

CHAPTER 3 Powers of examiner

Powers of an examiner

524. (1) Any provision of this Act relating to the rights and powers of a statutory auditor of a company and the supplying of information to and co-operation with such auditor shall, with the necessary modifications, apply to an examiner.

(2) Notwithstanding any provision of this Act relating to notice of general meetings, an examiner shall have power to convene, set the agenda for, and preside at meetings of the board of directors and general meetings of the company to which he or she is appointed and to propose motions or resolutions and to give reports to such meetings.

(3) An examiner shall be entitled to reasonable notice of, to attend and be heard at, all meetings of the board of directors of a company and all general meetings of the company to which he or she is appointed.

(4) For the purpose of subsection (3) "reasonable notice" shall be deemed to include a description of the business to be transacted at any such meeting.

(5) An examiner has the power referred to in subsection (6) where he or she becomes aware of any actual or proposed act, omission, course of conduct, decision or contract, by or on behalf of—

- (a) the company to which he or she has been appointed,
- (b) that company's officers, employees, members or creditors, or
- (c) any other person,

in relation to the income, assets or liabilities of the company which, in the examiner's opinion, is or is likely to be to the detriment of the company, or any interested party.

(6) That power of the examiner is to take whatever steps are necessary, subject to the right of parties acquiring an interest in good faith and for value in such income, assets or liabilities, to halt, prevent or rectify the effects of such act, omission, course of conduct, decision or contract.

(7) The examiner may apply to the court—

- (a) to determine any question arising in the course of his or her office, or
- (b) for the exercise in relation to the company of all or any of the following powers which the court may exercise under this Act, namely those exercisable by it upon the application of any member, contributory, creditor or director of a company.

(8) The examiner shall, if so directed by the court, have power to ascertain and agree claims against the company to which he or she has been appointed.

(9) No professional or legal duty to which an examiner is subject by virtue of his or her appointment as such to a company shall be regarded as contravened by, and no liability to the company, its shareholders, creditors or other interested parties shall attach to, an examiner by reason of his or her compliance with an obligation imposed on the examiner by or under this section.