears in the prospectus;

and if any prospectus is issued in contravention of this subsection, the company and every person who is knowingly a party to the issue thereof shall be liable to a fine not exceeding five hundred pounds.

- (2) No prospectus issued by or on behalf of a company or in relation to an intended company shall be issued unless the copy thereof delivered for registration under section thirty-four of the principal Act has endorsed thereon or attached thereto—

- (a) any consent to the issue of the prospectus required by this section from any person as an expert; and
- (b) in the case of a prospectus issued generally, also—
 - (i) a copy of any contract required by paragraph 13 of Part I of the Fourth Schedule to the principal Act to be stated in the prospectus or, in the case of a contract not reduced into writing, a memorandum giving full particulars thereof; and
 - (ii) where the persons making any report required by Part II of that Schedule have made therein, or have without giving the reasons indicated therein, any such adjustments as are mentioned in the provisions of this Act relating to such reports, a written statement signed by those persons setting out the adjustments and giving the reasons therefor.

- (3) Where any such contract as is mentioned in the last foregoing subsection is wholly or partly in a foreign language, the reference in that subsection to a copy of the contract shall be taken as a reference to a copy of a translation thereof in English or a copy embodying a translation in English of the parts in a foreign language, as the case may be, being a translation certified in the prescribed manner to be a correct translation.
- (4) The statement required by subsection (4) of the said section thirty-four to appear on the face of the prospectus, that a copy has been delivered for registration, shall also specify, or refer to statements included in the prospectus which specify, any documents required by this section to be endorsed on or attached to that copy, and the registrar shall not register any prospectus unless it has endorsed thereon or attached thereto the documents (if any) so specified.

- (5) Failure to endorse on or attach to the copy of any prospectus delivered for registration under the said section thirty-four any document required by this section to be so endorsed or attached shall be punishable in the same manner as failure to deliver a copy of the prospectus is punishable under that section, and accordingly in subsection (5) thereof—
- (a) after the words " without a copy thereof being so delivered " there shall be inserted the words " or without the copy so delivered having endorsed thereon or attached thereto the required documents "; and
 - (b) after the words " until a copy thereof is so delivered " there shall be inserted the words " with the required documents endorsed thereon or attached thereto. "
- (6) The right under subsection (1) of section three hundred and fourteen of the principal Act of inspecting, or of requiring copies or extracts of, documents kept by the registrar of companies shall in relation to documents registered by virtue of sub-paragraph (i) of paragraph (b) of subsection (2) of this section be exercisable only—
- (a) during the fourteen days beginning with the date of publication of the prospectus; or
 - (b) with the permission of the Board of Trade.

64 Exclusion of s. 35 and relaxation of Fourth Schedule in case of certain prospectuses.

- (1) Section thirty-five of the principal Act shall not apply to the issue of a prospectus or form of application relating to shares or debentures which are or are to be in all respects uniform with shares or debentures previously issued and for the time being dealt in or quoted on a prescribed stock exchange.
- (2) Where—
- (a) it is proposed to offer any shares in or debentures of a company to the public by a prospectus issued generally; and
 - (b) application is made to a prescribed stock exchange for permission for those shares or debentures to be dealt in or quoted on that stock exchange;
- there may on the request of the applicant be given by or on behalf of that stock exchange a certificate of exemption, that is to say, a certificate that, having regard to the proposals (as stated in the request) as to the size and other circumstances of the issue of shares or debentures and as to any limitations on the number and class of persons to whom the offer is to be made, compliance with the requirements of the Fourth Schedule to the principal Act would be unduly burdensome.
- (3) If a certificate of exemption is given, and if the proposals aforesaid are adhered to and the particulars and information required to be published in connection with the application for permission made to the stock exchange are so published, then—
- (a) a prospectus giving the particulars and information aforesaid in the form in which they are so required to be published shall be deemed to comply with the requirements of the Fourth Schedule to the principal Act; and
 - (b) section thirty-five of the principal Act shall not apply to any issue, after the permission applied for is granted, ' of a prospectus or form of application relating to the shares or debentures;

and the section of this Act relating to applications for and allotment of shares and debentures in pursuance of a prospectus issued generally shall not apply in relation to a prospectus to which either paragraph of this subsection applies.

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- (4) Where a prospectus is deemed by virtue of a certificate of exemption to comply with the said requirements, the provisions of this Act relating to the registration and inspection of a copy or memorandum of any contract required by the Fourth Schedule to the principal Act to be stated in the prospectus shall apply in relation to any contract which, or a copy or memorandum of which, is required to be available for inspection in connection with the application for permission made to the stock exchange.

References in this subsection to a copy of a contract include references to a copy of a translation thereof or a copy embodying a translation of parts thereof.

65 Civil liability for mis-statements in prospectus.

- (1) Where under the last but one foregoing section the consent of any person is required to the issue of a prospectus, and he has given that consent—
- (a) he shall not, by reason of his having given it, be liable as a person who has authorised the issue of the prospectus either—
 - (i) under subsection (1) of section thirty-seven of the principal Act to compensate persons subscribing on the faith of the prospectus, except in respect of any untrue statement purporting to be made by him as an expert; or
 - (ii) under subsection (2) of that section to indemnify any person against liability under the said subsection (1); but
 - (b) in respect of any untrue statement purporting to be made by him as an expert, he shall be liable under the said subsection (1), unless one of the following things (which shall in his case be in lieu of the grounds of defence available to others by virtue of paragraphs (i) to (iv) of the said subsection (1)) is proved, namely—
 - (i) that having given his consent as aforesaid he withdrew it in writing before delivery of a copy of the prospectus for registration; or
 - (ii) that after delivery of a copy of the prospectus for registration and before allotment thereunder, he, on becoming aware of the untrue statement, withdrew his consent in writing and gave reasonable public notice of the withdrawal, and of the reason therefor; or
 - (iii) that he was competent to make the statement and that he had reasonable ground to believe and did up to the time of the allotment of the shares or debentures, as the case may be, believe that the statement was true.
- (2) Where under the last but one foregoing section the consent of any person is required to the issue of a prospectus, and he either has not given that consent or has withdrawn it before the issue of the prospectus, he shall be entitled to indemnity under subsection (2) Of the said section thirty-seven as if he had without his consent been named in the prospectus as a director of the company.
- (3) A person otherwise liable under the said section thirty-seven for an untrue statement included in a prospectus shall not be entitled to rely on the ground of defence made available by paragraph (iv)(b) of subsection (1) thereof (which entitles the defendant to rely on the statement being that of an expert) unless it is proved, in addition to the matters required to be proved by that paragraph, that—
- (a) the defendant had reasonable ground to believe and did up to the time of the issue of the prospectus believe that the person making the statement was competent to make it; and

- (b) that person had given the consent required by this Act to the issue of the prospectus and had not withdrawn that consent before delivery of a copy of the prospectus for registration or, to the defendant's knowledge, before allotment thereunder;

and accordingly the proviso to the said subsection (1) (which takes away the benefit of the said paragraph (iv)(b) from a defendant where the contrary of paragraph (a) of this subsection is proved against him) shall cease to have effect.

- (4) The right to recover contribution in respect of untrue statements included in any prospectus issued after the coming into force of this section shall be that conferred by Part II of the Law Reform (Married Women and Tortfeasors) Act, 1935, or in Scotland by section three of the Law Reform (Miscellaneous Provisions) (Scotland) Act, 1940, and not that conferred by subsection (3) of section thirty-seven of the principal Act.

66 Criminal liability for mis-statements in prospectus.

- (1) Where a prospectus issued after the coming into force of this section includes any untrue statement, any person who authorised the issue of the prospectus shall be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine not exceeding five hundred pounds, or both; or
 - (b) on summary conviction, to imprisonment for a term not exceeding three months, or a fine not exceeding one hundred pounds, or both;unless he proves either that the statement was immaterial or that he had reasonable ground to believe and did up to the time of the issue of the prospectus believe that the statement was true.
- (2) A person shall not be deemed for the purposes of this section to have authorised the issue of a prospectus by reason only of his having given the consent required by this Act to the inclusion therein of a statement purporting to be made by him as an expert.

67 Statements in lieu of prospectus.

- (1) In subsection (1) of section twenty-seven of the principal Act (which requires a company ceasing to be a private company to deliver to the registrar of companies a prospectus or a statement in lieu of prospectus complying with the Third Schedule to that Act) the words " a prospectus or " shall cease to have effect; but a statement in lieu of prospectus need not be delivered under that subsection if within the period allowed for its delivery a prospectus relating to the company which complies, or is deemed to comply by virtue of a certificate of exemption under this Act, with the Fourth Schedule to the principal Act is issued and is delivered to the registrar of companies as required by section thirty-four of that Act.
- (2) A statement in lieu of prospectus delivered to the registrar of companies under the principal Act—
 - (a) where, in the case of a statement delivered under the said section twenty-seven, unissued shares or debentures of the company—
 - (i) are to be applied in the purchase of a business; or
 - (ii) are to be applied directly or indirectly in any manner resulting in the acquisition of shares in a body corporate which by reason of the acquisition or anything to be done in consequence thereof or in connection therewith will become a subsidiary of the company; or

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- (b) where, in the case of a statement delivered under section forty of the principal Act (which relates to companies allotting shares or debentures without having issued a prospectus on their formation or without having proceeded to allot the shares offered by any prospectus so issued), it is proposed to acquire a business or shares in such a body corporate as aforesaid;

shall set out the like reports as would be required by paragraph 2 of Part II of the Fourth Schedule to the principal Act, if the statement were a prospectus issued on the date on which the statement is delivered to the registrar and if the said paragraph 2 applied to it and to the purchase or acquisition.

So much of the Third and Fifth Schedules to the principal Act as requires a statement in lieu of prospectus to contain particulars with respect to businesses to be purchased or acquired shall cease to have effect.

- (3) Every statement in lieu of a prospectus which is delivered as aforesaid shall, if it sets out any such report as aforesaid, have endorsed thereon or attached thereto the like statement by the persons making the report as to the adjustments (if any) made or indicated therein as is required by this Act to be endorsed on or attached to the copy of a prospectus delivered for registration under section thirty-four of the principal Act.
- (4) In the said Third and Fifth Schedules to the principal Act there shall be made the amendments shown in the Fourth Schedule to this Act, being amendments corresponding to certain of those made by the foregoing provisions of this Act in Part I of the Fourth Schedule to the principal Act.
- (5) Where a statement in lieu of a prospectus delivered to the registrar of companies under the said subsection (1) of section twenty-seven or the said subsection (1) of section forty includes any untrue statement, the last foregoing section shall apply in relation thereto as if references therein to its being issued were references to its being delivered for registration.
- (6) Subsection (2) of the said section twenty-seven and subsection (3) of the said section forty (which penalise contraventions of those sections) shall apply in relation to subsections (2) and (3) of this section as they apply in relation to the provisions respectively mentioned therein.
- (7) Section three hundred and sixty-two of the principal Act (which penalises false statements in certain documents) shall apply in relation to the said section twenty-seven as it applies in relation to the said section forty.

68 Interpretation of provisions relating to prospectuses, etc.

- (1) In the principal Act and this Act, any reference to offering shares or debentures to the public shall, subject to any provision to the contrary contained therein, be construed as including a reference to offering them to any section of the public, whether selected as members or debenture holders of the company concerned or as clients of the person issuing the prospectus or in any other manner, and references in the principal Act or this Act, or in a company's articles, to invitations to the public to subscribe for shares or debentures shall, subject as aforesaid, be similarly construed.
- (2) The foregoing subsection shall not be taken as requiring any offer or invitation to be treated as made to the public if it can properly be regarded, in all the circumstances, as not being calculated to result, directly or indirectly, in the shares or debentures becoming available for subscription or purchase by persons other than those receiving

the offer or invitation, or otherwise as being a domestic concern of the persons making and receiving it, and in particular—

- (a) a provision in a company's articles prohibiting invitations to the public to subscribe for shares or debentures shall not be taken as prohibiting the making to members or debenture holders of an invitation which can properly be regarded as aforesaid; and
 - (b) the provisions of the principal Act relating to private companies shall be construed accordingly.
- (3) For the purpose of the provisions of the principal Act and this Act relating to prospectuses, a statement included in a prospectus shall be deemed to be untrue if it is misleading in the form and context in which it is included.
- (4) For the purposes of the provisions of this Act relating to prospectuses—
- (a) the expression " expert " has the same meaning as in section thirty-seven of the principal Act; and
 - (b) a statement shall be deemed to be included in a prospectus or statement in lieu of prospectus if it is contained therein or in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.

Other provisions as to shares and debentures.

69 Numbering of shares.

- (1) If at any time all the issued shares in a company, or all the issued shares therein of a particular class, are fully paid up and rank *pari passu* for all purposes, none of those shares need thereafter have a distinguishing number (as required by subsection (2) of section sixty-two of the principal Act) so long as it remains fully paid up and ranks *pari passu* for all purposes with all shares of the same class for the time being issued and fully paid up.
- (2) Accordingly in subsection (1) of section ninety-five and subsection (1) of section ninety-seven of the principal Act (which relate to the particulars to be entered in the register of members as to registered and bearer shares respectively) after the words " distinguishing each share by its number," there shall be inserted the words " so long as the share has a number. "

70 Certification of transfers.

- (1) The certification by a company of any instrument of transfer of shares in or debentures of the company shall be taken as a representation by the company to any person acting on the faith of the certification that there have been produced to the company such documents as on the face of them show a *prima facie* title to the shares or debentures in the transferor named in the instrument of transfer, but not as a representation that the transferor has any title to the shares or debentures.
- (2) Where any person acts on the faith of a false certification by a company made negligently, the company shall be under the same liability to him as if the certification had been made fraudulently.
- (3) For the purposes of this section—

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- (a) an instrument of transfer shall be deemed to be certificated if it bears the words " certificate lodged " or words to the like effect;
- (b) the certification of an instrument of transfer shall be deemed to be made by a company if—
 - (i) the person issuing, the instrument is a person authorised to issue certificated instruments of transfer on the company's behalf; and
 - (ii) the certification is signed by a person authorised to certificate transfers on the company's behalf or by any officer or servant either of the company or of a body corporate so authorised;
- (c) a certification shall be deemed to be signed by any person if—
 - (i) it purports to be authenticated by his signature or initials (whether handwritten or not); and
 - (ii) it is not shown that the signature or initials was or were placed there neither by himself nor by any person authorised to use the signature or initials for the purpose of certificating transfers on the company's behalf.

71 Redeemable preference shares.

- (1) Where a company redeems any redeemable preference shares otherwise than out of the proceeds of a fresh issue, the amount which is under proviso (c) to subsection (1) of section forty-six of the principal Act to be transferred to the capital redemption reserve fund out of profits otherwise available for dividend shall be a sum equal to the nominal amount of the shares redeemed, instead of to the amount applied in redeeming the shares; and accordingly proviso (d) to that subsection (which requires the premium, if any, payable on redemption to be provided for out of the profits of the company) shall apply not only where the shares are redeemed out of the proceeds of a fresh issue, but in all cases.
- (2) The redemption of any redeemable preference shares shall not be taken as reducing the amount of a company's authorised share capital.
- (3) For the requirement contained in—
 - (a) subsection (2) of the said section forty-six;
 - (b) the Third Schedule to the principal Act (which relates to the statement in lieu of prospectus to be delivered by a private company becoming a public company); and
 - (c) the Fifth Schedule to the principal Act (which relates to the statement in lieu of prospectus to be delivered by a company not issuing a prospectus);
 that there shall be stated the date on or before which any redeemable preference shares issued by the company are, or are to be liable, to be redeemed there shall be substituted a requirement that there shall be stated the earliest date on which the company has power to redeem the shares.
- (4) The power conferred by subsection (5) of the said section forty-six to apply the capital redemption reserve fund in paying up unissued shares of the company to be issued as bonus shares shall be exercisable whether or not new shares have been issued in pursuance of subsection (4) of that section and shall not be limited by reference to the amount of any shares issued in pursuance of that subsection.

