(2) Sums advanced under subsection (1) above shall carry interest at 5½ per cent. per annum, and subject thereto shall be advanced at such times, and on such terms as to repayment and otherwise, as may be agreed upon between the Board and the Company; but no sums shall be advanced under that subsection after 31st December 1972.

(3) The Board of Trade may from time to time make grants to the Company in respect of the liability of the Company for interest on sums advanced under subsection (1) above, being interest accruing before 1st January 1967, of such amounts not exceeding £1·3 million in all as may be agreed upon as aforesaid.

(4) A copy of any agreement made between the Board and the Company with respect to the making of advances or grants under this section shall be laid before each House of Parliament.

(5) There shall be paid out of moneys provided by Parliament all sums required by the Board of Trade for making advances or grants under this section; and all sums received by the Board by way of interest on or repayment of advances under this section shall be paid into the Exchequer.

(6) Section 24 of the Local Employment Act 1960 (powers of Board of Trade) shall apply for the purposes of this section. 8 & 9 Eliz. 2. c. 18.

2. This Act may be cited as the Fort William Pulp and Paper Mills Act 1963. Short title.

1963 CHAPTER 16

Protection of Depositors Act 1963

ARRANGEMENT OF SECTIONS

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An Act to penalise fraudulent inducements to invest on deposit; to restrict and regulate the issue of advertisements for deposits; to make special provision with respect to the accounts to be delivered by and the supervision of companies which issue such advertisements; to amend section 13 of the Prevention of Fraud (Investments) Act 1958; and for purposes connected with the matters aforesaid. [10th July 1963]

BE IT ENACTED by the Queen'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:—

General provisions for protection of depositors

Fraudulent inducement to invest on deposit.

1.—(1) Any person who, by any statement, promise or forecast which he knows to be misleading, false or deceptive, or by any dishonest concealment of material facts, or by the reckless making (dishonestly or otherwise) of any statement, promise or forecast which is misleading, false or deceptive, induces or attempts to induce another person—

(*a*) to invest money on deposit with him or with any other person, or

(*b*) to enter into or offer to enter into any agreement for that purpose,

shall be guilty of an offence, and liable on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine, or to both.

(2) Nothing in this section shall be construed as empowering a court in Scotland, other than the High Court of Justiciary, to pass for any offence under this section a sentence of imprisonment for a term exceeding two years.

(3) In section 13 (1) (*a*) (i) of the Prevention of Fraud (Investments) Act 1958, the words " or lending or depositing money to or with any industrial and provident society or building society " are hereby repealed.

General restriction of advertisements for deposits.

2.—(1) Subject to the following provisions of this section, no person shall, after the commencement of this Act, issue any advertisement inviting the public to deposit money with him.

(2) This section does not apply to any advertisement with respect to investments of any description falling within Schedule 1 to the Trustee Investments Act 1961, nor to any advertisement with respect to deposits of any description to be made with any banking or discount company within the meaning of paragraph 23 of Schedule 8 to the Companies Act 1948, or with any building society, friendly society or industrial and provident society.

(3) This section does not apply to any advertisement with respect to deposits to be made with a company incorporated in, or having an established place of business in, Great Britain, if the advertisement complies with regulations made by the Board of Trade under section 3 (1) (*a*) and any accounts required by this Act to be delivered by the company before the issue of the advertisement are duly delivered.

(4) This section does not apply—

(*a*) to an advertisement with respect to deposits of any such class as may be prescribed by regulations made by the Board of Trade under section 3 (1) (*b*); or

(*b*) to any advertisement (not being an advertisement with respect to deposits to be made with any such company as is mentioned in subsection (3)) which is issued with the permission in writing of the Board;

and any permission for the purposes of paragraph (*b*) may be granted in respect of a particular advertisement or in respect of advertisements of any specified class issued by a particular person, and subject to such conditions, if any, as the Board think fit.

(5) Any person who issues an advertisement in contravention of this section shall be guilty of an offence and liable—

(*a*) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both;

(*b*) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding two hundred pounds, or to both:

Provided that a person who in the ordinary course of his business issues an advertisement to the order of another person, being an advertisement the issue of which by that other person constitutes an offence under this section, shall not himself be guilty of the offence if he proves that the matters contained in the advertisement were not (wholly or in part) devised or selected by him or by any person under his direction or control.

Regulations of Board of Trade as to advertisements.

3.—(1) The Board of Trade may by statutory instrument make regulations—

(*a*) for prescribing the matters which must or must not be included in any advertisement which is to qualify for exemption under subsection (3) of section 2, and generally for regulating the form of such advertisements;

(*b*) for exempting from that section advertisements with respect to deposits of such classes as may be prescribed by the regulations subject to such conditions, if any, as may be so prescribed.

(2) Regulations under this section may make different provision in relation to advertisements of different classes or descriptions.

(3) Any statutory instrument made by virtue of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Status of private companies which advertise for deposits.

