

COMPANIES SPECIAL INVESTIGATIONS BILL

EXPLANATORY NOTE

As a result of representations made to the Minister of Justice by a group of interested parties in Auckland, an investigation was made by senior Government officials into the activities of a network of private companies. This investigation has revealed a most confused situation in the transfer of assets from company to company. It is clear that the interests of members of the public who have subscribed capital to these enterprises may suffer severely unless swift and effective action is taken to place the companies concerned under close control with power in the Court to make such equitable adjustments as are necessary in order to do justice to all concerned.

Although the surrounding circumstances differ in some respects, the problem to be faced is similar to that which faced Parliament when it passed the enactments specified in the *Third* Schedule to the Bill. The provisions in the Bill have been drawn in the light of those enactments but adapted to meet the present situation.

Clauses 1 and 2 relate to the Short Title and interpretation of the Bill.

Clause 3 provides that the Bill shall apply to—

- (a) The companies incorporated in New Zealand that are specified in the *First* Schedule to the Bill and all other companies incorporated in New Zealand which are associated with them or any of them and to which the Governor-General, by Order in Council, declares that the legislation shall apply;
- (b) The companies not incorporated in New Zealand which are associated with them or any of them and to which the Governor-General, by Order in Council, declares that the legislation shall apply.

Receivers and Managers

Clauses 4 to 13 follow substantially corresponding provisions in the Companies (Temporary Receivership) Act 1934. These are indicated in the footnotes to the clauses.

Clause 4 provides for the appointment of a receiver and manager of each company incorporated in New Zealand to which the legislation applies, and of the assets in New Zealand of each company not incorporated in New Zealand to which the legislation applies. Power is given to appoint a deputy receiver and manager in respect of any company.

Clause 5 gives the receiver control of the company's business while the company remains subject to receivership.

Clause 6 requires the receiver to preserve the assets of the company.

Clauses 7 and 8 confer wide powers of management on the receiver, and enable the Court to extend those powers.

Clause 9 imposes a duty on persons having the possession and control of books, records, documents, and property of a company to which the legislation applies to deliver or yield up possession of them to the receiver. The rights of a person delivering any such assets are protected; and, subject to the provisions of the legislation and unless the Court otherwise orders, they must be returned to him when the receivership ends.

Clause 10 gives special protection to a receiver.

Clause 11 provides for the receiver to receive such remuneration as the Governor-General may approve.

Clause 12 makes provision for the determination of receiverships.

Clause 13 clarifies the application of the Companies Act 1955 to receivers.

Special Investigations

Clauses 14 and 15 provide for special investigations in respect of companies in cases where the legislation is applied to a company but it is not made subject to receivership. These clauses will have no application to the companies specified in the *First Schedule*. They are based on corresponding provisions in the Companies (Special Investigations) Act 1934.

Winding Up of Companies

Clauses 16 to 24 make special provisions for the winding up of companies to which the legislation applies.

Clause 16 provides for the notional revival of companies incorporated in New Zealand that were dissolved or struck off the register before they became subject to the legislation. They are to be deemed to be being wound up by the Court so that matters arising out of the winding up can be investigated.

Clause 17 provides that where companies incorporated in New Zealand are being wound up when they become subject to the legislation, the winding up is to be completed by the Court under the Companies Act 1955.

Clause 18 authorises the receiver of any company to which the legislation applies to apply to the Court to have the company wound up by the Court. No company incorporated in New Zealand to which the legislation applies is to be wound up otherwise than by the Court.

Clause 19 provides that the receiver of any company incorporated in New Zealand is to be the liquidator of the company unless the Minister of Justice appoints another liquidator.

Clause 20 provides that where there are both a receiver and a liquidator in respect of any company, the receiver shall not be entitled to exercise the powers conferred on him by the legislation, but they may consult each other.

Clause 21 clarifies the application of the Companies Act 1955 to liquidators appointed under this legislation.

Clause 22 gives wide additional powers to a liquidator appointed under this legislation.

Clause 23 gives power to trace and recover assets that have been improperly acquired or disposed of.

Clause 24 provides that where in the opinion of the Court the affairs of two or more companies incorporated in New Zealand have been so carried on that it is just and equitable that they should be wound up together by the Court, the Court may order that, subject to such conditions as it may impose, they shall be so wound up; and that, to such extent as the Court considers just and equitable, they should be so wound up as if they were one company.