72 Application of premiums received on issue of shares.

- (1) Where a company issues shares at a premium, whether for cash or otherwise, a sum equal to the aggregate amount or value of the premiums on those shares shall be transferred to an account, to be called " the share premium account ", and the provisions of the principal Act relating to the reduction of the share capital of a company shall, except as provided in this section, apply as if the share premium account were paid up share capital of the company.
- (2) The amount of the share premium account shall be shown in every balance sheet of the company.
- (3) The share premium account may, notwithstanding anything in subsection (1) of this section, be applied by the company in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares, in writing off—
 - (a) the preliminary expenses of the company;
 - (b) the expenses of, or the commission paid or discount allowed on, any issue of shares or debentures of the company;or in providing for the premium payable on redemption of any redeemable preference shares or of any debentures of the company.
- (4) Accordingly in proviso (d) to subsection (1) of section forty-six of the principal Act (which requires the premium, if any, payable on redemption of redeemable preference shares to be provided for out of the profits of the company) after the words " the profits of the company " there shall be inserted the words " or out of the company's share premium account/"
- (5) Where a company has before the coming into force of this section issued any shares at a premium, this section shall apply as if the shares had been issued after the coming into force thereof:

Provided that any part of the premiums which has been so applied that it does not at the coming into force of this section form an identifiable part of the company's reserves within the meaning of the First Schedule to this Act shall be disregarded in determining the sum to be included in the share premium account.

73 Amendment of s. 45 of principal Act.

- (1) Section forty-five of the principal Act (which prohibits the provision of financial assistance by a company for the purchase of its own shares) shall apply to shares in a company's holding company as it applies to shares in the company itself.
- (2) The said section forty-five shall also apply in relation to a subscription for shares in a company or its holding company as it applies in relation to a purchase of such shares.

74 Register of debenture holders.

- (1) The provisions of the principal Act and this Act as to the place where the register of members is to be kept including those relating to giving information to the registrar and in the annual return of the place where it is kept shall apply also to any register of holders of debentures of a company which is kept in Great Britain, including a duplicate kept in Great Britain of any such register or part of any such register which is kept outside Great Britain and for the purposes of the said provisions, where part of any such register is kept in and part outside Great Britain, the part kept in Great

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Britain shall be treated as the company's principal register and the part kept outside shall be treated as a dominion register.

- (2) Any person shall have the same right under section seventy-three of the principal Act to inspect any register of holders of debentures of a company and receive a copy of the register or any part thereof as a registered holder of the debentures or a holder of shares in the company has, except that a person who is neither a registered holder of the debentures nor a holder of shares in the company shall only be entitled to make an inspection of the register on payment of a fee of one shilling or such less sum as may be prescribed by the company.

75 Liability of trustees for debenture holders.

- (1) Subject to the following provisions of this section, any provision contained in a trust deed for securing an issue of debentures, or in any contract with the holders of debentures secured by a trust deed, shall be void in so far as it would have the effect of exempting a trustee thereof from or indemnifying him against liability for breach of trust where he fails to show the degree of care and diligence required of him as trustee, having regard to the provisions of the trust deed conferring on him any powers, authorities, or discretions.
- (2) The foregoing subsection shall not invalidate—
- (a) any release otherwise validly given in respect of anything done or omitted to be done by a trustee before the giving of the release; or
 - (b) any provision enabling such a release to be given—
 - (i) on the agreement thereto of a majority of not less than three-fourths in value of the debenture holders present and voting in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose; and
 - (ii) either with respect to specific acts or omissions or on the trustee dying or ceasing to act.
- (3) Subsection (1) of this section shall not operate—
- (a) to invalidate any provision in force at the coming into force of this section so long as any person then entitled to the benefit of that provision or afterwards given the benefit thereof under the next following subsection remains a trustee of the deed in question; or
 - (b) to deprive any person of any exemption or right to be indemnified in respect of anything done or omitted to be done by him while any such provision was in force.
- (4) While any trustee of a trust deed remains entitled to the benefit of a provision saved by the last foregoing subsection, the benefit of that provision may be given either—
- (a) to all trustees of the deed, present and future; or
 - (b) to any named trustees or proposed trustees thereof;
- by a resolution passed by a majority of not less than three-fourths in value of the debenture holders present in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose in accordance with the provisions of the deed or, if the deed makes no provision for summoning meetings, a meeting summoned for the purpose in any manner approved by the court.

PART III

CONSTITUTION OF COMPANIES AND MATTERS INCIDENTAL THERETO.

76 Alteration of company's objects.

- (1) A resolution under section five of the principal Act passed after the coming into force of this section for altering the provisions of a company's memorandum with respect to the objects of the company shall not require confirmation by the court, unless an application is made to the court in accordance with this section for the alteration to be cancelled.
- (2) If an application is so made, the alteration shall not have effect except in so far as it is confirmed by the court.
- (3) An application under this section may be made—
 - (a) by the holders of not less in the aggregate than fifteen per cent. in nominal value of the company's issued share capital or any class thereof or, if the company is not limited by shares not less than fifteen per cent. of the company's members; or
 - (b) by the holders of not less than fifteen per cent. of the company's debentures entitling the holders to object to alterations of its objects:

Provided that an application shall not be made by any person who has consented to or voted in favour of the alteration.

- (4) An application under this section must be made within twenty-one days after the date on which the resolution altering the company's objects was passed, and may be made on behalf of the persons entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.
- (5) On an application under this section the court may make an order confirming the alteration either wholly or in part and on such terms and conditions as it thinks fit, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the court for the purchase of the interests of dissentient members, and may give such directions and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement:

Provided that no part of the capital of the company shall be expended in any such purchase.

- (6) The debentures entitling the holders to object to alterations of a company's objects shall be any debentures secured by a floating charge which were issued or first issued before the coming into force of this section or form part of the same series as any debentures so issued, and a special resolution altering a company's objects shall require the same notice to the holders of any such debentures as to members " of the company.

In default of any provisions regulating the giving of notice to any such debenture holders, the provisions of the company's articles regulating the giving of notice to members shall apply.

- (7) In the case of a company which is, by virtue of a licence from the Board of Trade, exempt from the obligation to use the word " Limited " as part of its name, a resolution altering the company's objects shall also require the same notice to the Board of Trade as to members of the company, and where such a company alters its objects the Board

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may (unless they see fit to revoke the licence) vary the licence by making it subject to such Conditions and regulations as the Board think fit, in lieu of or in addition to the conditions and regulations (if any) to which the licence was formerly subject.

- (8) Where a company passes a resolution altering its objects—
- (a) if no application is made with respect thereto under this section, it shall within fifteen days from the end of the period for making such an application deliver to the registrar of companies a printed copy of its memorandum as altered; and
 - (b) if such an application is made it shall—
 - (i) forthwith give notice of that fact to the registrar; and
 - (ii) within fifteen days from the date of any order cancelling or confirming the alteration, deliver to the registrar an office copy of the order and, in the case of an order confirming the alteration, a printed copy of the memorandum as altered.

The court may by order at any time extend the time for the delivery of documents to the registrar under paragraph (b) of this subsection for such period as the court may think proper.

- (9) If a company makes default in giving notice or delivering any document to the registrar of companies as required by the last foregoing subsection, the company and every officer of the company who is in default shall be liable to a default fine of ten pounds.
- (10) Where a resolution purporting to alter the provisions of a company's memorandum with respect to the objects of the company is passed after the coming into force of this section, the validity of the alteration shall not be questioned on the ground that it was not authorised by subsection (1) of section five of the principal Act, except in proceedings taken for the purpose (whether under this section or otherwise) before the expiration of twenty-one days after the date of the resolution; and where any such proceedings are taken otherwise than under this section the two last foregoing subsections shall apply in relation thereto as if they had been taken under this section and as if an order declaring the alteration invalid were an order cancelling it and as if an order dismissing the proceedings were an order confirming the alteration.

77 Additional power to alter memorandum.

- (1) Notwithstanding anything in section four of the principal Act (which prohibits the alteration, except in accordance with that Act, of the conditions contained in a company's memorandum), any condition so contained which could lawfully have been contained in articles of association instead of in the memorandum may, subject to the provisions of this section, be altered by the company by special resolution.
- (2) This section shall not apply where the memorandum itself provides for or prohibits the alteration of all or any of the said conditions, and shall not authorise any variation or abrogation of the special rights of any class of members.
- (3) An application may be made to the court for any alteration made by virtue of this section in the conditions of a company's memorandum to be cancelled, and in relation to any such alteration and to any application made under this section subsection (2), subsection (3) (except paragraph (b)) and subsections (4), (5), (8) and (9) of section seventy-six of this Act shall apply as they apply in relation to alterations of a company's objects and to applications made under that section.

- (4) This section shall have effect subject to the provisions of section nine of this Act and of section twenty-two of the principal Act (which provides that certain alterations of a company's memorandum or articles imposing a liability on members shall not bind existing members without their consent).
- (5) This section shall apply to a company's memorandum whether registered before or after the section comes into force.

78 Prohibition of registration of companies by undesirable names.

- (1) No company shall be registered by a name which in the opinion of the Board of Trade is undesirable.
- (2) For subsection (2) of section nineteen of the principal Act (which authorises a company to change its name if the name is identical with that by which a company in existence is previously registered or so closely resembles it as to be calculated to deceive) there shall be substituted the following subsection:—

“(2) If, through inadvertence or otherwise, a company on its first registration or on its registration by a new name is registered by a name which in the opinion of the Board of Trade is too like the _ name by which a company in existence is previously registered, the first mentioned company may change its name with the sanction of the Board and, if they so direct within six months of its being registered by that name, shall change it within a period of six weeks from the date of the direction or such longer period as the Board may think fit to

If a company makes default in complying with a direction under this subsection, it shall be liable to a fine not exceeding five pounds for every day during which the default continues.”

- (3) Where the name of a company seeking registration in pursuance of Part IX of the principal Act (which relates to the registration under that Act of companies not formed thereunder) is one by which it may not be so registered by reason of the name being in the opinion of the Board of Trade undesirable, it may, with the approval of the Board of Trade signified in writing, change its name with effect from its registration as aforesaid:

Provided that the like assent of the members of the company, shall be required to the change as is by section three hundred and twenty-one of the principal Act required to the registration under that Act.

- (4) Section seventeen of the principal Act (which contains specific provisions as to the use of particular phrases in a company's name), shall cease to have effect.

79 Extension of s. 18 of principal Act to certain companies after formation.

- (1) Where it is proved to the satisfaction of the Board of Trade—
 - (a) that the objects of a company registered under the principal Act as a limited company are restricted to those specified in subsection (1) of section eighteen of that Act (which relates to charitable and other companies not formed for profit) and to objects incidental or conducive thereto; and
 - (b) that by its constitution the company is required to apply its profits, if any, or other income in promoting its objects and is prohibited from paying any dividend to its members;

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then, notwithstanding anything in that Act, the Board may by licence authorise the company to make by special resolution 31 change in its name including or consisting of the omission of the word " Limited

- (2) Any enactment relating to a licence under the said Section eighteen or to an association to which such a licence is granted shall apply to a licence under this section and to a company to which such a licence is granted, so far as applicable in the case of a company already registered; and subsections (4) and (5) of section nineteen of the principal Act (which relate to the registration and effect of a change of name) shall apply to a change under this section.

80 Membership of holding company.

- (1) Except in the cases hereafter in this section mentioned, a body corporate cannot be a member of a company which is its holding company, and any allotment or transfer of shares in a company to its subsidiary shall be void.
- (2) Nothing in this section shall apply where the subsidiary is concerned as personal representative, or where it is concerned as trustee, unless the holding company or a subsidiary thereof is beneficially interested under the trust and is not so interested only by way of security for the purposes of a transaction entered into by it in the ordinary course of a business which includes the lending of money.
- (3) This section shall not prevent a subsidiary which is, at the coming into force thereof, a member of its holding company, from continuing to be a member but, subject to the last foregoing subsection, the subsidiary shall have no right to vote at meetings of the holding company or any class of members thereof.
- (4) Subject to subsection (2) of this section, subsections (1) and (3) thereof shall apply in relation to a nominee for a body corporate which is a subsidiary, as if references in the said subsections (1) and (3) to such a body corporate included references to a nominee for it.
- (5) In relation to a company limited by guarantee or unlimited which is a holding company, the reference in this section to shares, whether or not it has a share capital, shall be construed as including a reference to the interest of its members as such, whatever the form of that interest.

81 Fees on registration.

- (1) The fees (if any) payable- under section three hundred and thirteen of and the Tenth Schedule to the principal Act for registration of a company limited by guarantee and having a share capital, or of an unlimited company having a share capital, shall be those based on the number of its members as laid down in the second part of the said Tenth Schedule for companies not having a, share capital, if higher than those based on the amount of its share capital as laid down by the first part thereof, and accordingly the articles of an unlimited company or a company limited by guarantee shall, notwithstanding that it has a share capital, state the number of members with which it proposes to be registered, as required in the case of such a company not having a share capital by subsection (2) of section seven of the principal Act.
- (2) In the case of companies registered after the coming into force of this section, subsection (3) of the said section seven (which requires registration of any increase above the registered number in the membership of a company not having a share

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capital) shall apply also to a company limited by guarantee and having a share capital, and an unlimited company having a share capital, and the company shall for registration of an increase of membership as well as for registration of an increase of share capital pay the appropriate fee (if any) under the said Tenth Schedule:

Provided that where an increase of share capital is made at the same time as an increase of membership, the company shall pay whichever fee is the higher, but not both.

- (3) The fees payable under the said section three hundred and thirteen on registration of an increase in the share capital or in the membership of any company shall be an amount equal to the difference (if any) between the fee which would have been payable by reference to its capital or membership, as the case may be, on registration with the amount or number thereof as increased and that which would have been payable as aforesaid on registration with the amount or number immediately before the increase:

Provided that the total of the fees payable by any company by reference to its membership shall in no case exceed the amount payable immediately before the coming into force of this section for first registration with unlimited membership, and the total of the fees payable by any company by reference to its share capital, or of the fees payable by it by reference to its membership and the fees payable by it by reference to its share capital, shall in no case exceed the maximum amount payable at the time aforesaid for first registration of a company having a share capital.

82 Documents of and relating to Scottish companies.

- (1) In subsection (4) of section twenty-nine of the principal Act (which provides that a deed to which a company is a party shall be held to be validly executed in Scotland - if sealed with the common seal and subscribed by two directors and the secretary) for the words " in Scotland " there shall be substituted the words " according to the law of Scotland, " and for the words " and the secretary " there shall be substituted the words " or by a director and the secretary ".
- (2)) The proviso to subsection (1) of section three hundred and fourteen of the principal Act (which relates to the disposal of documents kept by the registrar) shall not extend to Scotland.

PART IV

ENFORCEMENT AND REGISTRATION OF CHARGES.

Receivers and managers.

83 Disqualification of undischarged bankrupt from acting as receiver or manager.

- (1) If any person being an undischarged bankrupt acts as receiver or manager of the property of a company on behalf of debenture holders, he shall, subject to the following subsection, be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding five hundred pounds, or to both.
- (2) The foregoing subsection shall not apply to a receiver-or manager where—

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- (a) the appointment under which he acts and the bankruptcy were both prior to the coming into force thereof; or
- (b) he acts under an appointment made by order of a court.