4. If an advertisement for deposits is issued after the commencement of this Act by a private company, the company shall, so long as the provisions of this Act as to periodical accounts apply to the company, be deemed not to be a private company for the purposes of the following provisions of the Companies Act 1948, that is to say:—

(*a*) section 31, section 222 (*d*) and paragraph (*a*) of the proviso to section 224 (1) (several liability of members, power of the court to wind up, and power of contributors to petition for winding up, on reduction of number of members below the statutory minimum);

(*b*) section 129 (exemption from requirements of section 127 as to documents to be annexed to annual return);

(*c*) section 161 (1) and (2) (qualification of auditors);

(*d*) section 176 (number of directors); and

(*e*) section 190 (1) (prohibition of loans to directors).

Special accounting obligations of companies advertising for deposits

Accounts required before advertising.

5.—(1) Before any advertisement for deposits is issued by any company after the appointed day, the company shall deliver to the Registrar and the Board of Trade accounts complying with the requirements of this section.

(2) The accounts required under this section in connection with an advertisement for deposits are—

(*a*) in every case, audited accounts comprising—

(i) a balance sheet dated not more than fifteen months before the date on which the advertisement is issued, and

(ii) a profit and loss account for the period between the date of that balance sheet and that of the last relevant balance sheet which was dated not less than six months before that date ; and

(*b*) where the date of the balance sheet comprised in the accounts delivered for the purposes of paragraph (*a*) is more than nine months before the date on which the advertisement is issued, interim accounts comprising—

(i) a balance sheet dated not less than six months after the date of the first-mentioned balance sheet, and

(ii) a profit and loss account for the period between the dates of those balance sheets.

(3) In this section " relevant balance sheet " means a balance sheet comprised in accounts delivered by the company for the purposes of any provision of this Act requiring the delivery of audited accounts or, where no such balance sheet has been so delivered, an audited balance sheet laid before the company in general meeting.

(4) Within fourteen days after the first occasion after the appointed day on which an advertisement for deposits is issued by a company which has delivered the accounts required by this section, the company shall deliver to the Registrar and the Board of Trade a notice specifying the date on which the advertisement was issued.

Periodical accounts after advertising.

6.—(1) Every company which issues an advertisement for deposits after the appointed day shall from time to time (unless and until this section ceases to apply to the company under the following provisions of this Act) deliver to the Registrar and the Board of Trade accounts complying with the requirements of this section.

(2) The accounts required to be delivered by a company to which this section applies are—

(*a*) audited accounts, each comprising—

(i) a balance sheet dated twelve months after the date of the balance sheet last delivered by the company for the purposes of any provision of this Act requiring the delivery of audited accounts, and

(ii) a profit and loss account for the period between the dates of those balance sheets; and

(*b*) interim accounts, each comprising—

(i) a balance sheet dated six months after the date of the balance sheet last delivered as aforesaid, and

(ii) a profit and loss account for the period between the dates of those balance sheets;

and those accounts shall be delivered, in the case of the audited accounts described in paragraph (*a*), within fifteen months, and in the case of the interim accounts described in paragraph (*b*), within nine months, of the date of the balance sheet last delivered as aforesaid.

(3) Where this section applies to a company by virtue of the issue of an advertisement for deposits but no accounts complying with section 5 have been delivered by the company, the dates of the balance sheets to be comprised in the first accounts required by paragraph (*a*) and paragraph (*b*) of subsection (2) respectively, the periods for which the profit and loss accounts comprised in those accounts are to be made up, and the times within which those accounts are to be delivered, shall be such as the Board of Trade may direct.

(4) For the purposes of this section a balance sheet shall be treated as dated in accordance with paragraph (*a*) or paragraph (*b*) of subsection (2) if dated within seven days before or after the date prescribed by that paragraph.

(5) The delivery of any accounts pursuant to this section shall, so far as those accounts comply with the requirements of section 5 in respect of any advertisement for deposits thereafter issued by the company, or would so comply if the balance sheet comprised therein were dated as required by this section apart from subsection (4), be sufficient compliance with section 5 in relation to that advertisement.

Termination of requirements as to periodical accounts.

7.—(1) If, throughout any period of fifteen months, a company to which section 6 applies has issued no advertisement for deposits and has retained no money deposited with the company, the company may deliver a notice to that effect to the Registrar and the Board of Trade; and thereupon section 6 shall cease to apply to the company.

(2) Without prejudice to subsection (1), a company to which section 6 applies may at any time deliver to the Registrar and the Board of Trade a notice stating that the issue of advertisements for deposits will be discontinued as from the delivery of the notice; and if no such advertisement is issued by the company during the period of three years after the date of delivery of the notice, section 6 shall cease to apply to the company at the expiration of that period or, if the company then retains any deposit which—

(*a*) was made before the delivery of the notice; and

(*b*) has not become repayable within the said period,

as soon as all such deposits have become repayable.