Clause 25 gives the Court power to settle a scheme for the ranking of claims in respect of any company to which the legislation applies.

Miscellaneous Provisions

Clause 26 provides for the appointment of advisory committees to advise any receiver, inspector, or liquidator under the legislation.

Clause 27 provides that the Minister of Justice may appoint the receiver or liquidator of a company to which the legislation applies as receiver of all or any specified part of the property of any director or officer of the company who is detained in a penal institution or an institution within the meaning of the Mental Health Act 1911.

Clause 28 makes it an offence to destroy or alter records of a company to which the legislation applies or to refuse or fail to answer certain questions asked by a receiver or inspector or liquidator.

Clause 29 requires any receiver, inspector, or liquidator of a company to which the legislation applies to report offences in respect of the company to the Solicitor-General.

Clause 30 makes provision for the advance, out of money to be appropriated by Parliament, of fees and expenses incurred by liquidators, etc., in respect of any company to which the legislation applies. Amounts so advanced are to be recouped to the Crown out of the company's assets.

Clause 31 repeals corresponding spent legislation passed in the years 1934 to 1937.

Hon. Mr Mason

COMPANIES SPECIAL INVESTIGATIONS

ANALYSIS

Title	
1. Short Title	
2. Interpretation	
3. Application of Act	
<i>Receivers and Managers</i>	
4. Receivers in respect of companies to which Act applies	
5. Conduct of company's business during receivership	
6. Receiver to preserve assets and keep property intact	
7. Powers of receiver	
8. Court may confer additional powers on receiver	
9. Duty to deliver books and property to receiver	
10. Protection of receiver	
11. Expenses of administration	
12. Determination of receivership	
13. Application of Companies Act 1955 to receivers	
<i>Special Investigations</i>	
14. Governor-General may direct special investigation	
15. Application of Companies Act 1955 to special investigations	
<i>Winding Up of Companies</i>	
16. Revival of certain companies	
17. Certain companies to be wound up by Court	
18. Companies may be wound up by Court	
19. Liquidator of companies	
20. Relationship between receiver and liquidator	
21. Application of Companies Act 1955 to winding up	
22. Additional powers of liquidator	
23. Power to trace property improperly disposed of	
24. Pooling of assets of several companies	
25. Court may settle scheme for ranking of claims	
<i>Miscellaneous Provisions</i>	
26. Appointment of advisory committees	
27. Receivership of assets of certain persons	
28. Offence to destroy or alter records	
29. Duty to report offences	
30. Advances of fees of receiver, etc.	
31. Repeals	
Schedules	

A BILL INTITULED

An Act to make special provision for the investigation of the affairs of certain companies and for matters arising therefrom

5 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—(1) This Act may be cited as the Companies Special Investigations Act 1958.

(2) This Act shall be deemed to have come into force on the eighteenth day of September, nineteen hundred and fifty-eight.

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2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Court” means the Supreme Court:

“Minister” means the Minister of Justice:

“Property” includes real and personal property and any estate or interest in any property real or personal, and any debt and any thing in action, and any other right or interest: 10

“Receiver”, in relation to any company or companies, means the receiver and manager holding that office for the time being in respect of that company or those companies in accordance with section four of this Act; and “receivership” has a corresponding meaning. 15

(2) For the purposes of section three of this Act a company shall be deemed to be associated with another company if under section three of the Land and Income Tax Act 1954 the two companies are deemed to be under the control of substantially the same persons or to consist of substantially the same shareholders. 20

3. Application of Act—(1) This Act shall apply as hereafter provided to— 25

(a) The companies incorporated in New Zealand that are specified in the First Schedule to this Act and any other companies which are associated with them or any of them and to which the Governor-General, by Order in Council for the time being in force, has declared that this Act shall apply: 30

(b) Any companies not incorporated in New Zealand which are associated with the companies specified in the First Schedule to this Act or any of them and to which the Governor-General, by Order in Council made under subsection three of this section and for the time being in force, has declared that this Act shall apply. 35

(2) This Act shall apply to any such company notwithstanding that it has been dissolved or struck off the register. 40

(3) If a request is at any time received by the Government of New Zealand from the Government of any other country that the provisions of this Act should apply to any company incorporated in that country to which it may be applied in accordance with paragraph (b) of subsection one of this section, the Governor-General may, by Order in Council, declare that the provisions of this Act shall apply to that company.

