

[Extract from *Commonwealth of Australia Gazette*, No. 53, dated
8th August, 1934.]

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 18 of 1934.

AN ORDINANCE

To provide for the Investigation of the Affairs of Companies.

BE it ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909* and the *Seat of Government (Administration) Act 1910-1933*, as follows:—

1. This Ordinance may be cited as the *Companies (Investigation of Affairs) Ordinance 1934*. Short title.

2. The *Companies Ordinance 1931-1932* shall be incorporated and read as one with this Ordinance. Incorporation.

3. This Ordinance shall apply to all companies registered under the *Companies Ordinance 1931-1932* or under the Companies Acts or any of them. Application.

4. In this Ordinance unless the contrary intention appears— Definitions.

“Inspector” means an Inspector appointed under this Ordinance;

“Officers and agents of the company” means directors, officers and agents of a company in respect of which an Inspector is appointed, and includes bankers and solicitors of the company, and any person employed by the company as auditor, whether that person is or is not an officer of the company, and all persons who have at any time been directors, officers or agents of the company or acted as bankers, solicitors or auditors of the company, and “officer or agent of the company” has a corresponding meaning.

5. The Attorney-General may appoint any person to be an Inspector to investigate the affairs of any company specified in the instrument of appointment, and to report thereon to the Attorney-General and otherwise as he directs. Inspectors.

6.—(1.) All officers and agents of the company shall, on demand, produce, for the examination of an Inspector, all books and documents in their custody or power. Inspection of books and examination of officers, &c.

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(2.) An Inspector may examine on oath the officers and agents of the company in relation to the business of the company, and may administer oaths accordingly.

(3.) Any officer or agent of the company who refuses to produce to an Inspector any book or document in accordance with the provisions of this section, or refuses to answer any question which is put to him by an Inspector with respect to the affairs of the company, shall be guilty of an offence.

Penalty: Fifty pounds or imprisonment for three months.

Report.

7. On the conclusion of the investigation, the Inspector shall report his opinion to the Attorney-General, who shall cause a copy of the report to be forwarded to the registered office of the company.

Proceedings on report by Inspector.

8.—(1.) If, from any report made under the last preceding section, it appears to the Attorney-General that any person has been guilty of any offence in relation to the company for which he is criminally liable, and he considers that the case is one in which a prosecution should be instituted, he shall cause proceedings to be instituted accordingly, and all officers and agents of the company (other than the defendant in the proceedings) shall give all assistance in connexion with the prosecution which they are reasonably able to give.

(2.) A prosecution in respect of any such offence shall not be instituted without the consent of the Attorney-General.

Costs and expenses.

9.—(1.) The costs and expenses of and incidental to an investigation under this Ordinance shall be defrayed as follows:—

- (a) Where as a result of the investigation the Attorney-General causes a prosecution to be instituted, the costs and expenses shall be defrayed by the Commonwealth; and
- (b) In any other case, the costs and expenses shall be defrayed by the company to which the investigation relates, unless the Attorney-General directs that they shall either be paid by the Commonwealth or in part by the company and in part by the Commonwealth.

(2.) Any costs and expenses to be defrayed or paid by a company under this section shall be deemed to be a debt due to the Commonwealth from the company, and may be recovered from the company in any court of competent jurisdiction.

Report of Inspector to be evidence.

10. A copy of the report by an Inspector, certified as correct by the Secretary, Attorney-General's Department, shall be admissible in any legal proceedings as evidence of the opinion of the Inspector in relation to any matter contained in the report.

Winding-up.

11. Notwithstanding anything contained in the *Companies Ordinance 1931-1932* or the *Companies Acts*, the Attorney-General may, at any time after a report has been made by an Inspector in

respect of a company incorporated in the Territory, apply by petition to the Supreme Court of the Australian Capital Territory for the winding-up of the company, and thereupon the Court shall have the same powers, and the provisions of the *Companies Ordinance* 1931-1932 and of the Companies Acts shall apply, as if a winding-up petition had been duly presented to the Court by the company.

12.—(1.) For the purpose of carrying out an investigation of the affairs of any company, an Inspector may employ such assistance as he considers necessary, and may, by writing under his hand, authorize any person to do, in relation to the investigation, any act or thing which the Inspector may do, except to examine any person on oath. Inspectors may employ assistance.

(2.) Any officer or agent of the company who refuses, on demand, to produce any book or document to any person so authorized, or refuses to answer any question put to him by any such person, shall be guilty of an offence.

Penalty: Fifty pounds or imprisonment for three months.

13.—(1.) Any person who, with intent to defeat the purposes of this Ordinance, or with intent to delay or obstruct the carrying-out of an investigation under this Ordinance, destroys or alters any book, document or record of or relating to any company, or sends or attempts to send or conspires with any other person to send out of the Territory any such book, document or record, or any property of any description belonging to or in the disposition or under the control of the company, shall be guilty of an offence. Destruction of records, &c.

Penalty: Five hundred pounds or imprisonment for two years.

(2.) If, in any prosecution for an offence against this section, it is proved that the person charged with the offence has destroyed or altered any book, document or record, or has sent or attempted to send or conspired to send out of the Territory any such book, document or record or any other thing, the onus of proving that in so doing he had not acted with intent to defeat the purposes of this Ordinance, or with intent to delay or obstruct the carrying out of an investigation under this Ordinance, shall be upon him.

Dated this third day of August, 1934.

ISAAC A. ISAACS
Governor-General.

By His Excellency's Command,
A. J. McLACHLAN
for Minister of State for the Interior.

By Authority: L. F. JOHNSTON, Commonwealth Government Printer, Canberra.