(3) Where a notice is delivered by a company under subsection (2), it shall be the duty of the company to give notice in writing to that effect (including a statement of the effect of that subsection)—

(*a*) within six months after the delivery of the first-mentioned notice, to all persons appearing to the company to be persons who then were and have not ceased to be depositors with the company; and

(*b*) before accepting, at any time within the period of three years mentioned in subsection (2), a deposit from any person to whom notice under this subsection has not already been given, to that person;

and if the notice required by paragraph (*b*) is not given in the case of any deposit, the deposit shall, notwithstanding anything to the contrary in the terms on which it was made, be repayable on demand.

(4) Nothing in this section shall affect the application of section 6 to any company which, after that section has ceased to apply by virtue of this section, issues a further advertisement for deposits; and in relation to the first such advertisement issued by such a company—

(*a*) the reference in section 5 to the last relevant balance sheet shall be construed as a reference to the audited balance sheet last delivered under section 6 (2) (*a*), or last laid before the company in general meeting, whichever is the later; and

(*b*) subsection (4) of section 5 shall apply as if no advertisement for deposits had previously been issued by the company.

(5) For the purposes of this section a deposit shall be deemed to have become repayable on the earliest date on which the depositor could have called for repayment if he had exercised all options or rights available to him.

(6) Any notice required to be given to any person under subsection (3) shall be deemed to have been given to that person if sent to him by post at his last known address.

Relaxation of requirements as to periodical accounts.

8.—(1) If it appears to the Board of Trade, on application made by any company, that by reason of any of the following circumstances, that is to say:—

(*a*) any scheme of reconstruction or amalgamation to which the company has been party;

(*b*) any alteration of the company's financial year effected for the purpose of complying with the requirements of section 153 of the Companies Act 1948 as to the financial years of holding companies and their subsidiaries;

(*c*) any requirements of the law of, or any exceptional circumstances existing or arising in, any country outside Great Britain in which the company carries on business; or

(*d*) any other exceptional circumstances affecting the production or audit of the company's accounts,

it would be impracticable or unduly onerous for the company to comply with the requirements of section 6 as to the date as at which or the period for which any accounts are to be made up, or the period within which they are to be delivered, the Board may by order relax any of those requirements with respect to those accounts.

(2) Where an order made under subsection (1) in the case of any company extends the period allowed by section 6 for delivering any such audited accounts or interim accounts as are described in paragraph (*a*) and paragraph (*b*) respectively of section 6 (2), then, unless the order includes a direction that this subsection is not to apply in relation to that order, section 5 (1) shall not apply to the company in respect of any advertisement issued during the extended period allowed by the order for delivering those accounts.

Application to advertisements issued before appointed day.

9.—(1) The following provisions of this section shall apply to any company which either—

(*a*) has issued an advertisement for deposits within six months before the appointed day; or

(*b*) having issued such an advertisement within three years before that day, has retained at any time within three months before that day any money deposited with the company.

(2) On or before the appointed day, every such company shall deliver to the Registrar and the Board of Trade the like

accounts as would be required under section 5 if an advertisement for deposits were to be issued by the company immediately after that day; and section 6 shall apply in relation to any such company, as from that day, as if such an advertisement had been so issued.

(3) In relation to any company to which section 6 applies by virtue only of this section, the reference in section 7 (1) to any period of fifteen months shall include a reference to any such period beginning before and ending after the appointed day; and where the issue of advertisements by any such company has been discontinued before the appointed day, the company may, not later than one month after that day, deliver to the Registrar and the Board of Trade a notice to that effect, specifying the date from which the issue of such advertisements was discontinued, and subsections (2) and (3) of section 7 shall apply in relation to any such notice as they apply in relation to a notice under the said subsection (2) except that any reference to the period of three years after the delivery of the notice shall be construed—

(*a*) in the said subsection (2), as a reference to the period of three years after the date specified in the notice; and

(*b*) in the said subsection (3), as a reference to so much of that period as is unexpired at the date of the delivery of the notice.

Special provisions as to newly incorporated companies.

10.—(1) Section 5 (1) shall not apply in relation to any advertisement for deposits issued by a company within nine months after the date of its incorporation if, before the date when that advertisement is issued—

(*a*) there has been delivered to the Registrar a prospectus or statement in lieu of prospectus complying with the requirements of the Companies Act 1948 or, in the case of a company which is not required by that Act to deliver such a prospectus or statement, a document complying with the requirements of section 48 of that Act with respect to the form and contents of, and the reports to be set out in, such a statement; and

(*b*) a copy of that prospectus, statement or document has been delivered to the Board of Trade.

(2) A company which was incorporated within nine months before the appointed day shall not be required to deliver accounts under section 9 (2) by virtue of any advertisement for deposits issued before that day if, before that day, the conditions specified in paragraphs (*a*) and (*b*) of subsection (1) of this section have been complied with.