Cf. 1934, No. 6, s. 2

10 *Receivers and Managers*

4. Receivers in respect of companies to which Act applies—(1) Except as otherwise provided in this Act or while the Order in Council (if any) applying this Act to the company otherwise provides, there shall be a receiver and manager of each company incorporated in New Zealand to which this Act applies, and of the assets in New Zealand of each company not incorporated in New Zealand to which this Act applies, and there may also be appointed by the Minister in respect of each such company a deputy receiver and manager who shall have (subject to the control of the receiver and manager) all the powers and functions of the receiver and manager in respect of the company.

(2) The first receiver and manager in respect of each company to which this Act applies shall be,—

25 (a) In respect of any company named in the First Schedule to this Act, Arthur Walter Christmas, of Auckland, Public Accountant, who shall become receiver and manager of each such company without further appointment than this paragraph:

30 (b) In respect of any other company to which this Act applies, the person appointed as receiver and manager in respect of the company by the Order in Council declaring that this Act shall apply to that company or (where that order does not provide for any such appointment) the person who is first appointed as receiver and manager in respect of the company by any subsequent Order in Council.

35 (3) The receiver and manager for the time being in respect of each company to which this Act applies, and the deputy receiver and manager in respect of each such company, shall hold office at the pleasure of the Minister, who may from time to time appoint a different or an additional person as receiver and manager, or as deputy receiver and manager, of the company.

(4) The power to appoint a receiver and manager, or a deputy receiver and manager, in respect of any company under this section includes power to appoint to the office a named person or the holder for the time being of a specified office or appointment, whether or not he is receiver and manager or deputy receiver and manager in respect of any other company to which this Act applies, and also includes power to appoint two or more persons as receivers and managers, or as deputy receivers and managers, in respect of the company.

Cf. 1934, No. 28, s. 3 (1) 10

5. Conduct of company's business during receivership—

(1) While any company to which this Act applies remains subject to receivership, it shall not be lawful or competent for any director, manager, or other person to be engaged in the management or conduct of the business of that company, or to act as its agent or servant, save with the permission of the receiver and so far as that permission extends. No such person shall have any claim against the company or against the receiver for any fees, salary, or wages in respect of any period during which the receiver remains in office, except in so far as any such fees, salary, or wages may be payable by agreement between that person and the receiver.

(2) In the case of any company not incorporated in New Zealand, being a company to which this Act applies, the provisions of this section shall apply only in respect of the assets in New Zealand of that company.

Cf. 1934, No. 28, s. 3 (2)

6. Receiver to preserve assets and keep property intact—

In the exercise in relation to any company of the powers and functions conferred upon him by this Act, it shall be the duty of the receiver, as far as practicable, to conserve and keep intact the assets of the company, but nothing in this section shall be construed to limit the powers expressly conferred on him by section seven of this Act.

Cf. 1934, No. 28, s. 5 35

7. Powers of receiver—(1) Except as otherwise provided by the Order in Council (if any) applying this Act to the company or by subsection three of this section, the receiver (if any) in respect of any company to which this Act applies shall have the following powers: 40

- 5 (a) To take and retain possession of all property, whatsoever, and wheresoever situated, belonging to the company, and in particular, but without limiting the generality of the power conferred by this paragraph, to demand, receive, and hold all scrip, share certificates, or other instruments of title to property of the company (whether registered in the name of the company or not) which is or may be in the hands of any person or corporation, whether or not
10 employed by the company, with all related documents, records, and lists of such instruments:
- (b) To demand and receive all money payable to the company; and to take over and operate bank accounts of the company:
- 15 (c) To sue for and recover all debts due and other money payable to the company, and to sue for and recover any other property to the possession of which the receiver may be entitled by virtue of his appointment:
- 20 (d) To sell any property of the company in such manner and on such terms and conditions as he thinks fit:
- (e) To repair and insure against any damage, whether by fire or earthquake or accident or otherwise, any property of the company, and to insure against any
25 other risk or liability against which the receiver considers it prudent to insure:
- (f) To pay all rates, taxes, insurance premiums, or other outgoings payable in respect of the property of the company, or under any policy of insurance of any
30 kind:
- (g) To apply money belonging to the company, whether arising from real or personal property and whether income or capital, in or towards the payment of any debts, obligations, or liabilities incurred by the
35 company or incurred by the receiver in exercise of his powers as such; or, with the consent of the Court, in or towards the payment of any debts, obligations, or liabilities incurred by any other company to which this Act applies or incurred by the receiver in
40 respect of any other such company in exercise of his powers as such:

- (h) To apply in the discretion of the receiver and in such manner and to such extent as he thinks fit any money belonging to the company, whether arising from real or personal property and whether capital or income, for any purpose for or to which the directors of the company might lawfully have applied that money: 5
- (i) To borrow, on the security of any assets of the company, any money that may be required for the purposes of that company, and to lend to the company for the purposes aforesaid any money belonging to any other company to which this Act applies: 10
- (j) To carry out and perform contracts entered into by the company before the appointment of the receiver:
- (k) To cause to be brought to New Zealand any books, records, vouchers, securities, instruments of title, or any other movable property of the company held out of New Zealand: 15
- (l) To carry on the business of the company:
- (m) To appoint servants, clerks, managers, and agents on such terms and subject to such conditions as the receiver thinks fit, and at his discretion to dismiss any person appointed by the company or by the receiver: 20
- (n) To appoint a fit person to be the registered agent or public officer of the company in any place in any other country: 25
- (o) To grant powers of attorney to any person in or out of New Zealand to do any act or thing with respect to the property or affairs of the company which the receiver could personally do by virtue of this Act: 30
- (p) To consult and employ counsel, solicitors, accountants, sharebrokers, and other persons:
- (q) To do all acts and to execute, in the name and on behalf of the company, all deeds, receipts, and other documents, and for that purpose to use, when necessary, the company's seal. 35
- (2) Before exercising any of the powers conferred by the foregoing provisions of this section, the receiver may in his discretion apply to the Court *ex parte* for directions with respect to the exercise of those powers, and the Court may, on any such application, make such order declaring the rights of persons before the Court or otherwise, as the Court thinks just. 40 45

(3) In the case of any company not incorporated in New Zealand, being a company to which this Act applies, the powers conferred by this section shall be exercisable only in respect of the assets in New Zealand of that company.

5 Cf. 1934, No. 28, s. 6

8. Court may confer additional powers on receiver—Subject to the provisions of the Order in Council (if any) applying this Act to the company, in addition to the powers conferred on the receiver (if any) in respect of any company
10 by section seven of this Act, that receiver shall have in relation to the company such further powers (if any) as the Court, on application made by the receiver in that behalf, thinks fit to confer.

Cf. 1934, No. 28, s. 7

15 **9. Duty to deliver books and property to receiver**—(1) It shall be the duty of all persons having possession and control of—

(a) Any books or records or documents or other property, whatsoever, and wheresoever situated, belonging to
20 any company incorporated in New Zealand to which this Act applies; or

(b) Any books or records or documents, whatsoever, and wheresoever situated, relating to the assets in New Zealand of any company not incorporated in New
25 Zealand to which this Act applies; or

(c) Any property in New Zealand of any company not incorporated in New Zealand to which this Act
applies—

30 forthwith after the passing of this Act in the case of any company specified in the First Schedule to this Act, or forthwith after the first receiver (if any) is appointed in respect of any other company to which this Act applies, to deliver or yield up possession of all such books, records, documents, or other property as aforesaid to the receiver in respect of the
35 company or to his authorised agent.

(2) If any person fails for not less than fourteen days to comply with the requirements of subsection one of this section he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding one hundred
40 pounds, and to a further fine not exceeding ten pounds for every day during which the offence has continued.

(3) If any person fails to comply with the requirements of subsection one of this section, the receiver may at any time certify the failure to the Court (whether or not an offence has been committed under subsection two of this section), and the Court may thereupon inquire into the matter of the failure and, after hearing any witnesses who may be produced against or by or on behalf of the alleged offender, and after hearing any statement which may be offered in defence, may punish the offender in like manner as if he had been guilty of contempt of the Court. 5 10

(4) It shall be no defence to any proceedings under this section that the person in possession or control of any property as aforesaid is or was a trustee of the property for the company or entitled to a lien or other charge over that property, or was a receiver or manager of the property appointed under Part VII of the Companies Act 1955. 15

(5) The rights of any person who, in accordance with this section, delivers any property to the receiver in respect of any company or his authorised agent shall continue while the receivership continues as if the person had not so delivered the property; and on the termination of the receivership, subject to the provisions of this Act and unless the Court otherwise orders, the property shall be returned to the person who delivered it or to some one who derives a right to possession of the property from that person. The provisions of this subsection shall apply whether the person who delivers the property is a receiver or manager appointed under Part VII of the Companies Act 1955, or a person entitled to a lien or charge in respect of the property, or any other person having any rights whatsoever in respect thereof. 20 25 30

