



# Companies Act 1989

## 1989 CHAPTER 40

### PART III

#### INVESTIGATIONS AND POWERS TO OBTAIN INFORMATION

##### *Amendments of other enactments*

#### **77 Amendments of the Insurance Companies Act 1982**

- (1) Part II of the Insurance Companies Act 1982 is amended as follows.
- (2) In section 44 (power to obtain information and require production of documents), for “books or papers” (wherever occurring) substitute “documents”, and for subsection (6) substitute—
  - “(6) In this section “document” includes information recorded in any form; and, in relation to information recorded otherwise than in legible form, the power to require its production includes power to require the production of a copy of the information in legible form.”.
- (3) After that section insert—

#### **“44A Entry and search of premises**

- (1) A justice of the peace may issue a warrant under this section if satisfied on information on oath given by or on behalf of the Secretary of State, or by a person authorised to exercise powers under section 44 above, that there are reasonable grounds for believing that there are on any premises documents whose production has been required under section 44(2) to (4) above and which have not been produced in compliance with the requirement.
- (2) A justice of the peace may also issue a warrant under this section if satisfied on information on oath given by or on behalf of the Secretary of State, or by a person authorised to exercise powers under section 44 above—

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- (a) that there are reasonable grounds for believing that an offence has been committed for which the penalty on conviction on indictment is imprisonment for a term of not less than two years and that there are on any premises documents relating to whether the offence has been committed,
  - (b) that the Secretary of State or, as the case may be, the authorised person has power to require the production of the documents under section 44(2) to (4) above, and
  - (c) that there are reasonable grounds for believing that if production was so required the documents would not be produced but would be removed from the premises, hidden, tampered with or destroyed.
- (3) A warrant under this section shall authorise a constable, together with any other person named in it and any other constables—
- (a) to enter the premises specified in the information, using such force as is reasonably necessary for the purpose;
  - (b) to search the premises and take possession of any documents appearing to be such documents as are mentioned in subsection (1) or (2), as the case may be, or to take, in relation to any such documents, any other steps which may appear to be necessary for preserving them or preventing interference with them;
  - (c) to take copies of any such documents; and
  - (d) to require any person named in the warrant to provide an explanation of them or to state where they may be found.
- (4) If in the case of a warrant under subsection (2) the justice of the peace is satisfied on information on oath that there are reasonable grounds for believing that there are also on the premises other documents relevant to the investigation, the warrant shall also authorise the actions mentioned in subsection (3) to be taken in relation to such documents.
- (5) A warrant under this section shall continue in force until the end of the period of one month beginning with the day on which it is issued.
- (6) Any documents of which possession is taken under this section may be retained—
- (a) for a period of three months; or
  - (b) if within that period proceedings to which the documents are relevant are commenced against any person for any criminal offence, until the conclusion of those proceedings.
- (7) In the application of this section to Scotland for the references to a justice of the peace substitute references to a justice of the peace or a sheriff, and for the references to information on oath substitute references to evidence on oath.
- (8) In this section “document” includes information recorded in any form.”.
- (4) In section 47A(1) (restriction on disclosure of information), after “section 44(2) to (4)” insert “or 44A”.
- (5) In section 71 (offences and penalties), after subsection (2) insert—
- “(2A) A person who intentionally obstructs the exercise of any rights conferred by a warrant issued under section 44A above or fails without reasonable excuse

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to comply with any requirement imposed in accordance with subsection (3) (d) of that section is guilty of an offence and liable—

- (a) on conviction on indictment, to a fine, and
- (b) on summary conviction, to a fine not exceeding the statutory maximum.”.

(6) In section 71(6) (defence to failure to comply with requirement to produce books or papers) for “books or papers” substitute “documents”.

## **78 Amendment of the Insolvency Act 1986**

In section 218(5) of the Insolvency Act 1986 (investigation by Secretary of State on report by liquidator), for paragraph (a) substitute—

- “(a) shall thereupon investigate the matter reported to him and such other matters relating to the affairs of the company as appear to him to require investigation, and”.

## **79 Amendment of the Company Directors Disqualification Act 1986**

In section 8 of the Company Directors Disqualification Act 1986 (disqualification after investigation of company), after “section 52 of the Criminal Justice (Scotland) Act 1987” insert “or section 83 of the Companies Act 1989”.

## **80 Amendment of the Building Societies Act 1986**

In section 53 of the Building Societies Act 1986 (confidentiality of information obtained by the Building Societies Commission), in subsection (7)(b) (functions of Secretary of State for purposes of which disclosure may be made) after subparagraph (ii) insert—

“, or

(iii) Part II, III or VII of the Companies Act 1989;”.

## **81 Amendments of the Banking Act 1987**

(1) In section 84(1) of the Banking Act 1987 (disclosure of information obtained under that Act), the Table showing the authorities to which, and functions for the purposes of which, disclosure may be made is amended as follows.

(2) In the entry relating to the Secretary of State, in column 2, for “or the Financial Services Act 1986” substitute “, the Financial Services Act 1986 or Part II, III or VII of the Companies Act 1989”.

(3) For the entry relating to inspectors appointed by the Secretary of State substitute—

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“An inspector appointed under Part XIV of the Companies Act 1985 or section 94 or 177 of the Financial Services Act 1986. Functions under that Part or that section.”.

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(4) For the entry beginning “A person authorised by the Secretary of State” substitute—

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<p>“A person authorised to exercise powers under section 44 of the Insurance Companies Act 1982, section 447 of the Companies Act 1985, section 106 of the Financial Services Act 1986 or section 84 of the Companies Act 1989.</p>	<p>Functions under that section.”.</p>
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(5) For the entry relating to a designated agency or transferee body or the competent authority (within the meaning of the Financial Services Act 1986) substitute—

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<p>“A designated agency (within the meaning of the Financial Services Act 1986).</p>	<p>Functions under the Financial Services Act 1986 or Part VII of the Companies Act 1989.</p>
<p>A transferee body or the competent authority (within the meaning of the Financial Services Act 1986).</p>	<p>Functions under the Financial Services Act 1986.”.</p>

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