84 Provisions as to information where receiver or manager appointed.

- (1) Where, in the case of a company registered in England, a receiver or manager of the whole or substantially the whole of the property of the company (hereafter in this section and in the next following section referred to as " the receiver ") is appointed on behalf of the holders of any debentures of the company secured by a floating charge, then subject to the provisions of this and the next following section—
- (a) the receiver shall forthwith send notice to the company of his appointment; and
 - (b) there shall, within fourteen days after receipt of the notice, or such longer period as may be allowed by the court or by the receiver, be made out and submitted to the receiver in accordance with the next following section a statement in the prescribed form as to the affairs of the company; and
 - (c) the receiver shall within two months after receipt of the said statement send—
 - (i) to the registrar of companies and to the court, a copy of the statement and of any comments he sees fit to make thereon and in the case of the registrar of companies also a summary of the statement and of his comments (if any) thereon; and
 - (ii) to the company, a copy of any such comments as aforesaid or, if he does not see fit to make any comments, a notice to that effect; and
 - (iii) to any trustees for the debenture holders on whose, behalf he was appointed and, so far as he is aware of their addresses, to all such debenture holders, a copy of the said summary.
- (2) The receiver shall within two months or such longer period as the court may allow after the expiration of the period of twelve months from the date of his appointment and of every subsequent period of twelve months, and within two months or such longer period as the court may allow after he ceases to act as receiver or manager of the property of the company, send to the registrar of companies, to any trustees for the debenture holders of the company on whose behalf he was appointed, to the company and (so far as he is aware of their addresses) to all such debenture holders an abstract in the prescribed form showing his receipts and payments during that period of twelve months or, where he ceases to act as aforesaid, during the period from the end of the period to which the last preceding abstract related up to the date of his so ceasing, and the aggregate amounts of his receipts and of his payments during all preceding periods since his appointment.
- (3) Where the receiver is appointed under the powers contained in any instrument, this section shall have effect—
- (a) with the omission of the references to the court in subsection (1); and
 - (b) with the substitution for the references to the court in subsection (2) of references to the Board of Trade;
- and in any other case references to the court shall be taken as referring to the court by which the receiver was appointed.
- (4) Subsection (1) of this section shall not apply in relation to the appointment of a receiver or manager to act with an existing receiver or manager or in place of a receiver or manager dying or ceasing to act, except that, where that subsection applies to a

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receiver or manager who dies or ceases to act before it has been fully complied with, the references in paragraphs (b) and (c) thereof to the receiver shall (subject to the next following subsection) include references to his successor and to any continuing receiver or manager.

Nothing in this subsection shall be taken as limiting the meaning of the expression "the receiver" where used in, or in relation to, subsection (2) of this section.

- (5) This and the next following section, where the company is being wound up, shall apply notwithstanding that the receiver or manager and the liquidator are the same person, but with any necessary modifications arising from that fact.
- (6) Nothing in subsection (2) of this section shall be taken to prejudice the duty of the receiver to render proper accounts of his receipts and payments to the persons to whom, and at the times at which, he may be required to do so apart from that subsection, but, in any case to which that subsection applies, it shall have effect in lieu of section three hundred and ten of the principal Act.
- (7) If the receiver makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding five pounds for every day during which the default continues, and section three hundred and sixty-two of the principal Act (which penalises false statements) shall apply in relation to subsection (2) of this section as it applies in relation to the said section three hundred and ten.

85 Special provisions as to statement submitted to receiver.

- (1) The statement as to the affairs of a company required by the last foregoing section to be submitted to the receiver (or his successor) shall show as at the date of the receiver's appointment the particulars of the company's assets, debts and liabilities, the names, residences and occupations of its creditors, the securities held by them respectively, the dates when the securities were respectively given and such further or other information as may be prescribed.
- (2) The said statement shall be submitted by, and be verified by affidavit of, one or more of the persons who are at the date of the receiver's appointment the directors and by the person who is at that date the secretary of the company, or by such of the persons hereafter in this subsection mentioned as the receiver (or his successor), subject to the direction of the court, may require to submit and verify the statement, that is to say, persons—
 - (a) who are or have been officers of the company;
 - (b) who have taken part in the formation of the company at any time within one year before the date of the receiver's- appointment;
 - (c) who are in the employment of the company, or have been in the employment of the company within the said year, and are in the opinion of the receiver capable of giving the information required;
 - (d) who are or have been within the said year officers of or in the employment of a company, which is, or within the said year was, an officer of the company to which the statement relates.
- (3) Any person making the statement and affidavit shall be allowed, and shall be paid by the receiver (or his successor) out of his receipts, such costs and expenses incurred in and about the preparation and making of the statement and affidavit as the receiver (or his successor) may consider reasonable, subject to an appeal to the court.

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- (4) Where the receiver is appointed under the powers contained in any instrument, this section shall have effect with the substitution for references to the court of references to the Board of Trade and for references to an affidavit of references to a statutory declaration; and in any other case references to the court shall be taken as referring to the court by which the receiver was appointed.
- (5) If any person, without reasonable excuse, makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding ten pounds for every day during which the default continues.
- (6) The right under section three hundred and fourteen of the principal Act to inspect documents kept by the registrar of companies shall not extend to any copy sent to the registrar under the last foregoing section of a statement as to the affairs of the company or of any comments of the receiver (or his successor) thereon, but only to the summary thereof, except where the person claiming the right either is or is the agent of a person stating himself in writing to be a member or creditor of the company to which the statement relates; and the right under that section to copies or extracts of any such statement or comments shall be similarly limited.
- (7) Any person untruthfully stating himself in writing for the purposes of the last foregoing subsection to be a member or creditor of a company shall be liable to a fine not exceeding fifty pounds.
- (8) References in this section to the receiver's successor shall include a continuing receiver or manager.

86 Enforcement of duty of receiver to make returns, etc.

- (1) Section three hundred and eleven of the principal Act (which provides for the making of orders by the court to enforce the duty of a receiver or manager to render accounts to a liquidator) shall be amended as follows:—
 - (a) the powers conferred by paragraph (a) of subsection (1) in relation to receivers shall be exercisable also in relation to managers of the property of a company;
 - (b) the power conferred by subsection (2) for an order under the said paragraph (a) against a receiver to provide for costs to be borne by him shall extend also to orders against managers and to orders under paragraph (b) of subsection (1);
 - (c) subsection (3) (which provides that the section shall not prejudice enactments imposing penalties) shall apply in relation to such default as is mentioned in the said paragraph (b) as well as in relation to such default as is mentioned in the said paragraph (a).
- (2) In paragraph (b) of subsection (1) of the said section three hundred and eleven after the words " proper accounts of his receipts and payments " there shall be inserted the words " and to vouch the same ".

87 Receivers appointed out of court.

- (1) A receiver or manager of the property of a company appointed under the powers contained in any instrument may apply to the court for directions in relation to any particular matter arising in connection with the performance of his functions, and on any such application the court may give such directions, or may make such order declaring the rights of persons before the court or otherwise, as the court thinks just.

- (2) A receiver or manager of the property of a company appointed as aforesaid shall, to the same extent as if he had been appointed by order of a court, be personally liable on any contract entered into by him in the performance of his functions, except in so far as the contract otherwise provides, and entitled in respect of that liability to indemnity out of the assets; but nothing in this subsection shall be taken as limiting any right to indemnity which he would have apart from this subsection, or as limiting his liability on contracts entered into without authority or as conferring any right to indemnity in respect of that liability.
- (3) The power of the court under section three hundred and nine of the principal Act by order to fix the remuneration of a receiver or manager of the property of a company appointed as aforesaid shall, where no previous order has been made with respect thereto under that section.—
- (a) extend to fixing the remuneration for any period before the making of the order or the application therefor; and
 - (b) be exercisable notwithstanding that the receiver or manager has died or ceased to act before the making of the order or the application therefor; and
 - (c) where the receiver or manager has been paid or has retained for his remuneration for any period before the making of the order any amount in excess of that so fixed for that period, extend to requiring him or his personal representatives to account for the excess or such part thereof as may be specified in the order, so, however, that the power conferred by this paragraph shall not be exercised as respects any period before the making of the application for the order unless in the opinion of the court there are special circumstances making it proper for the power to be so exercised.
- (4) This section shall apply whether the receiver or manager was appointed before or after the coming into force thereof, and subsection (3) thereof shall apply to periods before, as well as to periods after, the coming into force of this section; but subsection (2) thereof shall not apply to contracts entered into before the coming into force of this section.

88 Explanation of terms.

It is hereby declared that, except where the context otherwise requires—

- (a) any reference in the principal Act or this Act to a receiver or manager of the property of a company, or to a receiver thereof, includes a reference to a receiver or manager, or (as the case may be) to a receiver, of part only of that property and to a receiver only of the income arising from that property or from part thereof; and
- (b) any reference in the principal Act or this Act to the appointment of a receiver or manager under powers contained in any instrument includes a reference to an appointment made under powers which, by virtue of any enactment, are implied in and have effect as if contained in an instrument.

Registration of Charge.

89 Registration of charges.

- (1) Paragraph (d) of subsection (2) of section seventy-nine of the principal Act (by virtue of which charges on land require registration under Part III of that Act) shall not apply,

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and that paragraph and the corresponding provisions of the Companies Act, 1907, and of the Companies (Consolidation) Act, 1908, shall be deemed never to have applied, to a charge for any rent or other periodical sum issuing out of the land.

- (2) In subsection (3) of section seventy-nine of the principal Act (which provides that in the case of a charge created out of the United Kingdom comprising solely property situate outside the United Kingdom, a copy, instead of the original, of the instrument of charge may be delivered for registration) the word "solely" shall be omitted.
- (3) The registrar of companies may, on evidence being given to his satisfaction as respects any charge registered under Part III of the principal Act that—
 - (a) part of the property or undertaking charged has been released from the charge or has ceased to form part of the company's property or undertaking; or
 - (b) the debt for which the charge was given has been partly paid or satisfied;
 enter a memorandum of that fact on the register.
- (4) Subsection (4) of section eighty-two of the principal Act (which requires a chronological index to be kept of the charges registered by each company under Part III thereof) shall cease to have effect.

PART V

WINDING UP.

90 Modification of grounds on which winding up order may be made.

If, on a winding up petition presented by members of the company as contributories on the ground that it is just and equitable that the company should be wound up, the court is of opinion—

- (a) that the petitioners are entitled to relief either by winding-up the company or by some other means; and
- (b) that in the absence of any other remedy it would be just and equitable that the company should be wound up;

it shall make a winding up order, unless it is also of the opinion both that some other remedy is available to the petitioners and that they are acting unreasonably in seeking to have the company wound up instead of pursuing that other remedy.

91 Amendments as to preferential payments.

- (1) The maximum amount to which, under subsection (1) of section two hundred and sixty-four of the principal Act, priority is to be given—
 - (a) to a debt for the wages or salary of a clerk or servant; or
 - (b) to a debt for the wages of a workman or labourer; or
 - (c) to any sum ordered under the Reinstatement in Civil Employment Act, 1944, to be paid by way of compensation;
 shall be two hundred pounds (instead of being fifty pounds in the cases referred to in paragraphs (a) and (c) of this subsection or twenty-five pounds in the case referred to in paragraph (b) thereof).
- (2) The period within which services must have been rendered by a workman or labourer for his wages in respect thereof to have priority under the said subsection (1) shall

be the same as in the case of a clerk or servant, that is to say, four months (instead of two months).

- (3) In section two hundred and ninety-eight of the principal Act (which modifies the said section two hundred and sixty-four in relation to companies within the stannaries), so much of paragraph (1) as reduces the said period of four months in the case of a clerk or servant to three months shall cease to have effect, and in paragraph (2) (which in the case of a miner, artizan or labourer substitutes for the maximum amount specified in the said section two hundred and sixty-four an amount equal to three months wages) for the reference to three months there shall be substituted a reference to four months.
- (4) For the purposes of the said sections two hundred and sixty-four and two hundred and ninety-eight any remuneration in respect of a period of holiday or of absence from work through sickness or other good cause shall be deemed to be wages in respect of services rendered to the company during that period.
- (5) The debts which are to be paid in priority under the said section two hundred and sixty-four shall include all accrued holiday remuneration becoming payable to a clerk, servant, workman or labourer (or in the case of his death to any other person in his right) on the termination of his employment with the company before or by the effect of the winding up order or resolution; and in relation to any sums payable in priority by virtue of this subsection, subsection (3) of the said section two hundred and sixty-four and paragraphs (3) and (5) of the said section two hundred and ninety-eight shall apply as they apply in relation to wages.
- (6) For the purposes of this section—
 - (a) the expression "accrued holiday remuneration" includes in relation to any person, all sums which, by virtue either of his contract of employment or of any enactment (including any order made or direction given under any Act), are payable on account of the remuneration which would in the ordinary course have become payable to him in respect of a period of holiday had his employment with the company continued until he became entitled to be allowed the holiday; and
 - (b) references to remuneration in respect of a period of holiday include any sums which, if they had been paid, would have been treated for the purposes of the National Insurance Act, 1946, or any enactment repealed by that Act as remuneration in respect of that period.
- (7) For the definition in subsection (7) of the said section two hundred and sixty-four of the expression "the relevant date" (that is to say the date by reference to which the debts payable in priority under that section are to be ascertained) there shall be substituted the following definition:—

"In this section the expression 'the relevant date'—

 - (a) in the case of a company ordered to be wound up compulsorily, means—
 - (i) the date of the appointment (or first appointment) of a provisional liquidator; or
 - (ii) if no such appointment was made, the date of the winding up order;unless in either case the company had commenced to be wound Up voluntarily before that date; and
 - (b) in any case where the foregoing paragraph does not apply, means the date of the passing of the resolution for the winding up of the company."

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- (8) The amendments made by subsections (1) to (6) of this section shall have effect also for the purposes of section seventy-eight of the principal Act (which applies the said section two hundred and sixty-four where a receiver is appointed or possession is taken of any property by or on behalf of debenture holders) with the substitution in subsection (5) for the reference to the winding up order or resolution of a reference to the appointment of the receiver or possession being taken, by or on behalf of the debenture holders, of the company's property; but nothing in this section shall apply where the date referred to in subsection (7) of the said section two hundred and sixty-four (as originally enacted) or, in a case to which the said section seventy-eight applies, the corresponding date referred to in subsection (2) of that section, occurred before the coming into force of this section.

92 Amendments as to fraudulent preference.

- (1) Anything which, if made or done within three months before the commencement of a company's winding up, would be void under section two hundred and sixty-five of the principal Act as a fraudulent preference shall be void also if made or done after the coming into force of this section and within six months before the commencement of the winding

In the application of this provision to Scotland, for the reference to three months there shall be substituted a reference to sixty days.

- (2) Where, in the case of a company wound up in England, anything made or done after the coming into force of this section is void under the said section two hundred and sixty-five as a fraudulent preference of a person interested in property mortgaged or charged to secure the company's debt, then (without prejudice to any rights or liabilities arising apart from this provision) the person preferred shall be subject to the same liabilities, and shall have the same rights, as if he had undertaken to be personally liable as surety for the debt to the extent of the charge on the property or the value of his interest, whichever is the less.
- (3) The value of the said person's interest shall be determined as at the date of the transaction constituting the fraudulent preference, and shall be determined as if the interest were free of all incumbrances other than those to which the charge for the company's debt was then subject.
- (4) On any application made to the court with respect to any payment on the ground that the payment was a fraudulent preference of a surety or guarantor, the court shall have jurisdiction to determine any questions with respect to the payment arising between the person to whom the payment was made and the surety or guarantor and to grant relief in respect thereof, notwithstanding that it is not necessary so to do for the purposes of the winding up, and for that purpose may give leave to bring in the surety or guarantor as a third party as in the case of an action for the recovery of the sum paid. This subsection shall apply, with the necessary modifications, in relation to transactions other than the payment of money as it applies in relation to payments.

93 Effect of floating charge.

- (1) In section two hundred and sixty-six of the principal Act (which invalidates, in whole or in part, certain floating charges created within six months before the commencement of a winding up) for the words " six months " there shall be substituted the words " twelve months ".

- (2) This section shall not apply to a charge created more than six months before the coming into force thereof.