(3) Where an advertisement for deposits is or has been issued by a company within nine months after the date of its incorporation, and the requirements of section 5 (or of that section as applied by section 9 (2)) with respect to the delivery of accounts have not been complied with in respect of that or any other advertisement issued by the company, the company shall—

(*a*) in any case, deliver to the Registrar and the Board of Trade before the end of those nine months audited accounts comprising a balance sheet dated six months after the date of its incorporation, and a profit and loss account for those six months; and

(*b*) except where section 9 applies to the company, deliver to the Registrar and the Board of Trade, within fourteen days after the first occasion after the appointed day on which an advertisement for deposits is issued by the company, the like notice as is required by section 5 (4) in the case of a company which has delivered the accounts required by that section.

(4) In any case where accounts are required to be delivered by a company under section 5 before an audited balance sheet has been delivered by the company under this Act or laid before the company in general meeting, the profit and loss account required by subsection (2) (*a*) of that section shall be an account for the period (not being less than six months) between the date of the balance sheet to be delivered thereunder and the date of the incorporation of the company.

Accounts to be supplied to depositors.

11.—(1) Subject to subsection (3), every company to which section 6 applies or to which that section has applied at any time during the previous six months shall, on receiving a deposit from any person, furnish him without charge with—

(*a*) a copy of the last audited accounts delivered by the company under this Act and of any other accounts so delivered by the company since the delivery of those audited accounts; or

(*b*) if no such accounts have been so delivered, a copy of any prospectus, statement in lieu of prospectus or other document of which a copy has been delivered to the Board of Trade for the purposes of section 10 (1).

(2) Subject to subsection (3), any such company as aforesaid shall furnish a copy of the accounts or other document mentioned in subsection (1) on demand and without charge to any depositor with the company and to any other person who signifies to the company that he requires a copy of the accounts or document with a view to becoming a depositor with the company.

(3) A company shall not be required to furnish a copy of any accounts or other document under this section to any person to whom a copy of the accounts or document in question has already been furnished by the company and, without prejudice to the foregoing provision, a company shall not be required to furnish a copy of any accounts or other document—

(*a*) under subsection (1), on receiving a deposit from a person who is already a depositor with the company; or

(*b*) under subsection (2), to any person (not being a depositor with the company) to whom the company gives notice that it is unwilling to receive a deposit.

Change of business.

12.—(1) Subject to the provisions of this section, if any company to which section 6 applies, having issued after the commencement of this Act an advertisement for deposits describing the business or any particular business carried on or proposed to be carried on by the company, thereafter carries on any business not described in that advertisement and not being a business of the same character as a business so described, any deposit to which this section applies shall, notwithstanding anything to the contrary in the terms on which it was made, be repayable on demand.

(2) Within fourteen days after a deposit made with any company becomes repayable under this section in consequence of the carrying on by the company of any business, the company shall give notice in writing to the person appearing to the company to be entitled to repayment, describing the business in question and informing him of his right to demand repayment under this section.

(3) The deposits to which this section applies, in relation to any advertisement issued by a company, are all deposits made with the company after the date on which the advertisement is first issued and before the expiration of fourteen days after the date on which accounts comprising particulars of the business in question are next delivered by the company under this Act; but a deposit shall not be repayable under this section in consequence of the carrying on by a company of any business—

(*a*) if, before the deposit is made, the company has given notice in writing describing the business in question to the person making the deposit; or

(*b*) if, before the business in question is commenced, the company has given notice in writing to the depositor describing that business and the depositor has not within such period as may be specified for that purpose in the notice (not being less than fourteen days) signified to the company in writing his intention of demanding repayment if the business is commenced; or

(*c*) if the notice given in respect of the deposit under subsection (2) specifies a period (not being less than fourteen days) within which a demand for repayment may be made by virtue of this section and no such demand is made within that period.

(4) Any notice under this section shall be deemed to have been given to a person if sent to him by post at his last known address.

(5) For the purposes of this section a company shall be treated as carrying on any business carried on by any company which is a subsidiary of that company.

Regulations as to form of accounts and notices.

13.—(1) The Board of Trade may by statutory instrument make regulations with respect to the form and contents of the accounts to be delivered in pursuance of the foregoing provisions of this Act, the statements, reports or other documents to be annexed to such accounts, and the auditing of such accounts; and except where the context otherwise requires, any reference in this Act to such accounts shall be construed as including a reference to any statements, reports or other documents required to be annexed thereto.

(2) The Board of Trade may by statutory instrument make regulations with respect to the form of any notice required or authorised to be delivered or given under the foregoing provisions of this Act.

(3) Regulations under subsection (1) shall include among the statements to be annexed to the accounts of a company a statement containing such particulars as may be prescribed by the regulations with respect to the business carried on by the company, and any subsidiary of the company, during the period to which those accounts relate.