Cf. 1934, No. 28, s. 8

10. Protection of receiver—(1) For the purposes of this Act the receiver in respect of any company to which this Act applies shall be deemed to be an officer of the Court, and in the exercise of his powers and functions under this Act shall have all the privileges and be entitled to the same protection as if he had been appointed by the Court. 35

(2) The receiver in respect of any company to which this Act applies shall not be liable for any acts done by him in good faith in the exercise of his powers and functions as receiver. 40

(3) No action or proceeding shall be proceeded with or commenced against any company to which this Act applies or against any such receiver except by leave of the Court and subject to such terms as the Court may impose.

5 Cf. 1934, No. 28, s. 9

11. Expenses of administration—All costs, charges, and expenses properly incurred by the receiver in the exercise in relation to any company of his powers and functions under this Act (including such fees, commission, or other remuneration as may be approved by the Minister of Finance in respect of the services of the receiver) shall be payable out of the assets of that company in priority to all other claims:

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15 Provided that the Court may, where it considers it just and equitable to do so, order that all such costs, charges, and expenses incurred in respect of any such company shall be payable in accordance with this section as if they had been incurred in respect of any other company to which this Act applies.

Cf. 1934, No. 28, s. 10

20 **12. Determination of receivership**—(1) A company and its assets shall remain subject to receivership under this Act from the time when the first receiver in respect of the company is appointed in accordance with section four of this Act until the receivership ceases in accordance with this section, whether or not there is for the time being a receiver in office in respect of the company.

25 (2) A company and its assets shall cease to be subject to receivership under this Act if the Governor-General, by Order in Council, so provides, or if the Court so orders on application made in that behalf by—

- 30 (a) The receiver in respect of the company; or
(b) Any director or directors of the company; or
(c) Any creditors (whether secured or unsecured) of the company; or
35 (d) Any shareholder or shareholders of the company.

(3) No order that any company or its assets shall cease to be subject to receivership under this Act shall be made by the Court if it considers that the receivership is desirable for the protection of any of the shareholders or
40 creditors (whether secured or unsecured) of the company or of

any other company to which this Act applies, or is otherwise in the public interest, and that any of the said shareholders or creditors, or the public interest, cannot be adequately protected under the Companies Act 1955 or in any other way.

(4) On the determination of the receivership under this Act in respect of any company, the Court may direct the receiver to furnish to the company or to any person on behalf of the company such reports and returns as the Court thinks fit. 5

(5) Within one month after the termination of the receivership under this Act in respect of any company in any case where the receivership is terminated without the company being wound up, or within one month after the commencement of the winding up of the company in any case where the company is wound up by the Court on the application of the receiver in accordance with section nineteen of this Act, the receiver shall file in such office of the Court as he thinks fit a statement of accounts, duly audited, showing in detail his receipts and payments in respect of that company. 10 15

Cf. 1934, No. 28, s. 11

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13. Application of Companies Act 1955 to receivers—

(1) The receiver in respect of any company shall notify the Registrar of Companies of his appointment as receiver and of the termination of his appointment.

(2) Notwithstanding anything to the contrary in the Companies Act 1955, it shall not be obligatory on the receiver to furnish in respect of any company of which he is the receiver any annual or other return required by that Act. 25

(3) Nothing in Part VII of the Companies Act 1955 shall apply with respect to any receiver appointed under this Act. 30

Cf. 1934, No. 28, s. 12

Special Investigations

14. Governor-General may direct special investigation—

(1) In any case where, under any Order in Council, the provisions of this Act apply to any company but neither the company nor any of its assets is subject to receivership under this Act, the Governor-General in Council may at any time and from time to time appoint one or more competent inspectors to investigate the affairs of that company or any other such company to which this Act applies, and to report thereon to the Court and in such other manner (if any) as he may direct. 35 40

(2) A copy of every Order in Council under this Act relating to the company shall be filed in such office of the Court as the Order in Council appointing the inspector or inspectors may specify, and thereupon the last-mentioned
5 Order in Council shall in all respects be equivalent to and shall have the same effect and consequences as an order made by the Court under the authority of section one hundred and sixty-eight of the Companies Act 1955.