94 Amendments as to declaration of solvency in voluntary winding up.

- (1) A statutory declaration under section two hundred and thirty of the principal Act by directors of a company proposed to be wound up voluntarily, that they have made a full inquiry into the affairs of the company and have formed the opinion that it will be able to pay its debts in full within a period not exceeding twelve months from the commencement of the winding up, (which declaration is under that section required for the winding up to be a members' voluntary winding up instead of a creditors' voluntary winding up within the meaning of that Act) shall have no effect for the purposes of that Act unless—

- (a) it is made within the five weeks immediately preceding the passing of the resolution for winding up the company; and
- (b) it embodies a statement of the company's assets and liabilities as at the latest practicable date before the making of the declaration;

but the meeting of directors at which the said declaration is made need not be held, as required by subsection (1) of that section, before the date on which the notices of the meeting at which the said resolution is to be proposed are sent out, and for the reference to the said date in subsection (2) of that section (which requires the declaration to be registered before that date) there shall be substituted a reference to the date of the passing of the resolution.

- (2) Any director of a company making a declaration under the said section two hundred and thirty without having reasonable grounds for the opinion that the company will be able to pay its debts in full within the period specified in the declaration shall be liable to imprisonment for a period not exceeding six months or to a fine not exceeding five hundred pounds or to both; and if the company is wound up in pursuance of a resolution passed within the period of five weeks after the making of the declaration, but its debts are not paid or provided for in full within the period stated in the declaration, it shall be presumed until the contrary is shown that the director did not have reasonable grounds for his opinion.
- (3) If, in a members' voluntary winding up, the liquidator is at any time of the opinion that the company will not be able to pay its debts in full within the period stated in the declaration under the said section two hundred and thirty, he shall forthwith summon a meeting of the creditors and shall lay before the meeting a statement of the assets and liabilities of the company; and if the liquidator fails to comply with this subsection, he shall be liable to a fine not exceeding fifty pounds.
- (4) Where the last foregoing subsection applies, sections two hundred and forty-four and two hundred and forty-five of the principal Act (which respectively require annual meetings and a final meeting both of the company and of the creditors in a creditors' voluntary winding up) shall apply to the winding up instead of sections two hundred and thirty-five and two hundred and thirty-six of that Act (which in a members' voluntary winding up require corresponding meetings of the company only):

Provided that the liquidator shall not be required to summon a meeting of creditors under the said section two hundred and forty-four at the end of the first year from the commencement of the winding up, unless the meeting held under the last foregoing subsection is held more than three months before the end of that year.

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- (5) Nothing in this section shall apply in relation to a winding up commenced before the coming into force thereof.

95 Miscellaneous amendments as to meetings in winding up.

- (1) The power of the liquidator under the said sections two hundred and thirty-five and two hundred and forty-four to call the yearly meeting of the company or of the creditors as soon as may be convenient after the end of the year in question shall be subject to the proviso that, unless the Board of Trade otherwise allow, the meeting shall be summoned for a date within three months after the end of that year.
- (2) If the liquidator fails to summon a final meeting of the company or of the creditors as required by the said section two hundred and thirty-six or the said section two hundred and forty-five, he shall be liable to a fine not exceeding fifty pounds.
- (3) The duty of the liquidator under subsection (7) of section one hundred and ninety-nine of the principal Act in a compulsory winding up, and under that subsection as applied by subsection (2) of section two hundred and forty of that Act in a creditors' voluntary winding up, on a vacancy occurring in the committee of inspection forthwith to summon a meeting of creditors or of contributories to fill the vacancy shall be subject to the proviso that, if the liquidator, having regard to the position in the winding up, is of opinion that it is unnecessary for the vacancy to be filled, he may apply to the court and the court may make an order that the vacancy shall not be filled, or shall not be filled except in such circumstances as may be specified in the order.
- (4) A meeting of the creditors shall, where there is no committee of inspection, have the same power—
- (a) in a creditors' voluntary winding up, under paragraph (a) of subsection (1) of section two hundred and forty-eight of the principal Act; and
 - (b) in a winding up subject to the supervision of the court, under the proviso to subsection (1) of section two hundred and sixty thereof;

as a committee of inspection would have to sanction the exercise by the liquidator of the powers given to a liquidator in a winding up by the court by paragraphs (d), (e) and (f) of subsection (1) of section one hundred and ninety-one of that Act (which paragraphs relate respectively to the payment of any classes of creditors in full, to the making of compromises with creditors and to the making of compromises with contributories and debtors).

96 Miscellaneous amendments as to proceedings in or in connection with winding up.

- (1) Section one hundred and sixty-four of the principal Act (which makes provision as to the judge or judges by whom the winding-up jurisdiction of the High Court is to be exercised) shall cease to have effect, and the provisions of Part III of the Supreme Court of Judicature (Consolidation) Act, 1925 (which relates among other things to the distribution of business in the High Court) shall apply accordingly in relation to the jurisdiction to wind up companies in England under the principal Act.
- (2) Where, in the case of a private company, default is made in complying with the provisions required to be included in its articles in order to constitute it a private company, the provisions of the principal Act which by virtue of subsection (3) of section twenty-seven thereof are to apply to the company as if it were not a private company shall include paragraph (i) of proviso (a) to subsection (1) of section one

hundred and seventy thereof (which enables a contributory to present a winding-up petition where the number of members is reduced, in the case of a private company, below two or, in the case of any other company, below seven).

- (3) In subsection (1) of section two hundred and twenty-one of the principal Act (which provides that where the affairs of a company have been completely wound up the court shall make an order for its dissolution) after the words " the court " there shall be inserted the words " if the liquidator makes an application in that behalf ".
- (4) The rights conferred by sections two hundred and sixty-eight and two hundred and sixty-nine of the principal Act on the liquidator of a company being wound up in England in relation to executions against the goods or other property of the company and attachments of debts due to the company 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.

97 Miscellaneous amendments as to information relating to windings up.

- (1) On the making of any order staying the proceedings in a winding up, a copy of the order must forthwith be forwarded by the company, or otherwise as may be prescribed, to the registrar of companies, who shall make a minute thereof in his books relating to the company.
- (2) In subsection (2) of section two hundred and twenty-one of the principal Act (which requires an order dissolving a company on completion of a compulsory winding up to be reported by the liquidator to the registrar of companies) for the words " The order shall within fourteen days from the date thereof be reported " there shall be substituted the words " A copy of the order shall within fourteen days from the date thereof be forwarded ".
- (3) Section two hundred and twenty-six of the principal Act (which requires a company to give notice in the Gazette of the passing of a resolution for voluntary winding up within seven days after the passing thereof) shall have effect with the substitution for the words " seven days " of the words " fourteen days "; and section two hundred and fifty of the principal Act (which requires notice to the registrar of a liquidator's appointment in a voluntary winding up) shall have effect—
 - (a) with the substitution for the words " twenty-one days " of the words " fourteen days "; and
 - (b) with the insertion immediately before the words " deliver to the registrar " of the words " publish in the Gazette and ".
- (4) Any person shall be entitled, but only on payment of the prescribed fee, to inspect the copies filed under subsection (4) of section one hundred and ninety-five of the principal Act by the Board of Trade and the court of the audited accounts of a liquidator in a compulsory winding up in England, and accordingly the said subsection (4) shall be amended by the substitution for the words " the, inspection of any creditor or any person interested " of the words " the inspection of any person on payment of the prescribed fee."
- (5) The duty under subsection (5) of the said section one hundred and ninety-five to print and circulate copies of the liquidator's accounts or a summary thereof shall be that of the liquidator, instead of the Board of Trade, but compliance with that subsection may in any case be dispensed with by the Board.
- (6) Section three hundred and fourteen of the principal Act (which relates to the inspection of documents kept by the registrar of companies) shall apply to the statements by a

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liquidator required by section two hundred and eighty-four of that Act, and so much of the said section two hundred and eighty-four as relates to the inspection of statements sent thereunder or the receipt of copies or extracts thereof shall cease to have effect.

- (7) Nothing in section two hundred and twelve of the principal Act (which provides in a compulsory winding up for the inspection of the company's books and papers by creditors and contributories in accordance with an order of the court under that section, but not further or otherwise) shall be taken as excluding or restricting any statutory rights of a government department or person acting under the authority of a government department.

98 Unclaimed assets while liquidation proceeding.

For the purposes of section two hundred and eighty-five of the principal Act (which relates to the disposal of unclaimed or undistributed assets of a company which is being wound up in England) any money held by the company in trust in respect of dividends or other sums due to any person as a member of the company shall be included in the expression " money representing unclaimed or undistributed assets of the company."

99 Liability for rentcharge on company's land after dissolution or disclaimer.

- (1) Where by operation of law land in England vests subject to a rentcharge in the Crown or any other person either—
- (a) on the dissolution of a company; or
 - (b) on a disclaimer under section two hundred and sixty-seven of the principal Act;
- that shall not, subject to the next following subsection, impose on the Crown or the said other person or its or his successors in title any personal liability in respect of the rentcharge.
- (2) This section shall not affect any liability in respect of sums accruing due after the Crown or the said other person, or some person claiming through or under the Crown or the said other person, has taken possession or control of the land or has entered into occupation thereof.
- (3) This section shall apply to land vesting and sums accruing due before, as well as after, the coming into force thereof.
- (4) In this section the expression " company " includes any body corporate.

100 Property of dissolved company.

- (1) Where on the dissolution of a company any property vests in the Crown as bona vacantia under section two hundred and ninety-six of the principal Act, the Crown's title thereto under that section may be disclaimed by a notice signed by the Treasury Solicitor.
- (2) Where a notice of disclaimer under this section is executed as respects any property, that property shall be deemed not to have vested in the Crown under the said section two hundred and ninety-six on the dissolution of the company, and subsections (2) and (6) of section two hundred and sixty-seven of the principal Act and the last foregoing section of this Act shall apply in relation to the property as if it had been disclaimed under subsection (1) of that section immediately before the dissolution.

- (3) The right to execute a notice of disclaimer under this section may be waived by or on behalf of the Crown either expressly or by taking possession or other act evincing that intention.
- (4) A notice of disclaimer under this section shall be of no effect unless it is executed within twelve months of the date on which the vesting of the property as aforesaid came to the notice of the Treasury Solicitor, or, if an application in writing is made to the Treasury Solicitor by any person interested in the property requiring him to decide whether he will or will not disclaim, within a period of three months after the receipt of the application or such further period as may be allowed by the court which would have had jurisdiction to wind up the company if it had not been dissolved.
- (5) A statement in a notice of disclaimer of any property under this section that the vesting of the property came to the notice of the Treasury Solicitor on a specified date or that no such application as aforesaid was received by him with respect to the property before a specified date shall, until the contrary is proved, be sufficient evidence of the fact stated.
- (6) A notice of disclaimer under this section shall be delivered to the registrar of companies and retained and registered by him, and copies thereof shall be published in the Gazette and sent to any persons who have given the Treasury Solicitor notice that they claim to be interested in the property.
- (7) This section shall apply to property vested in the Crown as aforesaid at the coming into force of this section, and where the vesting came to the notice of the Treasury Solicitor more than six months before the coming into force thereof notice of disclaimer under this section may (except where an application is made to him under subsection (4) of this section) be executed at any time within six months thereafter.
- (8) This section shall apply to property vested in the Duchy of Lancaster or the Duke of Cornwall under the said section two hundred and ninety-six as if for references to the Crown and to the Treasury Solicitor there were respectively substituted references to the Duchy of Lancaster and to the Solicitor to the Duchy of Lancaster or to the Duke of Cornwall and to the Solicitor to the Duchy of Cornwall, as the case may be.
- (9) This section shall apply to property in Scotland as if for references to the Treasury Solicitor there were substituted references to the King's and Lord Treasurer's Remembrancer, and as if section two hundred and sixty-seven of the principal Act applied in the case of a winding-up in Scotland, with the substitution, however, for references to property of a leasehold nature, to an under-lessee, and to a mortgagee by demise or a chargee by way of legal mortgage, of references respectively to property held under a lease, to a sub-lessee, and to the creditor in a security constituted by the assignation of a lease recorded under the Registration of Leases (Scotland) Act, 1857.

101 Miscellaneous amendments as to civil and criminal liability.

- (1) In any case in which a company's business is carried on in such a manner as to make the directors liable under section two hundred and seventy-five of the principal Act (which relates to the responsibility of directors for fraudulent trading) any other person who is knowingly a party to the carrying on of the business in that manner shall be similarly liable, both civilly under subsection (1) and criminally under subsection (3) of that section, and accordingly that section shall have effect with the substitution—
 - (a) in subsection (1) thereof for the words " any of the directors, whether past or present, of the company " of the words " any persons ";

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- (b) in subsection (2) thereof for the word " director " where it first occurs of the word " person ", for the words " the director, company or person " of the words " the person liable or any company or person acting on his behalf " and for the word " director " where it last occurs of the words " person liable "; and
 - (c) in subsection (3) thereof for the words " director of the company " of the word " person ".
- (2) A person convicted under subsection (3) of the said section two hundred and seventy-five shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds or to both (instead of being liable only to imprisonment for a term not exceeding one year).
- (3) Subsection (1) of section two hundred and seventy-four of the principal Act (which penalises the persons responsible where proper books of account were not kept by a company throughout the two years immediately preceding the commencement of its winding up) shall have effect and be deemed always to have had effect as if after the words " the period of two years immediately preceding the commencement of the winding up " there were inserted the words " or the period between the incorporation of the company and the commencement of the winding up, whichever is the shorter " and 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 were substituted the word " and ".
- (4) So much of section two hundred and seventy-seven of the principal Act (which deals with the prosecution of officers and members of a company for offences discovered on a winding up) as—
- (a) relates to prosecutions by the liquidator (except as respects prosecutions instituted or ordered by the court to be instituted before the coming into force of this section); or
 - (b) requires the Director of Public Prosecutions or the Lord Advocate, before instituting a prosecution, to form the opinion that the proceedings ought to be conducted by him; or
 - (c) requires the Director, if he forms the opinion that the case is not one in which proceedings ought to be taken by him, to inform the liquidator;
- shall cease to have effect.
- (5) Any person who gives or agrees or offers to give to any member or creditor of a company any valuable consideration with a view to securing his own appointment or nomination, or to securing or preventing the appointment or nomination of some person other than himself, as the company's liquidator shall be liable to a fine not exceeding one hundred pounds.

PART VI

OFFENCES AND LEGAL PROCEEDINGS.

102 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

- (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.

103 Proceedings on indictment in Scotland against bodies corporate.

- (1) In any proceedings on indictment against a body corporate for an offence against the principal Act or 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 acknowledgement 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 acknowledgement 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.

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- (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 the principal Act or 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 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) This section shall extend to Scotland only.

104 Extension of time limit for summary proceedings.

- (1) Proceedings under the Summary Jurisdiction Acts in respect of any offence against the principal Act or this Act may, notwithstanding anything to the contrary in the Summary Jurisdiction Acts, 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) In relation to offences committed before the coming into force of this section, this section shall not apply if the time allowed for taking proceedings under the said Acts apart from this section had already expired before this section came into force.