(4) Regulations under subsection (1) shall apply, with such exceptions, additions or other modifications as may be prescribed by the regulations, all or any of the provisions of the Companies Act 1948 with respect to the accounts required by Part IV of that Act to be laid before a company in general meeting; but except so far as provided by such regulations, the said provisions of that Act shall not apply to the accounts to be delivered under this Act.

(5) Regulations under subsection (1) may, for the purpose of securing more accurate information, require that the interim accounts to be delivered under section 5 or section 6 by companies to which those sections apply, or by any class or description of such companies, shall be audited accounts; but such regulations shall not affect the date as at which or the period for which any accounts required by those sections are to be made up or the period within which they are to be delivered.

(6) A draft of any regulations to be made under subsection (1) shall be laid before Parliament, and the regulations shall not be made unless the draft has been approved by a resolution of each House of Parliament.

(7) The documents required by section 127 of the Companies Act 1948 to be annexed to the annual return made by a company shall not include copies of any accounts delivered to the Registrar and the Board of Trade under this Act.

Default in respect of accounting obligations.

14. Any company which makes default in complying with any requirement of this Act as to the delivery to the Registrar or the Board of Trade of any accounts or notice, in furnishing any accounts or other document required to be furnished under section 11, or in giving any notice required by section 7 (3) or section 12 (2), shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding two hundred pounds.

Falsification of accounts, etc.

15.—(1) Subject to subsection (3), if any person, being an officer of a company—

(*a*) causes or permits to be included in any account, notice or other document required or authorised by or under this Act to be delivered to the Registrar or the Board of Trade any statement which, to his knowledge, is false in a material particular;

(*b*) conceals, destroys, mutilates or falsifies, or is privy to the concealment, destruction, mutilation or falsification of, any document affecting or relating to the property or affairs of the company and containing information which is or may be required to be furnished under this Act;

(*c*) makes or is privy to the making of any false entry in any such document; or

(*d*) fraudulently parts with, alters or makes any omission in, or is privy to the fraudulent parting with, altering or making any omission in, any such document,

he shall be guilty of an offence under this section.

(2) A person guilty of an offence under this section shall be liable—

(*a*) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both;

(*b*) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding two hundred pounds, or to both.

(3) In proceedings against any person for an offence under subsection (1) (*b*) or (*c*), it shall be a defence to prove that he had no intent to conceal the state of affairs of the company or to defeat the law.

Powers of Court and Board of Trade in respect of deposit-taking companies

Winding up on petition of Board of Trade.

16.—(1) The court may, on a petition presented by the Board of Trade by virtue of this section, wind up under the Companies Act 1948 any company to which section 6 applies, or to which that section has applied at any time during the six months preceding the presentation of the petition, if—

(*a*) the company is unable to pay sums due and payable to its depositors, or is able to pay such sums only by obtaining additional deposits or by defaulting in its obligations to its other creditors; or

(*b*) the value of the company's assets is less than the amount of its liabilities; or

(*c*) default has been made by the company in complying with any requirement of this Act as to the delivery of accounts; or

(*d*) the company has failed to comply with the requirements of section 147 of the Companies Act 1948 (books of account) or to produce books kept pursuant to that section, and the Board are unable to ascertain the financial position of the company.

(2) A company which has been served with a winding-up petition presented by the Board of Trade under this section shall not without the consent of the court while any proceedings on the petition are pending—

(*a*) accept deposits from any person; or

(*b*) make any payment directly or indirectly to or for the benefit of any person who is, or was at the date of the presentation of the petition, an officer of the company.

(3) If any deposit is accepted or any payment made in contravention of subsection (2), the company shall be guilty of an offence, and shall be liable, on conviction on indictment or on summary conviction, to a fine which, on summary conviction, shall not exceed two hundred pounds.

(4) Notwithstanding any rule of law, any sum deposited or paid in contravention of subsection (2) may be recovered by the depositor or the company, as the case may be, as money had and received or, in Scotland, as a debt.

(5) In determining for the purposes of this section whether the value of a company's assets is less than the amount of its liabilities, account shall be taken of contingent and prospective liabilities of the company.

(6) Notwithstanding section 399 (2) of the Companies Act 1948, an unregistered company having a principal place of business situate in Northern Ireland may be wound up by virtue

of this section if it has an established place of business in Great Britain.

Power of court to order delivery of accounts.

17.—(1) If any company, having made default in complying with any requirement of this Act as to the delivery of accounts, fails to make good the default within fourteen days after the service of a notice on the company requiring it to do so, the court may on the application of the Registrar or of the Board of Trade make an order—

(*a*) directing the company and any officer thereof to make good the default within such time as may be specified in the order;

(*b*) if the court thinks fit, prohibiting the acceptance of deposits with the company until the default is made good;

(*c*) ordering the costs to be paid by any persons who, in the opinion of the court, are responsible for the default.

(2) If, on an application by the Registrar or the Board of Trade for an order under subsection (1) in respect of any default, it appears to the court that the default is incapable of being made good, the court may, in lieu of making an order under that subsection, order the company to be wound up.