Cf. 1934, No. 6, s. 3

10 **15. Application of Companies Act 1955 to special investigations**—(1) In the application of subsection one of section one hundred and seventy-four of the Companies Act 1955 to any investigation made for the purposes of this Act, that subsection shall be read as if all the words thereof after the words
15 “they shall either be paid” were omitted, and the words “out of the Consolidated Fund or in part by the company and in part out of the Consolidated Fund” were substituted therefor.

(2) In the application of section one hundred and seventy-five of the Companies Act 1955 to any report made by
20 inspectors appointed in accordance with this Act, that section shall be read as if the words “authenticated by the seal of the company whose affairs they have investigated” were omitted, and the words “certified as correct by the Registrar of the Court in which the report has been filed” were substituted therefor.
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Cf. 1934, No. 6, s. 4

Winding Up of Companies

16. Revival of certain companies—In any case where any company incorporated in New Zealand has been dissolved
30 or struck off the register before it becomes subject to this Act, then, while the company remains subject to this Act—

(a) The dissolution shall be deemed to have been void and the company shall be deemed to have continued
35 in existence as if its name had not been struck off the register; and, if so requested by the receiver of the company, the Registrar of Companies shall amend the register accordingly:

(b) Unless the Court otherwise orders, the company shall
40 be deemed to be being wound up by the Court, and (except as otherwise provided in this Act) the pro-

visions of the Companies Act 1955 shall, subject to the provisions of this Act, apply accordingly as if the Court had made an order that the company be so wound up.

17. Certain companies to be wound up by Court—In any case where any company incorporated in New Zealand is being wound up when it becomes subject to this Act, then, except as otherwise provided in this Act and unless the Court otherwise orders, the winding up shall be completed by the Court in accordance with the Companies Act 1955 as if the Court had made an order that the company be so wound up, but nothing in this section shall affect the date of the commencement of the winding up.

18. Companies may be wound up by Court—(1) Without restricting the powers of the Court under section two hundred and seventeen of the Companies Act 1955, it is hereby declared that any company incorporated in New Zealand to which this Act applies may be wound up by the Court under that Act on application made to it by the receiver of that company.

(2) No company incorporated in New Zealand to which this Act for the time being applies shall be wound up otherwise than by the Court.

19. Liquidator of companies—Where any company incorporated in New Zealand to which this Act applies is being wound up by the Court—

- (a) The Minister may at any time, by notice in the *Gazette*, appoint any fit and proper person to be the liquidator of the company; and any appointment so made shall have the same effect as an appointment made by the Court:
- (b) The liquidator for the time being of the company (whether or not he is appointed by the Minister) shall hold office at the pleasure of the Minister, and may at any time be removed from that office by the Minister by notice in the *Gazette*:
- (c) Where there is a liquidator of any company when this Act first applies to it, he shall thereupon cease to be the liquidator of the company, but may be reappointed by the Minister as the liquidator thereof:

(d) Where the company is wound up by the Court on application made to it by the receiver of the company under section eighteen of this Act, the receiver shall be the liquidator of the company until another liquidator is appointed in his place, when he shall cease to be the liquidator of the company but shall continue to be the receiver thereof.

20. Relationship between receiver and liquidator—While the receiver of any company continues to hold that office after the appointment of a liquidator of the company as provided in paragraph (d) of section nineteen of this Act, the receiver shall no longer be entitled to exercise any powers conferred on him by or under this Act, but the receiver and liquidator may consult each other in respect of the winding up of the company.

21. Application of Companies Act 1955 to winding up—

(1) Subject to the provisions of this Act, all the provisions of the Companies Act 1955 and all rules and regulations under that Act, shall, so far as they are applicable, and with the necessary modifications, apply with respect to the winding up of any company incorporated in New Zealand to which this Act applies:

Provided that, except as otherwise provided in this Act, the sections of the Companies Act 1955 specified in the Second Schedule to this Act shall not so apply unless the Order in Council (if any) applying this Act to the company otherwise provides.

(2) For the purposes of section two hundred and sixty-three of the Companies Act 1955, the liquidator of any company incorporated in New Zealand to which this Act applies shall be deemed to be the Official Assignee and may make the report referred to in that section without having made any other report in accordance with section two hundred and thirty-two of that Act.