105 Amendments as to persons liable for certain offences.

- (1) In the provisions of the principal Act specified in the first column of the Fifth Schedule to this Act for the words respectively mentioned in relation thereto in the second column of that Schedule there shall be substituted the expression " every officer of the company who is in default " (which expression by section three hundred and sixty-five of the principal Act is defined to mean any director, manager, secretary or other officer of the company, who knowingly and wilfully authorises or permits the default, refusal or contravention mentioned in the enactment in which the expression is used).
- (2) In subsection (9) of section one hundred and thirteen of the principal Act (which penalises directors for defaults in relation to the statutory meeting or the statutory report) for the words " every director of the company who is guilty of or who knowingly and wilfully authorises or permits the default " there shall be substituted the words " every director of the company who is knowingly and wilfully guilty of the default or, in the case of default by the company, every officer of the company who is in default ".
- (3) In subsection (3) of section one hundred and forty-five of the principal Act (which, for default in giving the required particulars as to directors in trade catalogues, etc., penalizes every director of the company and, in the case of a director being a corporation, also any officer of the corporation knowingly a party to the default)—
 - (a) for the words " every director of the company " there shall be substituted the words " every officer of the company who is in default " ; and
 - (b) for the words from " and in the case of a director " to " liable to a like penalty " there shall be substituted the words " and for the purposes of this subsection, where a corporation is an officer of the company, any officer of the corporation shall be deemed to be an officer of the company ";and at the end of paragraph (a) of subsection (4) of that section (which defines the expression " director " to include persons in accordance with whose directions or instructions the directors are accustomed to act) there shall be added the words " and the expression ' officer ' shall be construed accordingly ".
- (4) The following provisions of the principal Act, that is to say—
 - (a) subsection (3) of section forty (which penalises allotments of shares or debentures without registration of a statement in lieu of prospectus);
 - (b) subsection (2) of section two hundred and eighty (which penalises default in stating, in invoices etc., that the company is being wound up);
 - (c) subsection (2) of section three hundred and eight (which penalises default in stating, in invoices etc., that a receiver or manager has been appointed) ;

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- (d) section three hundred and fifty-one (which penalises default in complying with the provisions of the principal Act regulating foreign companies carrying on business in Great Britain);

shall not penalise an officer, liquidator, receiver, manager or agent except for a contravention or default which he knowingly and wilfully authorised or permitted.

106 Procedure on application for confirmation of reduction of share capital.

So much of subsection (1) of section fifty-six of the principal Act (which relates to confirmation by the court of a reduction of share capital) as requires proceedings thereunder to be by petition shall cease to have effect.

PART VII

COMPANIES NOT REGISTERED UNDER PRINCIPAL ACT.

Companies incorporated in Great Britain.

107 Application of this Act to certain companies not formed under principal Act.

- (1) Part VIII of the principal Act (which relates to companies formed or registered under the former Acts therein mentioned), and section three hundred and thirty-three of the principal Act (which relates to companies not formed under that Act but registering thereunder), shall apply for the purpose of the application of the provisions of this Act to such companies as aforesaid as they apply for the purpose of the application thereto of the provisions of the principal Act.

Provided that subsection (6) of the said section three hundred and thirty-three (which saves any existing power to alter the constitution of a company registering under Part IX of the principal Act) shall not restrict the operation of subsection (3) of section nine of this Act.

- (2) In section three hundred and thirty-four of the principal Act (which empowers a company registering under Part IX thereof to substitute a memorandum and articles for its deed of settlement) for the reference to the provisions of that Act with respect to confirmation by the court and registration of an alteration of the objects of the company there shall be substituted a reference to section seventy-six of this Act, and for the reference to registration of the alteration being certified by the registrar there shall be substituted a reference to delivery to the registrar of a printed copy of the substituted memorandum and articles or the date when the alteration is no longer liable to be cancelled by order of the court, whichever last occurs.
- (3) The section of this Act relating to the making of a winding up order on the ground that it is just and equitable, notwithstanding the existence of an alternative remedy, shall apply in relation to the winding up of an unregistered company under Part X of the principal Act as well as to windings up under Part V thereof.

108 Application of certain provisions to other unregistered companies.

- (1) The provisions of the principal Act and this Act specified in the second column of the Sixth Schedule to this Act (which respectively relate to the matters referred to in

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the first column of that Schedule) shall apply to all bodies corporate incorporated in and having a principal place of business in Great Britain, other than those mentioned in the next following subsection, as if they were companies registered under the principal Act, but subject to any limitations mentioned in relation to those provisions respectively in the third column of that Schedule and to any prescribed adaptations or modifications.

- (2) The said provisions shall not apply by virtue of this section to any of the following, that is to say—
 - (a) any body incorporated by or registered under any public general Act of Parliament; and
 - (b) any body not formed for the purpose of carrying on a business which has for its object the acquisition of gain by the body or by the individual members thereof; and
 - (c) any body for the time being exempted by direction of the Board of Trade.
- (3) The said provisions shall apply also in like manner in relation to any unincorporated body of persons entitled by virtue of letters patent to any of the privileges conferred by the Chartered Companies Act, 1837, and not registered under any other public general Act of Parliament, but subject to the like exceptions as are provided for in the case of bodies corporate by paragraphs (b) and (c) of the last foregoing subsection.
- (4) This section shall not repeal or revoke in whole or in part any enactment, royal charter or other instrument constituting or regulating any body in relation to which the said provisions are applied by virtue of this section, or restrict the power of His Majesty to grant a charter in lieu of or supplementary to any such charter as aforesaid; but, in relation to any such body, the operation of any such enactment, charter or instrument shall be suspended in so far as it is inconsistent with any of the said provisions as they apply for the time being to that body.

109 Documents relating to companies wound up under repealed Acts.

- (1) The power of the registrar of companies, under the proviso to subsection (1) of section three hundred and fourteen of the principal Act, to direct that documents relating to a dissolved company may be removed to the Public Record Office shall extend to documents relating to companies dissolved whether under that Act or otherwise, being companies within the meaning of that Act or companies provisionally or completely registered under the Act 7 and 8 Victoria chapter one hundred and ten.
- (2) The provisions of this Act as to the inspection of copies of documents filed under section one hundred and ninety-five or two hundred and eighty-four of the principal Act shall apply to documents filed under any corresponding enactment repealed by the principal Act or by the Companies (Consolidation) Act, 1908.

Companies incorporated outside Great Britain.

110 Prospectus of foreign company.

- (1) For a prospectus to comply with Part XII of the principal Act (which relates to prospectuses of companies incorporated or to be incorporated outside Great Britain) it shall not be necessary for it to state the objects of the company as required by subsection (1) of section three hundred and fifty-five of that Act; but a prospectus shall not be deemed to comply with the said Part XII—

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- (a) if, where it includes a statement purporting to be made by an expert, he has not given or has before delivery of a copy of the prospectus for registration withdrawn his written consent to the issue of the prospectus with the statement included in the form and context in which it is included or there does not appear in the prospectus a statement that he has given and has not withdrawn his consent as aforesaid; or
- (b) if it does not have the effect, where an application is made in pursuance thereof, of rendering all persons concerned bound by all the provisions (other than penal provisions) of the sections of this Act relating to allotment so far as applicable;

and any reference in section three hundred and fifty-four or three hundred and fifty-five of the principal Act to any provision of that Act which is amended by this Act shall be construed as a reference to that provision as so amended.

- (2) Where, by section three hundred and fifty-four of the principal Act, a copy of a prospectus is required to be delivered to the registrar of companies before the prospectus is issued, circulated or distributed in Great Britain, the said requirement shall not be deemed to be complied with unless there is endorsed on or attached to the copy so delivered—
 - (a) any consent required by the foregoing subsection to the issue of the prospectus;
 - (b) a copy of any contract required by the said section three hundred and fifty-five and paragraph 13 of Part I of the Fourth Schedule to the principal Act to be stated in the prospectus or, in the case of a contract not reduced into writing, a memorandum giving full particulars thereof; and
 - (c) where the persons making any report required by the said section three hundred and fifty-five and Part II of the said Fourth Schedule to be set out in the prospectus have made in the report, or have without giving the reasons indicated in the report any such adjustments as are mentioned in the provisions of this Act relating to such reports, a written statement signed by those persons setting out the adjustments and giving the reasons therefor.
- (3) The right under subsection (1) of section three hundred and fourteen of the principal Act of inspecting, or of requiring copies or extracts of, documents kept by the registrar of companies, shall in relation to documents registered by virtue of paragraph (b) of the last foregoing subsection be exercisable only—
 - (a) during the fourteen days beginning with the date of the prospectus; or
 - (b) with the permission of the Board of Trade.
- (4) Where any such contract as is mentioned in the said paragraph (b) is wholly or partly in a foreign language, the reference in that paragraph to a copy of the contract shall be taken as a reference to a copy of a translation thereof in English or a copy embodying a translation in English of the parts in a foreign language, as the case may be, being a translation certified in the prescribed manner to be a correct translation.
- (5) The section of this Act excluding section thirty-five of the principal Act and relaxing the Fourth Schedule thereto in the case of certain prospectuses shall extend to prospectuses to which section three hundred and fifty-four of the principal Act applies with the substitution for references to section thirty-five of that Act of references to section three hundred and fifty-five of that Act.
- (6) Notwithstanding the provision of subsection (2) of the said section three hundred and fifty-four excluding the operation of that section in relation to a prospectus not

issued generally, the following provisions shall apply in relation to such a prospectus, namely—

- (a) sub-paragraphs (i) and (ii) of paragraph (a) of subsection (1) thereof (which relate to registration of the prospectus); and
 - (b) subsection (5) thereof (which extends the liability under section thirty-seven of the principal Act for misstatements in a prospectus); and
 - (c) this section in so far as it relates to statements by experts or to the allotment of shares or debentures to be dealt in on a stock exchange.
- (7) In this section the expressions " prospectus ", " snares " and " debentures " have the same meanings as in the said section three hundred and fifty-four, and any document deemed to be a prospectus issued by the company for the purposes of that section shall be deemed to be so for the purposes of this section also; and references in this section to an expert and to a statement being included in a prospectus shall be construed as they are to be construed where used in the foregoing provisions of this Act in relation to a company incorporated under the principal Act.

111 Power of foreign companies to hold land.

Section three hundred and forty-five of the principal Act (which confers on companies incorporated in a British possession power to hold lands in the United Kingdom) shall apply also to all companies incorporated outside the United Kingdom elsewhere than in a British possession, being companies to which Part XI of the principal Act applies.

112 Accounts of foreign companies.

- (1) The requirements of subsection (1) of section three hundred and forty-seven of the principal Act (which requires a foreign company carrying on business in Great Britain to deliver a balance sheet to the registrar of companies every year) as to the form and contents of the balance sheet and as to the documents to be included therein shall have effect as if the reference to the provisions of that Act included the provisions of this Act, subject, however, to any prescribed exceptions, and that section shall subject as aforesaid apply in relation to a profit and loss account and, in the case of a holding company, to group accounts as it applies in relation to a balance sheet.
- (2) A company registered under the law relating to companies for the time being in force in Northern Ireland and having provisions in its constitution which would, if it had been registered in Great Britain, entitle it to rank as a private company shall not be required by the said section three hundred and forty-seven to make out accounts or deliver a copy thereof to the registrar for registration if in lieu thereof there is delivered a certificate signed by a director and by the secretary of the company that, had section fifty-four of, and the Third Schedule to, this Act extended to Northern Ireland, it would at the date of the certificate have been an exempt private company.
- (3) Section three hundred and sixty-two of the principal Act (which penalises false statements) shall apply in relation to this section as it applies in relation to the said section three hundred and forty-seven.

113 List of directors.

- (1) Any reference in the following provisions of the principal Act (which relate to the list of directors to be delivered to the registrar of companies by a company incorporated outside but carrying on business in Great Britain), that is to say:—

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- (a) paragraph (b) of subsection (1) of section three hundred and forty-four; and
- (b) paragraph (2) of section three hundred and forty-six;

to a company's directors shall include a reference to the company's secretary, and for the purpose of this provision the expression " secretary " shall include any person occupying the position of secretary by whatever name called.

- (2) In paragraph (b) of subsection (1) of the said section three hundred and forty-four, the reference to such particulars as are by the principal Act required to be contained with respect to directors in the register of directors of a company shall be taken as including—
- (a) in relation to name and nationality, the particulars, but only the particulars, required by that Act, as amended by this Act;
 - (b) in relation to directorships, as including the particulars, but only the particulars required by that Act as originally enacted;
- and as not including particulars of date of birth as required by this Act.

114 Publication of name.

Paragraphs (3) and (4) of section three hundred and forty-eight of the principal Act (which require publication of the name of companies incorporated outside but carrying on business in Great Britain) shall have effect as if they had been enacted with the words " notices and other official publications " for the words " notices, advertisements and other official publications ".

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.
- (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—

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- (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 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.

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PART IX

GENERAL.

119 Form of registers, etc.

- (1) Any register, index, minute book or book of account required by the principal Act or this Act to be kept by a company may, notwithstanding anything in that Act, 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.

120 Power to vary certain provisions by regulation or order.

- (1) The Board of Trade shall have power by regulations to alter or add to the requirements of the principal Act and 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 those of the First Schedule to this Act, and any reference in this Act to the said First 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 power of the Board of Trade under section three hundred and seventy-nine of the principal Act to alter or add to the provisions of the Schedules to that Act mentioned in that section shall be exercisable by regulations instead of by publishing the provisions as altered in the London Gazette, and the power to alter the table of fees in the Tenth Schedule to the principal Act shall include power to alter the section of this Act amending the said Tenth Schedule.
- (3) The Treasury shall have power by order from time to time to substitute for the rates of interest respectively mentioned in section two hundred and sixty-six of the principal Act (which relates to floating charges created within six months before the commencement of a winding up) and in subsection (4) of section three hundred and two thereof (which provides for payment of interest on sums standing to the credit of a company's liquidation account) such other rate of interest as may be prescribed by the order; and for the reference in proviso (e) to subsection (1) of section fifty-four of the principal Act (which relates to the payment of interest on shares out of capital) to such other rate as may for the time being be prescribed by Order in Council there shall be substituted a reference to such other rate as may for the time being be prescribed by order of the Treasury (but without prejudice, until the making of an order by the Treasury, to the effect of any Order in Council in force thereunder at the coming into force of this subsection).

121 Laying of regulations and orders.

- (1) No regulations shall be made under subsection (1) of the last foregoing section so as to render more onerous the requirements therein referred to, unless a draft of the

regulations has been laid before Parliament and has been approved by resolution of each House of Parliament.

- (2) The following regulations and orders, that is to say—
 - (a) any regulations prescribing fees made by the Board of Trade under the principal Act or this Act;
 - (b) any regulations made by them in relation to the application to unregistered companies of the provisions specified in the Sixth Schedule to this Act;
 - (c) any such regulations or order as mentioned in the last foregoing section not being regulations to which subsection (1) of this section applies ;shall be laid before both Houses of Parliament immediately after the making thereof.
- (3) If either House of Parliament within the period of forty days beginning with the day on which any regulations or order are or is laid before it under the last foregoing subsection, resolves that the regulations or order be annulled, the regulations or order shall thereupon become void, without prejudice, however, to the validity of anything previously done thereunder, or to the making of new regulations or a new order.
- (4) In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.

122 Construction and application of principal Act and this Act.

- (1) In this Act the expression " the principal Act " means the Companies Act, 1929, and, except where the context otherwise requires—
 - (a) any reference in this Act to a provision of the principal Act which is amended by this Act shall be taken as referring to that provision as so amended; and
 - (b) expressions to which a meaning is assigned by the principal Act for the purposes of that Act have that meaning also for the purposes of this Act.
- (2) In this Act, except where the context otherwise requires—
 - the expression " accounts " includes a company's group accounts, whether prepared in the form of accounts or not;
 - the expression " bank holiday " means a day which is a bank holiday under the Bank Holidays Act, 1871;
 - the expression " 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 expression " issued generally " means, in relation to a prospectus, issued to persons who are not existing members or debenture holders of the company;
 - the expression " 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.
- (3) Any provision of this Act overriding or interpreting a company's articles shall, except as provided by this Act, apply in relation to articles in force at the coming into force of that provision, 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.
- (4) In the principal Act and this Act, the expression " officer ", in relation to a body corporate, includes a director, manager or secretary; and the references to officers in

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the provisions of the principal Act mentioned in the Seventh Schedule to this Act shall be amended in accordance with that Schedule.

- (5) In the principal Act and in this Act the expression " agent " shall not include a person's counsel acting as such.
- (6) References in the principal Act and 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.
- (7) In the provisions of the principal Act specified in the Eighth Schedule to this Act references to that Act shall include references to this Act, except in so far as the context, by referring to a specific provision of that Act or to the commencement thereof or otherwise, excludes such a construction.