(3) Nothing in this section shall be taken to prejudice the operation of any provision of this Act imposing penalties on a company or its officers in respect of any such default as aforesaid.

Power of Board to require production of documents.

18.—(1) For the purposes of securing compliance with the provisions of this Act, or of determining whether or not the Board of Trade should exercise any of their powers under this Act or their power of investigation under section 165 of the Companies Act 1948, the Board shall have power to give directions to any company being—

(*a*) a company which appears to the Board to be a company to which section 6 applies or to which that section has applied at any time during the previous six months;

(*b*) a company which is a subsidiary of such a company as aforesaid;

(*c*) a company whose affairs appear to the Board to be so connected with those of such a company as is mentioned in paragraph (*a*) of this subsection as to affect materially the question whether the conditions described in paragraph (*a*) or paragraph (*b*) of section 16 (1) apply in the case of the last-mentioned company,

requiring the company, at such time and place as may be specified in the directions, to produce such books or papers as may be so specified.

(2) Any officer of the Board of Trade duly authorised in that behalf shall have power, on producing (if required to do so) evidence of his authority, to require any such company as aforesaid to produce to him forthwith any books or papers which the officer may reasonably require for any of the purposes mentioned in subsection (1).

(3) Where by virtue of the preceding provisions of this section the Board of Trade, or an officer of the Board, has power to require the production of any books or papers from any company, the Board or officer shall have the like power to require the production of those books or papers from any person who appears to the Board or officer to be in possession of those books or papers: but where any such person claims a lien on books or papers produced by him, the production shall be without prejudice to the lien.

(4) Any power conferred by this section to require a company or other person to produce books or papers shall include power—

(*a*) if the books or papers are produced—

(i) to take copies of them or extracts from them, and

(ii) to require that person, or any other person who is a present or past officer of, or is employed by, the company in question, to provide an explanation of any of them;

(*b*) if the books or papers are not produced, to require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.

(5) If any requirement to produce books or papers or provide an explanation or make a statement which is imposed by virtue of this section is not complied with, the company or other person on whom the requirement was so imposed shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding two hundred pounds, or to both:

Provided that where a person is charged with an offence under this subsection in respect of a requirement to produce any books or papers, it shall be a defence to prove that they were not in his possession or under his control and that it was not reasonably practicable for him to comply with the requirement.

Entry and search of premises.

19.—(1) If a justice of the peace is satisfied on information on oath laid by an officer of the Board of Trade, or laid under the authority of the Board, that there are reasonable grounds for suspecting that there are on any premises any books or papers of which production has been required by virtue of section 18

and which have not been produced in compliance with that requirement, the justice may issue a warrant authorising any constable, together with any other persons named in the warrant and any other constables, to enter the premises specified in the information (using such force as is reasonably necessary for the purpose) and to search the premises and take possession of any books or papers appearing to be such books or papers as aforesaid, or to take in relation to any books or papers so appearing any other steps which may appear necessary for preserving them and preventing interference with them.

(2) Every warrant issued under this section shall continue in force until the end of the period of one month after the date on which it is issued.

(3) Any books or papers of which possession is taken under this section may be retained for a period of three months or, if within that period there are commenced any proceedings for an offence under this Act to which they are relevant, until the conclusion of those proceedings.

(4) Any person who obstructs the exercise of any right of entry or search conferred by virtue of a warrant under this section, or who obstructs the exercise of any rights so conferred to take possession of any books or papers, shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding two hundred pounds, or to both.

(5) In the application of this section to Scotland, any reference to a justice of the peace includes a reference to the sheriff and to a magistrate.

Provision for security of information.

20.—(1) No information or document relating to a company which has been obtained under section 18 or section 19 shall, without the previous consent in writing of that company, be published or disclosed, except to the Board of Trade or an officer of the Board or an inspector appointed under the Companies Act 1948 by the Board, unless the publication or disclosure is required—

(*a*) for the purposes of any proceedings arising out of this Act (including proceedings under section 19) or the Companies Act 1948, or of any criminal proceedings whether so arising or not, or for the purposes of a report of any such proceedings; or

(*b*) for the purpose of complying with any requirement, or exercising any power, imposed or conferred by the Companies Act 1948 with respect to reports made by inspectors appointed as aforesaid.

(2) Any person who publishes or discloses any information or document in contravention of this section shall be guilty of an offence and liable—

(*a*) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both;

(*b*) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding two hundred pounds, or to both.

Miscellaneous and general

Amendment of Prevention of Fraud (Investments) Act 1958.