22. Additional powers of liquidator—(1) In addition to all other powers conferred on him by this or any other Act, the liquidator of any company incorporated in New Zealand to which this Act applies shall have the following powers:

- (a) All the powers that are conferred on a receiver by this Act and, so far as they are applicable, all the powers conferred on the Official Assignee by the Companies Act 1955, including the sections specified in the Second Schedule to this Act: 5
- (b) Power to postpone the realisation of any asset of the company for such period as he thinks fit:
- (c) Such further powers (if any) as the Court, on application made by the liquidator in that behalf, thinks fit to confer. 10
- (2) Before exercising any of the powers conferred by the foregoing provisions of this section, the liquidator may in his discretion apply to the Court *ex parte* for directions with respect to the exercise of those powers, and the Court may, on any such application, make such order declaring the rights of persons before the Court or otherwise, as the Court thinks just. 15

23. Power to trace property improperly disposed of—(1) In any case where, whether before or after the passing of this Act, any property has been acquired by any person in circumstances which cause it to be just and equitable that he should hold the property upon trust for any company or companies to which this Act applies, or any property so acquired has been improperly disposed of, or any property of any company or companies incorporated in New Zealand to which this Act applies, or any property in New Zealand of any company or companies not incorporated in New Zealand to which this Act applies has been improperly disposed of, whether or not the property has become subject to a trust, the Court, if it thinks fit, may order that the property be transferred or delivered to the receiver or liquidator of that company, or of those companies or any of those companies, or may order that any person who acquired or received the property or his administrator shall pay to the receiver or liquidator of that company, or of those companies or any of those companies, a sum not exceeding the value of the property; and for the purpose of giving effect to any such order the Court may make such further order as it thinks fit: 20 25 30 35

Provided that no such order shall deprive any other person of any estate or interest in the property if the estate or interest was acquired in good faith and for valuable consideration. 40

(2) Nothing in this section shall restrict the operation of section three hundred and nine of the Companies Act 1955.

24. Pooling of assets of several companies—(1) Where in the opinion of the Court the affairs of two or more companies incorporated in New Zealand to which this Act applies have been so carried on that it is just and equitable that they should
5 be wound up together by the Court, the Court, on the application of the receiver or liquidator of any of the companies, may order that, subject to such conditions as the Court may impose, the companies shall be wound up together and, to the extent that the Court considers it just and equitable, that they
10 shall be so wound up as if they were one company, and the order shall have effect and all the provisions of the Companies Act 1955 shall apply accordingly.

(2) Notice of any application to the Court shall be served on every receiver or liquidator of any of the companies who
15 is not a party to the application, and on such other persons as the Court may direct.

25. Court may settle scheme for ranking of claims—Notwithstanding anything to the contrary in the Companies Act 1955, for the purposes of the winding up of any company or
20 companies incorporated in New Zealand to which this Act applies, the Court may settle, as it considers just and equitable, a scheme prescribing the order in which all claims (whether as secured or unsecured creditor, shareholder, or otherwise)
25 in respect of the company or companies shall rank for payment, and providing for the postponement of any claim or any part of any claim. Any such scheme shall have effect according to its tenor.

Miscellaneous Provisions

26. Appointment of advisory committees—(1) The
30 Governor-General may from time to time, by Order in Council, appoint one or more suitable persons as an advisory committee in respect of any company or companies to which this Act applies.

(2) The functions of any such advisory committee shall
35 be—

(a) To advise any receiver, inspector, or liquidator of the company or companies:

(b) To do all such other things as may be prescribed by the Order in Council by which the Committee is
40 appointed or any subsequent Order in Council.

(3) The members of any such advisory committee shall receive such remuneration by way of fees, salary, or allowances and travelling allowances and expenses as the Minister

of Finance may approve, and the amount thereof shall be payable out of the assets of the company or companies as if they were expenses of administration of a receiver in respect of the company or companies, and shall be recoverable by the members as a debt due by the company or companies. 5

27. Receivership of assets of certain persons—(1) Where any person who is a director or former director or an officer or former officer of any company to which this Act applies is detained in any penal institution within the meaning of the Penal Institutions Act 1954 or any institution within the meaning of the Mental Health Act 1911, the Minister may, by writing under his hand, appoint either the receiver or the liquidator of the company or any other person as the receiver of all or a specified part of the property in New Zealand of that person. 10 15

(2) Any such appointment shall continue until it is revoked by the Minister by writing under his hand or until the director or officer sooner ceases to be detained as aforesaid.