123 Short title, citation, commencement and repeal.

- (1) This Act may be cited as the Companies Act, 1947, and this Act and the principal Act may be cited together as the Companies Acts, 1929 and 1947.
- (2) This Act shall come into force on such day as the Board of Trade may by order appoint, and different days may be appointed for the purpose of different provisions thereof.
- (3) The provisions of the principal Act specified in Part I of the Ninth Schedule to this Act and the provisions of the Registration of Business Names Act, 1916, specified in Part II thereof are hereby repealed to the extent specified in that Schedule.

SCHEDULES.

FIRST SCHEDULE

Sections 13, 72, 118, 120.

ACCOUNTS.

PART I

GENERAL PROVISIONS AS TO BALANCE SHEET AND PROFIT AND LOSS ACCOUNT.

A. Balance Sheet.

The first seven paragraphs of this Part of this Schedule apply to the balance sheet and are subject to the exceptions and modifications provided for by Part II thereof in the case of a holding company and by Part III thereof in the case of companies of the classes there mentioned.

- 1 (1) The reserves, provisions, liabilities and fixed and current assets shall be classified under headings appropriate to the company's business:

Provided that—

- (a) where the amount of any class is not material, it may be included under the same heading as some other class; and
- (b) where any assets of one class are not separable from assets of another class, those assets may be included under the same heading.

- (2) Fixed assets shall also be distinguished from current assets.

- (3) The method or methods used to arrive at the amount of the fixed assets under each heading shall be stated.

- 2 (1) The method of arriving at the amount of any fixed asset shall, subject to the next following sub-paragraph, be to take the difference between—

- (a) its cost or, if it stands in the company's books at a valuation, the amount of the valuation; and
- (b) the aggregate amount provided or written off since the date of acquisition or valuation, as the case may be, for depreciation or diminution in value;

and for the purposes of this paragraph the net amount at which any assets stand in the company's books at the date of the coming into force of this Schedule (after deduction of the amounts previously provided or written off for depreciation or diminution in value) shall, if the figures relating to the period before that date cannot be obtained without unreasonable expense or delay, be treated as if it were the amount of a valuation of those assets made at that date and, where any of those assets are sold, the said net amount less the amount of the sales shall be treated as if it were the amount of a valuation so made of the remaining assets.

- (2) The foregoing sub-paragraph shall not apply—

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- (a) to assets for which the figures relating to the period beginning with the coming into force of this Schedule cannot be obtained without unreasonable expense or delay; or
 - (b) to assets the replacement of which is provided for wholly or partly—
 - (i) by making provision for renewals and charging the cost of replacement against the provision so made; or
 - (ii) by charging the cost of replacement direct to revenue; or
 - (c) to any investments of which the market value (or, in the case of investments not having a market value, their value as estimated by the directors) is shown either as the amount of the investments or by way of note; or
 - (d) to goodwill, patents or trade marks.
- (3) For the assets under each heading whose amount is arrived at in accordance with sub-paragraph (1) of this paragraph, there shall be shown—
- (a) the aggregate of the amounts referred to in paragraph (a) of that sub-paragraph; and
 - (b) the aggregate of the amounts referred to in paragraph (b) thereof,
- (4) As respects the assets under each heading whose amount is not arrived at in accordance with the said sub-paragraph (1) because their replacement is provided for as mentioned in sub-paragraph (2) (b) of this paragraph, there shall be stated—
- (a) the means by which their replacement is provided for; and
 - (b) the aggregate amount of the provision (if any) made for renewals and not used.
- 3 The aggregate amounts respectively of capital reserves, revenue reserves and provisions (other than provisions for depreciation, renewals or diminution in value of assets) shall be stated under separate headings:
- Provided that—
- (a) this paragraph shall not require a separate statement of any of the said three amounts which is not material; and
 - (b) the Board of Trade may direct that it shall not require a separate statement of the amount of provisions where they are satisfied that that is not required in the public interest and would prejudice the company, but subject to the condition that any heading stating an amount arrived at after taking into account a provision (other than as aforesaid) shall be so framed or marked as to indicate that fact.
- 4 (1) There shall also be shown (unless it is shown in the profit and loss account or a statement or report annexed thereto, or the amount involved is not material)—
- (a) where the amount of the capital reserves, of the revenue reserves or of the provisions (other than provisions for depreciation, renewals or diminution in value of assets) shows an increase as compared with the amount at the end of the immediately preceding financial year, the source from which the amount of the increase has been derived; and
 - (b) where—
 - (i) the amount of the capital reserves or of the revenue reserves shows a decrease as compared with the amount at the end of the immediately preceding financial year; or
 - (ii) the amount at the end of the immediately preceding financial year of the provisions (other than provisions for depreciation, renewals

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- or diminution in value of assets) exceeded the aggregate of the sums since applied and amounts still retained for the purposes thereof; the application of the amounts derived from the difference.
- (2) Where the heading showing any of the reserves or provisions aforesaid is divided into sub-headings, this paragraph shall apply to each of the separate amounts shown in the sub-headings instead of / applying to the aggregate amount thereof.
- 5 (1) There shall be shown under separate headings—
- (a) the aggregate amounts respectively of the company's trade investments, quoted investments other than trade investments and unquoted investments other than trade investments;
 - (b) if—
 - (i) the total amount of the goodwill, patents and trademarks is not stated pursuant to paragraph (c) of subsection (2) of section one hundred and twenty-four of the principal Act, because not shown in or ascertainable from the books and papers mentioned in that paragraph; but
 - (ii) part of that amount, is shown in or ascertainable from the said books and papers;
the amount of the goodwill, patents and trademarks, so far as it is so shown or ascertainable and as so shown or ascertained;
 - (c) the aggregate amount of bank loans and overdrafts;
 - (d) the net aggregate amount (after deduction of income tax) which is recommended for distribution by way of dividend.
- (2) Nothing in paragraph (c) of subsection (2) of the said section one hundred and twenty-four shall be taken as requiring the amount of the goodwill, patents and trademarks to be stated otherwise than as a single item, and sub-paragraph (1)(b) of this paragraph shall be construed accordingly.
- (3) The heading showing the amount of the quoted investments other than trade investments shall be sub-divided, where necessary, to distinguish the investments as respects which there has, and those as respects which there has not, been granted a quotation or permission to deal on a recognised stock exchange.
- 6 Where any of the company's debentures are held by a nominee of or trustee for the company, the nominal amount of the debentures and the amount at which they are stated in the books of the company shall be stated.
- 7 (1) The matters referred to in the following sub-paragraphs shall be stated by way of note, or in a statement or report annexed, if not otherwise shown.
- (2) The number, description and amount of any shares in the company which any person has an option to subscribe for, together with the following particulars of the option, that is to say—
- (a) the period during which it is exercisable;
 - (b) the price to be paid for shares subscribed for under it.
- (3) The amount of any arrears of fixed cumulative dividends on the company's shares and the period for which the dividends or, if there is more than one class, each class of them are in arrear, the amount to be stated before deduction of income tax, except that, in the case of tax free dividends, the amount shall be shown free of tax and the fact that it is so shown shall also be stated.

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- (4) Particulars of any charge on the assets of the company to secure the liabilities of any other person, including, where practicable, the amount secured.
- (5) The general nature of any other contingent liabilities not provided for and, where practicable, the aggregate amount or estimated amount of those liabilities, if it is material.
- (6) Where practicable the aggregate amount or estimated amount, if it is material, of contracts for capital expenditure, so far as not provided for.
- (7) If in the opinion of the directors any of the current assets have not a value, on realisation in the ordinary course of the company's business, at least equal to the amount at which they are stated, the fact that the directors are of that opinion.
- (8) The aggregate market value of the company's quoted investments, other than trade investments, where it differs from the amount of the investments as stated, and the stock exchange value of any investments of which the market value is shown (whether separately or not) and is taken as being higher than their stock exchange value.
- (9) The basis on which foreign currencies have been converted into sterling, where the amount of the assets or liabilities affected is material.
- (10) The basis on which the amount, if any, set aside for United Kingdom income tax is computed.
- (11) Except in the case of the first balance sheet laid before the company after the coming into force of this Schedule, the corresponding amounts at the end of the immediately preceding financial year for all items shown in the balance sheet.

B. Profit and Loss Account.

The two following paragraphs apply to the profit and loss account and are subject to the exceptions and modifications provided for by Part II of this Schedule in the case of a holding company and by Part III thereof in the case of companies of the classes there mentioned.

- 8 (1) There shall be shown—
- (a) the amount charged to revenue by way of provision for depreciation, renewals or diminution in value of fixed assets;
 - (b) the amount of the interest on the company's debentures and other fixed loans;
 - (c) the amount of the charge for United Kingdom income tax and other United Kingdom taxation on profits, including, where practicable, as United Kingdom income tax any taxation imposed elsewhere to the extent of the relief, if any, from United Kingdom income tax and distinguishing where practicable between income tax and other taxation;
 - (d) the amounts respectively provided for redemption of share capital and for redemption of loans;
 - (e) the amount, if material, set aside or proposed to be set aside to, or withdrawn from, reserves;
 - (f) subject to sub-paragraph (2) of this paragraph, the amount, " if material, set aside to provisions other than provisions for depreciation, renewals or diminution in value of assets or, as the case may be, the amount, if material, withdrawn from such provisions and not applied for the purposes thereof;

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- (g) the amount of income from investments, distinguishing between trade investments and other investments;
 - (h) the aggregate amount of the dividends paid and proposed.
 - (2) The Board of Trade may direct that a company shall not be obliged to show an amount set aside to provisions in accordance with sub-paragraph (1)(f) of this paragraph, if the Board is satisfied that that is not required in the public interest and would prejudice the company, but subject to the condition that any heading stating an amount arrived at after taking into account the amount set aside as aforesaid shall be so framed or marked as to indicate that fact.
- 9 (1) The matters referred to in the following sub-paragraphs shall be stated by way of note, if not otherwise shown.
 - (2) If depreciation or replacement of fixed assets is provided for by some method other than a depreciation charge or provision for renewals, or is not provided for, the method by which it is provided for or the fact that it is not provided for, as the case may be.
 - (3) The basis on which the charge for United Kingdom income tax is computed.
 - (4) Whether or not the amount stated for dividends paid and proposed is for dividends subject to deduction of income tax.
 - (5) Except in the case of the first profit and loss account laid before the company after the coming into force of this Schedule, the corresponding amounts for the immediately preceding financial year for all items shown in the profit and loss account.
 - (6) Any material respects in which any items shown in the profit and loss account are affected—
 - (a) by transactions of a sort not usually undertaken by the company or otherwise by circumstances of an exceptional or non-recurrent nature; or
 - (b) by any change in the basis of accounting.

PART II

SPECIAL PROVISIONS WHERE THE COMPANY IS A HOLDING OR SUBSIDIARY COMPANY.

A. Modifications of and additions to requirements as to company's own accounts.

- 1 (1) This paragraph shall apply where the company is a holding company, whether or not it is itself a subsidiary of another body corporate.
 - (2) The references in Part I of this Schedule to the company's investments shall not include its investments in its subsidiaries which are required to be separately stated by section one hundred and twenty-five of the principal Act and paragraph 2, sub-paragraph (1) (a) of paragraph 8 and sub-paragraph (2) of paragraph 9 thereof shall not apply in relation to fixed assets consisting of interests in its subsidiaries.
 - (3) There shall be shown by way of note on the balance sheet, or in a statement or report annexed thereto the number, description and amount of the shares in and debentures of the company held by its subsidiaries or their nominees, but excluding any of those shares or debentures in the case of which the subsidiary is concerned as personal representative or in the case of which it is concerned as trustee and neither

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the company nor any subsidiary thereof is beneficially interested under the trust, otherwise than by way of security only for the purposes of a transaction entered into by it in the ordinary course of a business which includes the lending of money.

(4) Where group accounts are not submitted, there shall be annexed to the balance sheet a statement showing-

- (a) the reasons why subsidiaries are not dealt with in group accounts;
- (b) the net aggregate amount, so far as it concerns members of the holding company and is not dealt with in the company's accounts, of the subsidiaries' profits after deducting the subsidiaries' losses (or vice versa)—
 - (i) for the respective financial years of the subsidiaries ending with or during the financial year of the company; and
 - (ii) for their previous financial years since they respectively became the holding company's subsidiary;
- (c) the net aggregate amount of the subsidiaries' profits after deducting the subsidiaries' losses (or vice versa)—
 - (i) for the respective financial years of the subsidiaries ending with or during the financial year of the company; and
 - (ii) for their other financial years since they respectively became the holding company's subsidiary;

so far as those profits are dealt with, or provision is made for those losses, in the company's accounts;

- (d) any qualifications contained in the report of the auditors of the subsidiaries on their accounts for their respective financial years ending as aforesaid, and any note or saving contained in those accounts to call attention to a matter which, apart from the note or saving, would properly have been referred to in such a qualification, in so far as the matter which is the subject of the qualification or note is not covered by the company's own accounts and is material from the point of view of its members;

or, in so far as the information required by this sub-paragraph is not obtainable, a statement that it is not obtainable:

Provided that the Board of Trade may, on the application or with the consent of the company's directors, direct that in relation to any subsidiary this sub-paragraph shall not apply or shall apply only to such extent as may be provided by the direction.

(5) Paragraphs (b) and (c) of the last foregoing sub-paragraph shall apply only to profits and losses of a subsidiary which may properly be treated in the holding company's accounts as revenue profits or losses, and the profits or losses attributable to any shares in a subsidiary for the time being held by the holding company or any other of its subsidiaries shall not (for that or any other purpose) be treated as aforesaid so far as they are profits or losses for the period before the date on or as from which the shares were acquired by the company or any of its subsidiaries, except that they may in a proper case be so treated where—

- (a) the company is itself the subsidiary of another body corporate; and
- (b) the shares were acquired from that body corporate or a subsidiary of it;

and for the purpose of determining whether any profits or losses are to be treated as profits or losses for the said period the profit or loss for any financial year of the subsidiary may, if it is not practicable to apportion it with reasonable accuracy by reference to the facts, be treated as accruing from day to day during that year and be apportioned accordingly.

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- (6) Where group accounts are not submitted there shall be annexed to the balance sheet a statement showing, in relation to the subsidiaries (if any) whose financial years did not end with that of the company—
- (a) the reasons why the company's directors consider that the subsidiaries' financial years should not end with that of the company; and
 - (b) the dates on which the subsidiaries' financial years ending last before that of the company respectively ended or the earliest and latest of those dates.
- 2 (1) The balance sheet of a company which is a subsidiary of another body corporate, whether or not it is itself a holding company, shall show the aggregate amount of its indebtedness to all bodies corporate of which it is a subsidiary or a fellow subsidiary and the aggregate amount of the indebtedness of all such bodies corporate to it, distinguishing in each case between indebtedness in respect of debentures and otherwise.
- (2) For the purposes of this paragraph, a company shall be deemed to be a fellow subsidiary of another body corporate if both are subsidiaries of the same body corporate but neither is the other's.

B. Consolidated Accounts of Holding Company and Subsidiaries.

- 3 Subject to the following paragraphs of this Part of this Schedule, the consolidated balance sheet and profit and loss account shall combine the information contained in the separate balance sheets and profit and loss accounts of the holding company and of the subsidiaries dealt with by the consolidated accounts, but with such adjustments (if any) as the directors of the holding company think necessary.
- 4 Subject as aforesaid and to Part III of this Schedule, the consolidated accounts shall, in giving the said information, comply, so far as practicable, with the requirements of the principal Act and this Act as if they were the accounts of an actual company.
- 5 Section one hundred and twenty-eight of the principal Act and section thirty-eight of this Act shall not, by virtue of the two last foregoing paragraphs, apply for the purpose of the consolidated accounts.
- 6 Paragraph 4 of Part I of this Schedule shall not apply for the purpose of any consolidated accounts laid before a company with the first balance sheet so laid after the coming into force of this Schedule.
- 7 In relation to any subsidiaries of the holding company not dealt with by the consolidated accounts—
- (a) section one hundred and twenty-five of the principal Act and sub-paragraphs (2) and (3) of paragraph 1 of this Part of this Schedule shall apply for the purpose of those accounts as if those accounts were the accounts of an actual company of which they were subsidiaries; and
 - (b) there shall be annexed the like statement as is required by sub-paragraph (4) of paragraph 1 of this Part of this Schedule where there are no group accounts, but as if references therein to the holding company's accounts were references to the consolidated accounts.
- 8 In relation to any subsidiaries (whether or not dealt with by the consolidated accounts), whose financial years did not end with that of the company, there shall be annexed the like statement as is required by sub-paragraph (6) of paragraph 1 of this Part of this Schedule where there are no group accounts.