21.—(1) Subsection (1) of section 13 of the Prevention of Fraud (Investments) Act 1958 (penalty for fraudulently inducing persons to invest money) shall be amended as follows—

(*a*) after the words " the reckless making " there shall be inserted the words " (dishonestly or otherwise) ";

(*b*) for paragraph (*b*) there shall be substituted the following paragraph—

" (*b*) to take part or offer to take part in any arrangements with respect to property other than securities, being arrangements the purpose or effect, or pretended purpose or effect, of which is to enable persons taking part in the arrangements (whether by becoming owners of the property or any part of the property or otherwise) to participate in or receive profits or income alleged to arise or to be likely to arise from the acquisition, holding, management or disposal of such property, or sums to be paid or alleged to be likely to be paid out of such profits or income."

(2) In the proviso to subsection (3) of section 14 of the said Act of 1958, for the words from " any arrangements " to the end there shall be substituted the words " any such arrangements as are mentioned in paragraph (*b*) of subsection (1) of the last preceding section ".

Liability of directors, etc.

22.—(1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary, or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) A director or other officer of a company who, by virtue of this section, is guilty of an offence under section 14 or section 16 (3) committed by the company shall be liable—

(*a*) on conviction of an offence under section 14, or on summary conviction of an offence under section 16 (3), to imprisonment for a term not exceeding three months;

(*b*) on conviction on indictment of an offence under section 16 (3), to imprisonment for a term not exceeding two years,

in addition to or in lieu of the fine to which he is liable.

(3) For the purposes of this section, a person shall be deemed to be a director of a body corporate if he occupies in relation thereto the position of a director, by whatever name called, or is a person in accordance with whose directions or instructions the directors of the company or any of them act:

Provided that a person shall not, by reason only that the directors of a body corporate act on advice given by him in a professional capacity, be taken to be a person in accordance with whose directions or instructions those directors act.

Criminal proceedings.

23.—(1) No proceedings for an offence under this Act shall be instituted in England and Wales except by or with the consent of the Director of Public Prosecutions or the Board of Trade.

(2) Summary proceedings for any offence under this Act may (without prejudice to any jurisdiction exercisable apart from this subsection) be taken against a body corporate at any place at which the body has a place of business, and against any other person at any place at which he is for the time being.

(3) Notwithstanding anything in section 104 of the Magistrates' Courts Act 1952, any information relating to an offence under this Act which is triable by a magistrates' court in England and Wales may be so tried if it is laid at any time within three years after the commission of the offence and within twelve months after the date on which evidence sufficient in the opinion of the Director of Public Prosecutions or the Board of Trade, as the case may be, to justify the proceedings comes to his or their knowledge.

(4) Notwithstanding anything in section 23 of the Summary Jurisdiction (Scotland) Act 1954, proceedings in Scotland for an offence against this Act may be commenced at any time within three years after the commission of the offence and within twelve months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify the proceedings comes to his knowledge.

(5) For the purposes of this section, a certificate of the Director of Public Prosecutions, the Lord Advocate or the Board of Trade, as the case may be, as to the date on which such evidence as aforesaid came to his or their knowledge shall be conclusive evidence.

Functions of Board of Trade, fees and expenses.

24.—(1) Anything required or authorised by or under this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board, any Minister

of State with duties concerning the affairs of the Board, any secretary, under-secretary or assistant secretary of the Board or any person authorised in that behalf by the President.

(2) There shall be paid to the Registrar, for the registration of any such accounts, notice or other document delivered to him under this Act as may be prescribed by regulations made by the Board of Trade by statutory instrument, a fee of five shillings.

(3) Any administrative expenses incurred by the Board of Trade in consequence of the provisions of this Act shall be defrayed out of moneys provided by Parliament; and all fees received by the Registrar under this section shall be paid into the Exchequer.

Companies subject to this Act.

25.—(1) Subject to the provisions of this section, the expression " company " means in this Act—

(*a*) a company formed and registered under the Companies Act 1948;

(*b*) an existing company within the meaning of that Act;

(*c*) a body corporate incorporated in and having a principal place of business in Great Britain, being a body to which any provisions of the said Act of 1948 with respect to prospectuses and allotments apply by virtue of section 435 of that Act; or

(*d*) a body corporate incorporated outside Great Britain.

(2) References in this Act to a company do not include references to any banking or discount company within the meaning of paragraph 23 of Schedule 8 to the Companies Act 1948.

(3) Regulations made under paragraph (*b*) of subsection (1) of section 3 may direct that all or any of the provisions of this Act which apply to a company in respect of or in consequence of the issue of an advertisement for deposits shall not apply to any company in respect of or in consequence of the issue of an advertisement (whether issued before or after the regulations come into force) of any class exempted by the regulations from section 2; and such regulations may include provision—

(*a*) for requiring any company which, by virtue of the regulations, is exempt from the requirement to deliver accounts under this Act, to deliver a notice to that effect to the Registrar and to the Board of Trade; and

(*b*) for applying subsection (4) of section 7 in relation to any such company which thereafter ceases to be so exempt.

Definitions of deposit, advertisement, etc.

