

Director's power to examine books and records

653. (1) In this section—

“appropriate person”, in relation to the company referred to in subsection (3), means any of the following:

(a) the company;

(b) irrespective of the time at which he or she holds or held such status (but subject, in the case of subparagraph (iii), to subsection (2))—

(i) a liquidator of the company,

(ii) an officer or statutory auditor of the company, or

(iii) a receiver appointed to any property of the company;

“books and records” means the books and records of the company and, in addition, in the case of a request under subsection (3) made of a liquidator, statutory auditor or receiver, the books and records of the liquidator, statutory auditor or receiver;

“liquidator” includes a provisional liquidator.

(2) For the avoidance of doubt, the powers under this section do not extend to a case in which a receivership alone has been conducted in relation to any property of the company (Director may request production of receiver's books)).

(3) Where a company is being wound up or has been dissolved, the Director may—

(a) on his or her own motion, or

(b) where a complaint is made to the Director by a member, contributory or creditor of the company,

request (specifying the reason why the request is being made) an appropriate person to produce to the Director the books and records for examination, and the appropriate person shall comply with the request.

(4) In the case of a request of a liquidator or a receiver under subsection (3), the request may relate to a particular winding up or receivership process or to all windings up or receiverships conducted by the liquidator or receiver.

(5) An appropriate person shall—

(a) answer any questions of the Director concerning the content of the books and records requested to be produced under subsection (3),

(b) if he or she is a liquidator or receiver, answer any questions of the Director concerning the conduct of a particular winding up or receivership, or all windings up or receiverships conducted by the appropriate person, as the case may be, and

(c) give to the Director such assistance in the matter as the appropriate person is reasonably able to give.

(6) An appropriate person shall give to the Director such access and facilities as are necessary for inspecting and taking copies of books and records requested to be produced by him or her under subsection (3).

(7) A request under subsection (3) may not be made in respect of books and records relating to a winding up or receivership that has concluded more than 6 years prior to the date of the request but nothing in this subsection is to be read as requiring a liquidator to keep any books or records for a period longer than that specified in section 696 (2).

(8) An appropriate person who—

(a) fails to comply with a request under subsection (3),

(b) fails to answer any question under subsection (5)(a) or (b),

(c) fails to give the Director the assistance referred to in subsection (5)(c), or

(d) without lawful excuse, fails to give the Director the access or facilities referred to in subsection (6),

shall be guilty of a category 2 offence.

(9) Nothing in this section shall be taken as excluding or restricting any statutory rights of the Government, a Minister of the Government or a person acting under the authority of the Government or a Minister of the Government, or the powers of any person under Part 13.