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PART III

EXCEPTIONS FOR SPECIAL CLASSES OF COMPANY.

- 1 (1) A banking or discount company shall not be subject to the requirements of Part I of this Schedule other than—
- (a) as respects its balance sheet, those of paragraph r (so far as the said paragraph relates to fixed and current assets), paragraph 5 (except sub-paragraph (1) (c)), paragraph 6 and paragraph 7 (except sub-paragraph (8)); and
 - (b) as respects its profit and loss account, those of sub-paragraph (r) (h) of paragraph 8 and sub-paragraphs (r), (4) and (5) of paragraph 9;
- but, where in its balance sheet capital reserves, revenue reserves or provisions (other than provisions for depreciation, renewals or diminution in value of assets) are not stated separately, any heading stating an amount arrived at after taking into account such a reserve or provision shall be so framed or marked as to indicate that fact, and its profit and loss account shall indicate by appropriate words the manner in which the amount stated for the company's profit or loss has been arrived at.
- (2) The accounts of a banking or discount company shall not be deemed, by reason only of the fact that they do not comply with any requirements of the said Part I from which the company is exempt by virtue of this paragraph, not to give the true and fair view required by this Act.
- (3) In this paragraph the expression "banking or discount company " means any company which satisfies the Board of Trade that it ought to be treated for the purposes of this Schedule as a banking company or as a discount company.
- 2 (1) In relation to an assurance company within the meaning of the Assurance Companies Acts, 1909 to 1946, which is subject to and complies with the requirements of those Acts as respects the preparation and deposit with the Board of Trade of a balance sheet and profit and loss account, the foregoing paragraph shall apply as it applies in relation to a banking or discount company, and such an assurance company shall also not be subject to the requirements of sub-paragraphs (1)(a) and (3) of paragraph 5 and sub-paragraphs (4) to (7) and sub-paragraph (10) of paragraph 7 of the said Part I:
- Provided that the Board of Trade may direct that any such assurance company whose business includes to a substantial extent business other than assurance business shall comply with all the requirements of the said Part I or such of them as may be specified in the direction and shall comply therewith as respects either the whole of its business or such part thereof as may be so specified.
- (2) Where an assurance company is entitled to the benefit of this paragraph, then any wholly owned subsidiary thereof shall also be so entitled if its business consists only of business which is complementary to assurance business of the classes carried on by the assurance company.
- (3) For the purposes of this paragraph, a company shall be deemed to be the wholly owned subsidiary of an assurance company if it has no members except the assurance company and the assurance company's wholly owned subsidiaries and its or their nominees.
- 3 (1) A company to which this paragraph applies shall not be subject to the following requirements of Part I of this Schedule, that is to say—
- (a) as respects its balance sheet, those of paragraph 1 (except so far as the said paragraph relates to fixed and current assets) and paragraphs 2, 3 and 4; and

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(b) as respects its profit and loss account, those of sub-paragraph (1)(a), (e) and (f) of paragraph 8;

but a company taking advantage of this paragraph shall be subject, instead of the said requirements, to any prescribed conditions as respects matters to be stated in its accounts or by way of note thereto and as respects information to be furnished to the Board of Trade or a person authorised by them to require it.

(2) The accounts of a company shall not be deemed, by reason only of the fact that they do not comply with any requirements of the said Part I from which the company is exempt by virtue of this paragraph, not to give the true and fair view required by this Act.

(3) This paragraph applies to companies of any class prescribed for the purposes thereof, and a class of companies may be so prescribed if it appears to the Board of Trade desirable in the national interest:

Provided that, if the Board of Trade are satisfied that any of the conditions prescribed for the purposes of this paragraph has not been complied with in the case of any company, they may direct that so long as the direction continues in force this paragraph shall not apply to the company.

4 Where a company entitled to the benefit of any provision contained in this Part of this Schedule is a holding company, the reference in Part II of this Schedule to consolidated accounts complying with the requirements of the principal Act and this Act shall, in relation to consolidated accounts of that company, be construed as referring to those requirements in so far only as they apply to the separate accounts of that company.

PART IV

INTERPRETATION OF SCHEDULE.

- 1 (1) For the purposes of this Schedule, unless the context otherwise requires—
- (a) the expression " provision " shall, subject to sub-paragraph (2) of this paragraph, mean any amount, written off or retained by way of providing for depreciation, renewals or diminution in value of assets or retained by way of providing for any known liability of which the amount cannot be determined with substantial accuracy;
 - (b) the expression " reserve " shall not, subject as aforesaid, include any amount written off or retained by way of providing for depreciation, renewals or diminution in value of assets or retained by way of providing for any known liability;
 - (c) the expression " capital reserve " shall not include any amount regarded as free for distribution through the profit and loss account and the expression " revenue reserve " shall mean any reserve other than a capital reserve;

and in this paragraph the expression " liability " shall include all liabilities in respect of expenditure contracted for and all disputed or contingent liabilities.

- (2) Where—
- (a) any amount written off or retained by way of providing for depreciation, renewals or diminution in value of assets, not being an amount written off in relation to fixed assets before the coming into force of this Schedule; or
 - (b) any amount retained by way of providing for any known liability;

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is in excess of that which in the opinion of the directors is reasonably necessary for the purpose, the excess shall be treated for the purposes of this Schedule as a reserve and not as a provision.

- 2 For the purposes aforesaid, the expression " quoted investment " means an investment as respects which there has been granted a quotation or permission to deal on a. recognised stock exchange, or on any stock exchange of repute outside Great Britain, and the expression " unquoted investment " shall be construed accordingly.

SECOND SCHEDULE

Section 22.

MATTERS TO BE EXPRESSLY STATED IN AUDITORS' REPORT.

- 1 Whether they have obtained all the information and explanations which to the best of their knowledge and belief were necessary for the purposes of their audit.
- 2 Whether, in their opinion, proper books of account have been kept by the company, so far as appears from their examination of those books, and proper returns adequate for the purposes of their audit have been received from branches not visited by them.
- 3 (1) Whether the company's balance sheet and (unless it is framed as a consolidated profit and loss account) profit and loss account dealt with by the report are in agreement with the books of account and returns.
- (2) Whether, in their opinion and to the best of their information and according to the explanations given them, the said accounts give the information required by the principal Act and this Act in the manner so required and give a true and fair view—
- (a) in the case of the balance sheet, of the state of the company's affairs as at the end of its financial year; and
 - (b) in the case of the profit and loss account, of the profit or loss for its financial year;
- or, as the case may be, give a true and fair view thereof subject to the non-disclosure of any matters (to be indicated in the report) which by virtue of Part III of the First Schedule to this Act are not required to be disclosed;
- 4 In the case of a holding company submitting group accounts whether, in their opinion, the group accounts have been properly prepared in accordance with the provisions of this Act so as to give a true and fair view of the state of affairs and profit or loss of the company and its subsidiaries dealt with thereby, so far as concerns members of the company, or, as the case may be, so as to give a true and fair view thereof subject to the non-disclosure of any matters (to be indicated in the report) which by virtue of Part III of the First Schedule to this Act are not required to be disclosed.

THIRD SCHEDULE

Section 54.

CONDITIONS AS TO INTERESTS IN SHARES AND DEBENTURES OF EXEMPT PRIVATE COMPANY.

Basic conditions.

- 1 The basic conditions as to the shares or debentures of the company whose exemption is in question are—
- (a) that no body corporate is the holder of any of the shares or debentures; and
 - (b) that no person other than the holder has any interest in any of the shares or debentures;
- but these conditions are subject to the exceptions provided for by the following paragraphs of this Schedule.

Exceptions for normal dealings of a business nature.

- 2 (1) The rules contained in the following sub-paragraphs of this paragraph shall apply for the purposes both of the basic conditions and of the exceptions from those conditions.
- (2) Where any share or debenture or any interest in any share or debenture is subject to a charge in favour of a banking or finance company by way of security for the purposes of a transaction entered into in the ordinary course of its business as such—
- (a) any interest under the charge, whether of the banking or finance company or a nominee for it, shall be disregarded; and
 - (b) if the banking or finance company or its nominee is the holder of the share or debenture, the person entitled to the equity of redemption shall be treated as the holder, whether he has a present right to redeem or not.
- (3) Any interest under a contract for the transfer of any share or debenture or of any interest in any share or debenture shall, until execution of an instrument of transfer by the parties, be disregarded unless execution thereof is unreasonably delayed.
- (4) Subject to sub-paragraph (2) of this paragraph, on execution of an instrument of transfer of a share or debenture, the transferee and not the transferor shall be treated as the holder, notwithstanding that the transfer requires registration with the company, unless registration is refused.
- (5) Any interest of the company itself in any of its shares or debentures, and any lien or charge arising by operation of law and affecting any of the shares or debentures, shall be disregarded.

Exceptions for cases of death and for family settlements.

- 3 (1) The basic conditions shall be subject to exceptions for—
- (a) any shares or debentures forming part of the estate of a deceased holder thereof, so long as administration of his estate has not been completed; and
 - (b) any shares or debentures held by trustees on the trusts of a will or family settlement disposing of the shares or debentures, so long as no body corporate has for the time being any immediate interest under the said trusts other than—
 - (i) a body corporate established for charitable purposes only and having no right to exercise or control the exercise of any part of the voting power at any general meeting of the company;

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(ii) a body corporate which is a trustee of the said trusts and has such an interest only by way of remuneration for acting as trustee thereof.

(2) For the purposes of this paragraph—

- (a) shares or debentures held by trustees on trusts arising on an intestacy shall, if the shares or debentures or an interest therein formed part of the intestate's estate at the time of his death, be treated as if the trusts arose under a will disposing of the shares or debentures;
- (b) the expression " family settlement " means a settlement made either—
 - (i) in consideration or Contemplation of an intended marriage of the settlor or any of the settlor's issue or in pursuance of a contract entered into in consideration or contemplation of any such marriage; or
 - (ii) otherwise in favour of any of the following persons, that is to say the settlor, his parents and grandparents, and any other individual who at the date of the settlement is a member of the company or, in the case of a settlement of debentures, a member or debenture holder of the company, and the wife or husband and issue, and the wife or husband of any of the issue, of the settlor, his parents, or any such other individual, and persons taking in the event of a failure of the issue or any class of the issue of any person taking under the settlement;
- (c) the expressions " parent ", " grandparent " and " issue " shall be construed as if the stepchild, adopted child or illegitimate child of any person were that person's child;
- (d) any reference to a wife or husband shall include a former wife or husband and a reputed wife or husband;
- (e) the expression " will " includes any testamentary disposition;
- (f) any reference to a will or family settlement disposing of any shares or debentures shall include a will or family settlement disposing of an interest under another will or family settlement disposing of the shares or debentures.

Exception for cases of disability.

- 4 Where the person entitled to any share or debenture or any interest in any share or debenture is of unsound mind or otherwise under any disability, and by reason thereof the share, debenture or interest is vested in an administrator, curator or other person on behalf of the person entitled thereto, then in relation to the share, debenture or interest the person in whom it is- so vested and the person entitled thereto shall be treated for the purposes of this Schedule as if they were the same person.

Exception for trusts for employees.

- 5 The basic conditions shall be subject to an exception for any shares or debentures held by trustees for the purposes of a scheme maintained for the benefit of employees of the company, including any director holding a salaried employment or office in the company.

Exception for shares held by exempt private companies.

- 6 (1) The first of the basic conditions shall be subject to an exception for shares held by another private company which is itself an exempt private company:

Provided that this exception shall not apply if, taking all the following companies together, that is to say—

- (a) the company whose exemption is in question (hereafter in this Schedule referred to as " the relevant company ");
- (b) any company holding shares to which this exception has to be applied in determining the relevant company's right to be . treated as an exempt private company; and
- (c) any further company taken into account for the purposes of this proviso in determining the right to be so treated of any company holding any such shares as aforesaid;

the total number of persons holding shares in those companies is more than fifty, joint shareholders being treated as a single person and the companies themselves and (subject to sub-paragraph (4) of this paragraph) their employees and former employees being disregarded.

- (2) Where the relevant company and another company hold shares in each other, the other company shall be treated for the purposes of the foregoing sub-paragraph as an exempt private company if—

- (a) in determining its right to be so treated the exception in that sub-paragraph would apply to the shares in it held by the relevant company, on the assumption that the relevant company was an exempt private company; and
- (b) in all other respects the other company is entitled to be so treated;

and where another company's right to be so treated depends on the application to any shares in it of that sub-paragraph, and the application thereof to those shares depends indirectly on the relevant company's right to be so treated, this sub-paragraph shall apply as if those shares were held by the relevant company.

- (3) Where by virtue of this paragraph any shares are excepted from the first of the basic conditions, the second of those conditions shall be subject to an exception for any interest in those shares which any person has by virtue of debentures of the company holding those shares or as trustee of a deed for securing an issue of debentures of that company.

- (4) In the proviso to sub-paragraph (r) of this paragraph, the direction that employees and former employees of the companies shall be disregarded in computing the number of shareholders shall not apply to a person holding shares in a company of which he is not for the time being an employee unless, having been formerly in the employment of that company, he held while in that employment, and has continued after the determination of that employment to hold, shares in that company.

Exception for banking or finance company providing capital.

- 7 (1) The first of the basic conditions shall be subject to an exception for any shares or debentures held by or by a nominee for a banking or finance company, where the, banking or finance company acquired the shares or debentures or its interest therein in the ordinary course of its business as such and by arrangement with the relevant company or its promoters:

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Provided that this exception shall not apply if the banking or finance company has the right (or, where there is more than one such company holding shares or debentures to which this exception has to be applied in determining the relevant company's right to be treated as an exempt private company, they have between them the right) to exercise or control the exercise of one-fifth or more of the total voting power at any general meeting of the relevant company.

- (2) Where by virtue of the foregoing sub-paragraph any shares or debentures are excepted from the first of the basic conditions, the second of those conditions shall be subject to an exception for the banking or finance company itself, where the shares or debentures are held by a nominee for it, and for any interest in those shares or debentures which any person has by virtue of debentures of the banking or finance company or as trustee of a deed for securing an issue of debentures of that company.

Exceptions for bankruptcies, liquidations, etc.

- 8 The basic conditions shall be subject to exceptions for—
- (a) any shares or debentures forming part of the assets in a bankruptcy or liquidation of a holder thereof; and
 - (b) any shares or debentures held either—
 - (i) on trusts created for the benefit of his creditors generally by a person having an interest therein; or
 - (ii) otherwise for the purposes of any composition of scheme made or approved under any Act by a court or an officer of a court for arranging the affairs of such a person.

Meaning of " banking or finance company" ..

- 9 In this Schedule the expression " banking or finance company" means any body corporate or partnership whose ordinary business includes the business of banking and any other body corporate whose ordinary business includes the business of lending money or of subscribing for shares or debentures, except that it does not include any such other body corporate unless either—
- (a) its shares are quoted or dealt in on a recognised stock exchange; or
 - (b) it is designated for the purposes of this paragraph by order of the Board of Trade; or
 - (c) it is a subsidiary of a body corporate whose shares are so quoted or dealt in or which is so designated.

FOURTH SCHEDULE

Section 67.

AMENDMENTS OF THIRD AND FIFTH SCHEDULES TO PRINCIPAL ACT.