26.—(1) In this Act "deposit" means a loan of money at interest, or repayable at a premium, but does not include—

(*a*) a loan to a company or other body corporate upon terms involving the issue of debentures or other securities; or

(*b*) a loan by a body corporate, firm or other person whose ordinary business includes the business of banking, or who carries on a business of such other class or description as may be prescribed by regulations of the Board of Trade;

and references to the deposit of money or the investment of money on deposit shall be construed accordingly.

(2) For the purposes of this Act a company shall be taken to be retaining money deposited with the company if it owes any sum (whether on account of principal, interest or premium, and whether immediately payable or not) in respect of any such money.

(3) In this Act "advertisement" includes every form of advertising, whether in a publication or by the display of notices or by means of circulars or other documents or by an exhibition of photographs or cinematograph films, or by way of sound broadcasting or television, and references to the issue of an advertisement shall be construed accordingly; and for the purposes of this Act an advertisement issued by any person by way of display or exhibition in a public place shall be treated as issued by him on every day on which he causes or permits it to be so displayed or exhibited.

(4) For the purposes of this Act an advertisement which contains information calculated to lead directly or indirectly to the deposit of money by the public shall be treated as an advertisement inviting the public to deposit money.

(5) For the purposes of this Act, an advertisement issued by any person on behalf of or to the order of another person shall be treated as an advertisement issued by that other person; and for the purposes of any proceedings under this Act, an advertisement inviting the public to deposit money with a person specified in the advertisement shall be presumed, unless the contrary is proved, to have been issued by that person.

(6) The power of the Board of Trade to make regulations under subsection (1) shall be exercisable by statutory instrument; and any statutory instrument made by virtue of that subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

General interpretation.

27.—(1) In this Act the following expressions have the meanings hereby assigned to them respectively, that is to say:—

"advertisement for deposits" means, in relation to any company, an advertisement inviting the public to deposit money with that company;

"the appointed day" means the last day of the period of six months after the date of the passing of this Act;

"audited accounts", in relation to an exempt private company, means accounts audited by a person who would be qualified under the Companies Act 1948 for appointment as auditor of that company if it were not an exempt private company, and, in relation to any other company, means accounts audited by a person qualified under that Act for appointment as auditor of that company;

"building society" means any building society or Northern Ireland society within the meaning of the Building Societies Act 1962, and any unincorporated society to which section 125 of that Act applies;

"depositor" means a person entitled, or prospectively entitled, to repayment of a deposit, whether made by him or not;

"friendly society" means a society registered under the Friendly Societies Act 1896 or under that Act as it applies in Northern Ireland;

"industrial and provident society" means a society registered under the Industrial and Provident Societies Act 1893 or under that Act as it applies in Northern Ireland;

"profit and loss account" includes, in the case of a company not trading for profit, an income and expenditure account;

"the public" includes any section of the public, however selected, including, in relation to a company, a section selected as members or debenture holders of, or as depositors with, the company;

"the Registrar" means the registrar of companies as defined in the Companies Act 1948;

and other expressions defined in the Companies Act 1948 have the same meanings as in that Act.

(2) Any reference in this Act to a section, subsection, or paragraph not otherwise identified is a reference to that section of this Act, or to that subsection or paragraph of the section or subsection in which the reference occurs, as the case may be.

(3) Any reference in this Act to a period of time after or before a specified date or day is a reference to that period inclusive of the specified date or day, and any such reference to a period between two dates is a reference to the period excluding the first and including the second of those dates.

(4) For the purposes of this Act the date of a balance sheet shall be taken to be the date as at which the balance sheet is made up.

(5) Any reference in this Act to an enactment is a reference to that enactment as amended by or under any other enactment.

(6) Any reference in this Act to an enactment which the Parliament of Northern Ireland has power to amend is a reference to that enactment as amended by any Act of that Parliament, whether passed before or after this Act, and to any enactment of that Parliament passed after this Act and re-enacting the said enactment with or without modifications.

Short title, commencement and extent.

28.—(1) This Act may be cited as the Protection of Depositors Act 1963.

(2) This Act shall come into force at the expiration of the period of three months after the day on which it is passed.

(3) This Act does not extend to Northern Ireland.

Table of Statutes referred to in this Act

Short Title	Chapter
Industrial and Provident Societies Act 1893 ...	56 & 57 Vict. c. 39.
Friendly Societies Act 1896	59 & 60 Vict. c. 25.
Companies Act 1948	11 & 12 Geo. 6. c. 38.
Magistrates' Courts Act 1952	15 & 16 Geo. 6. & 1 Eliz. 2. c. 55.
Summary Jurisdiction (Scotland) Act 1954 ...	2 & 3 Eliz. 2. c. 48.
Prevention of Fraud (Investments) Act 1958 ...	6 & 7 Eliz. 2. c. 45.
Trustee Investments Act 1961	9 & 10 Eliz. 2. c. 62.
Building Societies Act 1962	10 & 11 Eliz. 2. c. 37.