CHAPTER 45.

An Act to amend the Assurance Companies (Winding up) Act, 1933. [2nd August 1935.]

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 :—

Amendment of 23 & 24 Geo. 5. c. 9.

1. The following section shall be substituted for section two of the Assurance Companies (Winding up) Act, 1933—

"2.—(1) The Board of Trade may, by notice in writing served upon an assurance company, require it to furnish to the Board within such time as may be specified in the notice such explanations, information, accounts, balance sheets, abstracts, and statements, as they consider to be necessary for the purpose of determining whether the company is insolvent, or was insolvent at any date (not earlier than the close of the period to which the last deposited accounts and balance sheet of the company relate) specified in the notice, and may, by the notice, require any such explanations, information, accounts, balance sheets, abstracts, or statements to be signed by such number of the directors and by such officers of the company, and to be accompanied by such copies of documents, as may be specified in the notice, and to be certified as correct by an auditor approved by the Board, or by an actuary so approved, or by both such an auditor and such an actuary.

"(2) If after such a notice as aforesaid has been served upon an assurance company, either—

"(*a*) the company does not, before the expiration of the time limited by the notice, comply with all the requirements of the notice, other than such requirements, if any, as may have been withdrawn by the Board ; or

"(*b*) the Board, after considering the material furnished pursuant to the said requirements, consider it to be expedient for the purpose aforesaid so to do;

the Board may serve upon the company a notice in writing stating that they propose to appoint one or more inspectors to investigate the affairs of the company and to report thereon in such manner as the Board may require, and unless the company within a period of seven days from the date of the service of the notice upon it gives notice in writing to the Board that it objects to such an appointment being made, the Board may after the expiration of that period make such an appointment.

"(3) If the company within the said period gives notice in writing to the Board that it objects to such an appointment being made, the Board may apply to the court for leave to make such an appointment, and the court shall grant leave unless it is satisfied by the company that such an appointment cannot reasonably be required for the purpose aforesaid, and on leave being granted the Board may make such an appointment.

"(4) Where an appointment is made under this section, the provisions of subsections (3), (4) and (5) of section one hundred and thirty-five of the Companies Act, 1929, shall apply with respect to an inspector appointed under this section in like manner as they apply to an inspector appointed under that section, and any such refusal as is, or might be, made the ground of the punishment of an officer or agent of the company under the said subsection (5) shall also be a ground upon which the company may, on the petition of the Board presented by leave of the court, be wound up by the court in accordance with the provisions of the Companies Act, 1929.

19 & 20 Geo. 5. c. 23.

"(5) The expenses of and incidental to an investigation carried out by an inspector appointed under this section shall be defrayed by the Board:

"Provided that—

"(*a*) where the court grants leave to make an appointment, the court may, if it thinks fit, direct the company to repay to the Board the whole or any part of the said expenses; and

"(*b*) if an order for the winding up of the company by the court is made at any time within twelve months from the date on which the report of the inspector is made to the Board,

or, if more than one report is so made, from the date when the first report is so made, the said expenses shall be deemed, for the purposes of the Companies Act, 1929, to be expenses properly incurred in the winding up and the amount thereof, after deducting any sum repaid to the Board pursuant to a direction given by the court under the foregoing paragraph, shall be paid out of the assets of the company *pari passu* with the taxed costs of the petition.

"(6) The expenses incurred by the Board under this section shall be defrayed out of moneys provided by Parliament, but any sums paid to the Board under the proviso to the last foregoing subsection shall be appropriated in aid of the moneys voted by Parliament for the salaries and expenses of the Board, and subsection (3) of section thirteen of the Economy (Miscellaneous Provisions) Act, 1926 (which empowers the Treasury to issue out of the Bankruptcy and Companies Winding-up (Fees) Account, in aid of the moneys voted by Parliament for the salaries and expenses of the Board, sums towards meeting the charges estimated by the Board in respect of salaries and expenses under the Companies Act, 1929, in relation to the winding up of companies in England) shall have effect as if the expenses incurred by the Board under this section were expenses incurred by the Board under the Companies Act, 1929, in relation to the winding up of companies in England." 16 & 17 Geo. 5. c. 9.

2. In section three of the Assurance Companies (Winding up) Act, 1933, subsection (2) shall cease to have effect, and in subsection (3) for the words "under the last foregoing section" there shall be substituted the words "under subsection (1) of the last foregoing section." Consequential amendments.

3.—(1) This Act may be cited as the Assurance Companies (Winding up) Act, 1935, and the Assurance Companies (Winding up) Act, 1933, and this Act may be cited together as the Assurance Companies (Winding up) Acts, 1933 and 1935. Short title and extent.

(2) This Act shall not extend to Northern Ireland.