- 1 In the Third Schedule to the principal Act, there shall, in the entry relating to the rates of the dividends paid by the company, be substituted for the words " three financial years " the words " five financial years ".
- 2 (1) In the said Third Schedule there shall be inserted at the end of the entry relating to the vendors of property purchased or acquired or proposed to be purchased or acquired the words " except where the contract for its purchase or acquisition was entered into

in the ordinary course of business and there is no connection between the contract and the company ceasing to be a private company or where the amount of the purchase money is not material ".

- (2) At the end of the corresponding entry in the Fifth Schedule to the principal Act there shall be inserted the words " except where the contract for its purchase or acquisition was entered into in the ordinary course of the business intended to be carried on by the company or the amount of the purchase money is not material ".
- 3 (1) Both in the said Third Schedule and in the Fifth Schedule to the principal Act for the words " dates of, and parties to, every material contract " there shall be substituted the words " dates of, parties to, and general nature of, every material contract ".
- (2) In both the said Schedules there shall be inserted at the end of the entry relating to a time and place for inspection of material contracts the following words—

or (1) in the case of a contract not reduced into writing, a memorandum giving full particulars thereof, and (2) in the case of a contract wholly or partly in a foreign language, a copy of a translation thereof in English or embodying a translation in English of the parts in a foreign language, as the case may be, being a translation certified in the prescribed manner to be a correct translation.

- 4 In both the said Schedules there shall be inserted at the places specified in this paragraph the entries so specified, that is to say—

(a) *Immediately after the entry relating to the consideration for the issue or intended issue of shares and debentures of the company:—*

Number, description and amount of any shares or debentures which any person has or is entitled to be given an option to subscribe for, or to acquire from a person to whom they have been allotted or agreed to be allotted with a view to his offering them for sale.	1.	shares of £ and debentures of £ .
Period during which option is exercisable.	2.	Until

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Price to be paid for shares or debentures subscribed for or acquired under option.

3.

Consideration for option or right to option.

4. Consideration:—

Persons to whom option or right to option was given or, if given to existing shareholders or debenture holders as such, the relevant shares or debentures.

5. Names and addresses:—

(b) *Immediately after the entries relating to the amount paid or payable for property purchased or acquired by the company:—*

Short particulars of any transaction relating to any such property which was completed within the two preceding years and in which any vendor to the company or any person who is, or was at the time thereof, a promoter, director or proposed director of the company had any interest direct or indirect.

(c) *Immediately after the entry relating to the preliminary expenses:—*

By whom those expenses have been paid or are payable.

- 5 (1) In the said Third Schedule immediately after the entry relating to the consideration for payments to promoters there shall be inserted the following entries:—

Any other benefit given to any promoter.

Name of promoter:—

Nature and value of benefit:—

Consideration for giving of benefit.

Consideration:—

- (2) In the said Fifth Schedule immediately after the corresponding entry, there shall be inserted the following entries:—

Any other benefit given or intended to be given to any promoter.

Name of promoter:—

Nature and value of benefit:—

Consideration for giving of benefit.

Consideration:—

FIFTH SCHEDULE

Section 105.

AMENDMENTS AS TO PERSONS LIABLE FOR DEFAULTS UNDER PRINCIPAL ACT.

<i>Enactment of principal Act.</i>	<i>Present wording.</i>
S. 42(3)	Every director, manager, secretary, or other officer of the company who is "knowingly a party to the default.
S. 66(2)	Every director, manager, secretary or other officer of the company who is knowingly a party to the default.
S. 67(2)	Every director, manager, secretary or other officer of the company who is knowingly a party to the default.
S. 80(3)	Every director, manager, secretary or other person who is knowingly a party to the default.
S. 89(2)	Any officer of the company refusing inspection and every director and manager of the company authorising or knowingly and wilfully permitting the refusal.
S. 112(2)	Every director or manager of the company who is knowingly a party to the default.
S. 129(3)	Every director, manager, secretary or other officer of the company who is knowingly a party to the default.
S. 130(1)	Every director, manager, secretary or other officer of the company who is knowingly a party to the default.
S. 131(4)	Every director and manager of the company who knowingly and wilfully authorises or permits the default.
S. 274 (1)	Every director, manager or other officer of the company who was knowingly a party to or connived at the default of the company.

SIXTH SCHEDULE

Section 108, 121.

PROVISIONS APPLIED TO UNREGISTERED COMPANIES.

<i>Subject matter.</i>	<i>Provisions applied.</i>	<i>Limitations on application.</i>
Prospectuses and allotments.	Principal Act:— sections thirty-four to thirty-eight and the Fourth Schedule.	} To apply so far only as may be prescribed and to such bodies corporate as may be prescribed.

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

<i>Subject matter.</i>	<i>Provisions applied.</i>	<i>Limitations on application.</i>
Annual return, accounts and audit.	<p>This Act :— sections fifty-nine to sixty-six and section sixty-eight.</p> <p>(a) Principal Act:— sections one hundred and eight to one hundred and eleven, section three hundred and sixty-one and the Sixth Schedule.</p> <p>This Act :— sections fifty-two to, fifty-five and the Third Schedule.</p> <p>(b) Principal Act:— sections one hundred and twenty-two to one hundred and twenty-five and sections one hundred and twenty-eight to one hundred and thirty-four.</p> <p>This Act :— sections twelve to twenty-five, sections thirty-eight and thirty-nine, and the First and Second Schedules.</p>	<p>} (a) Not to apply so as to require particulars in respect of any period before the coming into force of this Schedule, and as respects any period thereafter to apply so far only as may be prescribed, and to such bodies corporate as may be prescribed.</p> <p>} (b) To apply so far only as may be prescribed and to such bodies corporate as may be prescribed.</p>
Investigations.	<p>Principal Act :— sections one hundred and thirty-five and one hundred and thirty-six and section one hundred and thirty-eight.</p> <p>This Act:— sections forty-two to forty-nine.</p>	<p>} —</p>
Register of directors and secretaries.	<p>Principal Act:— section one hundred and forty-four.</p> <p>This Act :— section twenty-seven.</p>	<p>} —</p>
Registration of documents, enforcement and other supplemental matters.	<p>Principal Act :— sections three hundred and thirteen to three hundred and fifteen, section three hundred and sixty-two, sections</p>	<p>} To apply so far only as they have effect in relation to provisions applying by virtue of the foregoing entries in this Schedule.</p>

<i>Subject matter.</i>	<i>Provisions applied.</i>	<i>Limitations on application.</i>
	<p>three hundred and sixty-five to three hundred and seventy, section three hundred and seventy-five, section , three hundred and eighty and the Tenth and Eleventh Schedules.</p> <p>This Act :—</p> <p>section forty-one, sections one hundred and two to one hundred and four, section one hundred and nineteen, section one hundred and twenty and section one hundred and twenty-two.</p>	

SEVENTH SCHEDULE

Section 122.

AMENDMENTS OF PROVISIONS OF PRINCIPAL ACT REFERRING TO OFFICERS.

- 1 There shall be left out—
- (a) the words " director, manager, secretary or other " in section sixty, in subsection (2) of section two hundred and eighty, in subsection (2) of section three hundred and eight and in subsection (2) of section three hundred and sixty-five;
 - (b) the words " director, manager or other " in subsection (2) of section eighty-eight, subsection (1) of section two hundred and seventy-one, section two hundred and seventy-two, section two hundred and seventy-three, and subsections (1), (2) and (5) of section two hundred and seventy-seven;
 - (c) the words " director, manager or " in subsection (4) of section ninety-three and in section one hundred and fifty-two;
 - (d) the words " director, manager " in proviso (c) to the said section one hundred and fifty-two and in subsection (2) of section three hundred and seventy-five;
 - (e) the words " director or other " in subsection (2) of section one hundred and eighty-two, section two hundred and fifteen and subsection (1) of section two hundred and sixteen;
 - (f) the words " director or " in both places in subsection (1) of section one hundred and twenty-eight, in subsection (1) of section one hundred and thirty-three, in the second place in subsection (1) of the said section two hundred and sixteen and in both places in subsection (7) of section two hundred and ninety-five;
 - (g) the word " director " in the second place in subsection (1) of the said section two hundred and sixteen;

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

- (h) the words " directors or " in subsection (2) of section one hundred and eighty-one;
- (i) the words "directors and " in subsection (2) of section one hundred and thirty-four;
- (j) the words—
 - “(a) directors of a company:
 - (b) managers of a company:”
 in subsection (4) of section three hundred and seventy-two.

2 In subsection (3) of the said section two hundred and seventy-one (which extends the meaning in that section of " director " to include persons on whose instructions the directors have been accustomed to act) for the word " director " there shall be substituted the word " officer ".

EIGHTH SCHEDULE

Section 122.

ENACTMENTS OF PRINCIPAL ACT APPLIED.

<i>Enactment or group of enactments</i>	<i>Subject matter</i>
S. 1(1)	Formation of company.
S. 15(1)	Conclusiveness of certificate of incorporation.
S. 180	Appointment of person to be official receiver.
S. 313(2)	Payment of fees into Exchequer.
S. 315(1)	Enforcement of duty to make returns to registrar. .
S. 338(1)	Winding up of unregistered companies.
S. 353	Registration of documents by Channel Islands and Isle of Man companies.
Ss. 365 to 368 & 373 to 378	General provisions as to offences, legal proceedings and Board of Trade.
S. 384	Application to Northern Ireland.
Tenth Schedule	Table of fees.

NINTH SCHEDULE

Section 123.

ENACTMENTS REPEALED.

PART I

ENACTMENTS OF PRINCIPAL ACT REPEALED.

Enactments contained in Part I.

Subsections (2) to (7) of section five, except as respects resolutions passed before the coming into force of this repeal.

Section seventeen.

In subsection (1) of section twenty-seven the words " a prospectus or," and in subsection (3) of that section the words "subsection (1) of section one hundred and thirty ".

Enactments contained in Part II.

The proviso to subsection (1) and subsection (3) of section thirty-seven.

Subsection (2) of section forty-four.

In section forty-six, in proviso (d) to subsection (1) the words " where any such shares are redeemed out of the proceeds of a fresh issue " the concluding paragraph of subsection (2) and in subsection (5) the words " where new shares have been issued in pursuance of the last foregoing subsection " and the words "up to an amount equal to the nominal amount of the shares so issued ".

Subsection (2) of section fifty-four.

In subsection (1) of section fifty-six, the words " by petition ".

Enactments contained in Part III.

In subsection (3) of section seventy-nine the word " solely ".

Subsection (4) of section eighty-two.

Enactments contained in Part IV.

In subsection (1) of section ninety-five the words " and the occupations, if any " in paragraph (a).

In subsection (2) of section ninety-six, the words " which may be in the form of a card index ".

In subsection (3) of section one hundred and four, the words " at its registered office ".

In subsection (2) of section one hundred and eight, the words " and occupations ", and subsection (5) of that section.

In subsection (1) of section one hundred and ten, the words " must be contained in a separate part of the register of members and " and subsection (2) of that section.

In section one hundred and seventeen, subsection (4) and the words " in accordance with this section " in subsection (5).

In subsection (1) of section one hundred and twenty-four, the words from " and to distinguish " to the end of the subsection.

Sections one hundred and twenty-six and one hundred and twenty-seven.

In subsection (1) of section one hundred and twenty-eight the word " and " at the end of paragraph (b) and the whole of paragraph (c), and subsections (3) and (5) of that section.

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

In section one hundred and thirty, the words " not being a private company " in subsection (1) and the whole of subsection (2), except as respects balance sheets laid before the company before the coming into force of this repeal.

In section one hundred and thirty-two, the words " to hold office until the next annual general meeting " in subsection (1), the whole of subsection (2) and subsection (3), in subsection (4) the words " of which notice has been served on the auditors in the same manner as on members of the company ", and the whole of subsection (6).

Subsection (3) of section one hundred and thirty-three.

In subsection (1) of section one hundred and thirty-four the words from " and the report " to the end of the subsection, the proviso to subsection (2) of that section and subsection (3) of that section.

In section one hundred and thirty-five, the words from " banking " in paragraph (a) of subsection (1) to " other " in paragraph (b) thereof, and the words " and are not actuated by malicious motives in " in subsection (2).

In subsection (2) of section one hundred and thirty-six the words " arid, further, that it is desirable in the public interest that the proceedings in the prosecution should be conducted by him ", and subsections (3) and (4) of that section.

Section one hundred and thirty-seven, except as respects inspectors appointed before, or to continue an investigation begun by inspectors appointed before, the coming into force of this repeal.

In subsection (1) of section one hundred and forty-four, the words "or managers" and, in paragraph (a), the words from "and if," to the end of the paragraph, except the words "and his business occupation if any ".

Paragraph (d) of subsection (1) of section one hundred and forty-five.

Section one hundred and forty-eight.

Enactments contained in Part V.

Section one hundred and sixty-four.

In subsection (2) of section one hundred and eighty-one, the words " or other chief officer ".

In subsection (3) of section one hundred and eighty-two, the words " and two hundred and seventeen ".

Section two hundred and seventeen, except as respects orders on applications made before the coming into force of this repeal.

In subsection (1) of section two hundred and thirty, the words " held before the date on which the notices of the meeting at which the resolution for the winding up of the company is to be proposed are sent out ", except in relation to a winding up commenced before the coming into force of this repeal.

In section two hundred and seventy-five, subsections (4) and (5) and in subsection (7) the words from the beginning of the subsection to the word " and " and the words " that subsection or under ", except as respects orders on applications made before the coming into force of this repeal.

In section two hundred and seventy-seven, the words " either himself to prosecute the offender or " in subsection (1), subsection (4), the words " and further that it is desirable in the public interest that the proceedings in the prosecution should be conducted by him " in subsection (6) and subsection (8), except as respects prosecutions instituted or ordered by the court to be instituted before the coming into force of this repeal.

Subsection (3) of section two hundred and seventy-eight.

In section two hundred and eighty-four, subsection (2) and in subsection (3) the words from " and any person " to the end of the subsection.

In paragraph (1) of section two hundred and ninety-eight, the words " shall be given to the extent of three months only, instead of four months, and ".

Enactment contained in Part VI.

Subsection (3) of section three hundred and six.

Enactment contained in Part IX.

In proviso (v) to subsection (1) of section three hundred and twenty-one, the words "by the regulations of the company ".

Enactment contained in Part XII.

In section three hundred and fifty-five, sub-paragraph (i) of paragraph (a) of subsection (1) and the reference thereto in the first-proviso in that subsection, in paragraph (b) of that subsection the words " (other than those specified in paragraph 1 of the said Part I) " and paragraphs (i) and (iii) of the second proviso in that subsection and the word " and " at the end of paragraph (ii) thereof.

Enactments contained in the Schedules.

In the Third Schedule the entry relating to any business in the purchase of which unissued shares or debentures are to be applied.

In the Fourth Schedule, paragraph 1 of Part I and in paragraph 13 of that Part the words " and a reasonable time and place at which any such material contract or a copy thereof may be inspected "; and in paragraph 1 of Part III the words " the memorandum and ".

In the Fifth Schedule the entry relating to any business proposed to be acquired and the definition of " financial year " in the Note at the end of that

In the Ninth Schedule the entry relating to section two hundred and seventeen of the principal Act.

In the Tenth Schedule the entry relating to registration of an increase of share capital and the proviso immediately following that entry, and the entry relating to registration of an increase in the number of members and the proviso immediately following that entry.

PART II

ENACTMENTS OF REGISTRATION OF BUSINESS NAMES ACT, 1916, REPEALED.

In subsection (1) of section three, the words " and if that nationality is not the nationality of origin, the nationality of origin ", in both places where they occur.

In subsection (1) of section eighteen, the words " and if his nationality is not his nationality of origin his nationality of origin " in paragraph (a), and the words " and if the nationality is not the nationality of origin, the nationality of origin " in paragraph (b)

In section twenty-two, in the definition of a former christian name or surname, the words from the first " shall not," to " and," and in the definition of a change, of name the words from the first " in the case of," to the first " or ".

In the Schedule, the words " and if that nationality is not the nationality of origin, the nationality of origin ".