



# Companies Act 1967

## 1967 CHAPTER 81

### PART I

#### AMENDMENTS OF LAW WITH RESPECT TO COMPANIES GENERALLY

##### *Inspection*

#### **35 Power of Board of Trade to present winding-up petition or petition under section 210 of the principal Act in consequence of investigation.,**

- (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 made under section 168 (inspectors' report) of that Act or from any information or document obtained under Part III of this Act or section 18 or 19 of the Protection of Depositors Act 1963 that it is expedient in the public interest that the body should be wound up, the Board may, unless the body 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 for it to be so wound up, and, accordingly, paragraph (d) of the proviso to subsection (1) of section 224 (provisions as to applications for winding up) of the principal Act shall have effect with the substitution, for the reference to section 169(3) of that Act, of a reference to this subsection.
- (2) If, in the case of any such body corporate as aforesaid, it appears to the Board of Trade from any report made or information or document obtained as aforesaid that its business is being conducted in a manner oppressive to any part of its members, the Board may (in addition to, or instead of, presenting a petition under the foregoing subsection) present a petition for an order under section 210 (alternative remedy to winding up in cases of oppression) of the principal Act, and, accordingly, subsection (1) of that section shall have effect with the substitution, for the reference to section 169(3) of that Act, of a reference to this subsection.

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**36 Repeal of section 169(1) and (2) of the principal Act, and consequential modification of section 170(1)(a) thereof.**

The following provisions of the principal Act shall cease to have effect, namely.—

- (a) subsections (1) and (2) of section 169 (duty of Board of Trade in certain cases after an investigation to refer to the Director of Public Prosecutions or the Lord Advocate, and duty of Director of Public Prosecutions on a reference by the Board of Trade); and
- (b) in section 170(1)(a) (persons liable to repay the Board of Trade expenses of and incidental to an inspection), the words " by the Director of Public Prosecutions or by or on behalf of the Lord Advocate ".

**37 Fresh power of Board of Trade to bring civil proceedings on behalf of body corporate.**

- (1) If, from any report made under section 168 of the principal Act or from any information or document obtained under Part III of this Act or section 18 or 19 of the Protection of Depositors Act 1963 it appears to the Board of Trade that any civil proceedings ought in the public interest to be brought by any body corporate, they may themselves bring such proceedings in the name and on behalf of the body corporate.
- (2) 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 foregoing subsection.
- (3) Section 170(1)(a) of the principal Act shall have effect as if the reference to any person who is ordered to pay damages or restore any property in proceedings brought by virtue of section 169(4) of that Act included a reference to any person who is ordered to pay the whole or any part of the costs of proceedings brought by virtue of subsection (1) of this section, and section 170(3) of that Act shall have effect as if the references to subsections (4) and (5) of section 169 of that Act included references respectively to subsections (1) and (2) of this section.

**38 Extension of Board of Trade's power of investigation under section 165 of the principal Act.**

Sub-paragraph (i) of paragraph (b) of section 165 of the principal Act (by virtue of which paragraph the Board of Trade are empowered to appoint one or more competent persons to investigate the affairs of a company if it appears to them that there are circumstances suggesting, inter alia, 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) shall have effect as if, after the words " is being ", there were inserted the words " or has been " ; and the power of the Board under that paragraph shall be exercisable with respect to a body corporate notwithstanding that it is in course of being voluntarily wound up.

**39 Power of inspectors to secure attendance of persons for purposes of investigation.**

Section 167 of the principal Act (which imposes on officers and agents of bodies being investigated the duty to assist inspectors) shall be amended as follows :—

- (a) in subsection (1), after the words " to produce to the inspectors all books and documents of or relating to the company or, as the case may be, the other body

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corporate which are in their custody or power ", there shall be inserted the words " to attend before the inspectors when required so to do "; and

- (b) in subsection (3), after the words " refuses to produce to the inspectors any book or document which it is his duty under this section so to produce ", there shall be inserted the words " refuses to attend before the inspectors when required so to do ".

#### **40 Amendments of provisions as to expenses of investigations.**

- (1) Section 170 (expenses of investigation of company's affairs) of the principal Act shall be amended as follows.
- (2) The word " and " at the end of paragraph (b) shall be omitted, and for paragraph (c) there shall be substituted the following paragraphs:—
- “(c) 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
- (d) the applicants for the investigation, where the inspector was appointed under section one hundred and sixty-four of this Act, shall be liable to such extent (if any) as the Board may direct”.
- (3) In subsection (2), for the words " paragraph (c)" there shall be substituted the words " paragraphs (c) and (d) ".
- (4) In subsection (4)—
- (a) for the words " paragraph (c)", where first occurring, there shall be substituted the words " paragraphs (c) and (d) ";
- (b) for the words from " the said paragraph (a) or (b)" to " as the case may be " there shall be substituted the words " any of the said paragraphs shall be entitled to contribution from any other person liable under the same paragraph ".

#### **41 Power of inspector to inform Board of Trade of matters tending to show commission of offence.**

An inspector appointed under section 164 or 165 of the principal Act may at any time in the course of his investigation, without the necessity of making an interim report, inform the Board of Trade of matters coming to his knowledge as a result of the investigation tending to show that an offence has been committed.

#### **42 Extension of Board of Trade's powers of investigation to certain bodies incorporated outside Great Britain.**

- (1) Sections 165 to 171 and 175 of the principal Act shall apply to all bodies corporate incorporated outside Great Britain which are carrying on business in Great Britain or have at any time carried on business therein as if they were companies registered under the principal Act, but subject to such (if any) adaptations and modifications as may be specified by regulations made by the Board of Trade.
- (2) The power to make regulations conferred by this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.