(3) While there is a receiver of any property under this section, except so far as the Minister otherwise directs, all the provisions of this Act relating to receivers shall apply in respect of that property as if it were the property of a company to which this Act applies and as if the owner thereof were such a company: 20

Provided that nothing in this subsection shall cause the person's property that is subject to receivership under this section to be applied as if it were the property of the company of which the last-mentioned receiver is receiver or liquidator. 25

28. Offence to destroy or alter records—(1) If any director, officer, servant, or agent of any company to which this Act applies, or any other person,— 30

(a) With intent to defeat the purposes of this Act, or with intent to delay or obstruct the carrying out of an investigation of the affairs of any company under this Act, destroys or alters any book, document, or record of or relating to the company, or sends or attempts to send or conspires with any other person to send out of New Zealand 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; or 35 40

(b) Fails or refuses to answer to the best of his knowledge and ability any question which he may be asked by any receiver or inspector or liquidator in relation

to any such book or document or record or property,
or wilfully gives a false answer to any such
question,—

5 he shall be guilty of an offence and be liable on conviction on
indictment to imprisonment for a term not exceeding two
years or to a fine not exceeding five hundred pounds or to
both.

(2) If in any prosecution for an offence alleged to have
been committed against this section it is proved that the per-
10 son charged with the offence has destroyed or altered any
book, document, or record as aforesaid, or has sent or at-
tempted to send or conspired to send out of New Zealand any
such book, document, or record, or any other thing, the onus
of proving that in so doing he had not acted in contravention
15 of this section shall lie on him.

(3) The First Schedule to the Summary Proceedings Act
1957 is hereby amended by inserting in the appropriate
columns in Part II, after the provisions thereof relating to the
Chattels Transfer Act 1924, the following words:

20 “The Companies Special Investi- | 00 | Destroying or altering records.”
gations Act 1958

Cf. 1934, No. 6, s. 6

29. Duty to report offences—If it appears to any receiver,
inspector, or liquidator appointed under this Act in respect
25 of any company to which this Act applies that any person has
been guilty of any offence in relation to that company, he
shall report the matter to the Solicitor-General.

30. Advances of fees of receiver, etc.—(1) With the con-
sent of the Minister of Finance there may be advanced, out
30 of money in the Consolidated Fund appropriated by Parlia-
ment for the purpose, to any person who is a receiver,
inspector, liquidator, or member of any advisory committee
appointed under this Act in respect of any company or com-
panies, or who is a liquidator or receiver appointed under the
35 Companies Act 1955 before this Act applied to those com-
panies, such amounts as the Minister of Finance may approve
in respect of remuneration or allowances due to that person
or expenses incurred by that person.

(2) The Crown shall be recouped all money so advanced
40 to any such person out of money payable to that person in
respect of the company or companies to which the advance

or advances related, and the Crown shall have all the rights of the person to whom the advance was made to receive and recover any such money. All money so recouped to the Crown shall be credited upon receipt to the Consolidated Fund.

31. Repeals—The enactments specified in the Third 5 Schedule to this Act are hereby repealed.

SCHEDULES

Section 3 (1) (a)

FIRST SCHEDULE

COMPANIES INCORPORATED IN NEW ZEALAND TO WHICH ACT APPLIES

Agency Investments Limited. Brick Investments Limited. General Productions Limited. Industrial Bricks Limited. Industrial Ceramics Limited. Industrial Investments Limited. Inland Transport Limited. Inter city Carborundum Limited. Inter city Concessions Limited. Inter city Communications Limited. Inter city Development Limited. Inter city Distributors Limited. Inter city Executors Limited.	Inter city Investments Limited. Inter city Management Limited. Inter city Sales Limited. Inter city Tiles Limited. Inter city Timber Limited. Management Union Limited. Stamp Investments (India) Limited. Stamp Investments (N.S.W.) Limited. Stamp Investments (N.Z.) Limited. Waitemata Agencies Limited.
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Section 21

SECOND SCHEDULE

SECTIONS OF COMPANIES ACT 1955 WHICH DO NOT APPLY TO COMPANIES
 INCORPORATED IN NEW ZEALAND TO WHICH THIS ACT APPLIES
 SECTIONS 231, 232, 233, 234, 235, 241, 247, and 248.

Section 31

THIRD SCHEDULE

ENACTMENTS REPEALED

1934, No. 6—The Companies (Special Investigations) Act 1934.
 1934, No. 28—The Companies (Temporary Receivership) Act 1934.
 1934–35, No. 51—The Companies (Special Liquidations) Act 1934–35.
 1937, No. 13—The Companies (Special Liquidations) Extension Act 1937.