

British Home Supplies Pty., Limited (Investigation) Act 1942 No 17

[1942-17]



New South Wales

Status Information

Currency of version

Repealed version for 13 November 1942 to 5 January 2012 (accessed 17 August 2024 at 14:11)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Repeal**

The Act was repealed by Sch 5 to the [Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2011 No 62](#) with effect from 6.1.2012.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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British Home Supplies Pty., Limited (Investigation) Act 1942 No 17



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An Act to make provision for and in relation to the investigation of the affairs of British Home Supplies Pty., Limited; to restrict the exercise of certain powers and authorities of the receiver and manager of the property of that company; to provide for the refund of certain moneys paid by that receiver and manager; and for purposes connected therewith.

1 Name of Act

This Act may be cited as the *British Home Supplies Pty., Limited (Investigation) Act 1942*.

2 Definitions

In this Act, unless the context or subject matter otherwise indicates or requires:

Agency agreement means the agreement dated the twenty-eighth day of November, one thousand nine hundred and thirty-nine, and made between the company and The Business Management Corporation Limited, a copy of which was filed in the office of the Registrar-General on the eleventh day of March, one thousand nine hundred and forty.

Mortgagee means the mortgagee defined as such in the mortgage and includes any person to whom such mortgagee's rights and liabilities under the mortgage have passed by assignment or by operation of law.

The company means the company registered under the *Companies Act 1936* as "British Home Supplies Pty., Limited" on the twentieth day of September, one thousand nine hundred and thirty-nine.

The mortgage means the mortgage dated the twenty-second day of July, one thousand nine hundred and forty-one, between the company and Peter Cramb, of Port Hacking, gentleman, a copy of which was filed in the office of the Registrar-General on the eighth day of August, one thousand nine hundred and forty-one.

The receiver and manager means the receiver and manager appointed by the mortgagee on the twenty-eighth day of September, one thousand nine hundred and forty-two, and includes any receiver or receiver and manager appointed in his place and acting as such for the time being.

3 Appointment and powers of inspector

- (1) The Public Trustee is hereby appointed an inspector to investigate the affairs of the company and to report thereon to the Governor.
- (2) Without prejudice to the generality of subsection one of this section the investigation shall extend to:
 - (a) the circumstances in which the agency agreement was entered into, and the effect of such agreement on the operations and affairs of the company,
 - (b) the circumstances in which the issue of debentures was made by the company, and the circumstances in which and the arrangements under which such debentures were cancelled and the mortgage given,
 - (c) the provision (if any) made by the company to secure or preserve the rights of purchasers from the company.
- (3) The Public Trustee shall at all times have a right of immediate access to all books, documents and records of the company (including any such books, documents and records which are in the custody or under the control of the receiver and manager or of the mortgagee) and to all books, documents and records of the receiver and manager which relate to the discharge or performance of his duties and functions as receiver and manager of the property of the company.
- (4) The receiver and manager and any employee or agent of the receiver and manager shall supply the Public Trustee with any information required by the Public Trustee relating to the transactions of the receiver and manager.

Any person who is or at any time, whether before or after the commencement of this Act, has been a director, manager, officer, agent or employee of the company, shall supply the Public Trustee with any information required by the Public Trustee relating to the business or affairs of the company.

In this subsection the expression "agents" in relation to the company shall be deemed to include the bankers and solicitors of the company and any persons employed by the company as auditors whether such persons are or are not officers of the company.

- (5) Any person who neglects or fails to comply with any requirement of the Public Trustee under subsection four of this section shall be guilty of an offence and shall be liable to a penalty not exceeding two hundred pounds or to imprisonment for a period not exceeding one year.

4 No sale of assets without consent of Public Trustee

- (1) No sale of or dealing with any of the assets of the company, whether held subject to any trust, mortgage, contract or otherwise, shall be of any validity whatsoever except where made with the consent in writing of the Public Trustee.

- (2) Subsection one of this section shall extend to sales or other dealings made by the receiver and manager or by the mortgagee or any person acting under his authority.
- (3) This section shall be deemed to have commenced on the third day of November, one thousand nine hundred and forty-two.
- (4) Any person acting in contravention of this section shall be guilty of an offence and shall be liable to a penalty not exceeding two hundred pounds.

5 Restriction of payments to mortgagee

- (1) The receiver and manager shall not pay, directly or indirectly, to the mortgagee or to any person at the direction of the mortgagee, any moneys which are within the control of the receiver and manager (whether or not such moneys are the proceeds of the realisation of the assets of the company) except with the consent in writing of the Public Trustee.
- (2) This section shall be deemed to have commenced on the twentieth day of October, one thousand nine hundred and forty-two.
- (3) The mortgagee shall repay to the receiver and manager any moneys paid in contravention of this section on or after the twentieth day of October, one thousand nine hundred and forty-two, and before the third day of November, one thousand nine hundred and forty-two. In default of such repayment such moneys may be recovered by the Public Trustee, as inspector under this Act, as a debt in any court of competent jurisdiction.
- (4) If the receiver and manager makes any payment in contravention of subsection one of this section on or after the third day of November, one thousand nine hundred and forty-two, he shall be guilty of an offence and shall be liable to a penalty not exceeding two hundred pounds or to imprisonment for a period not exceeding 12 months, and any moneys so paid in contravention of this section may be recovered by the Public Trustee, as inspector under this Act, as a debt in any court of competent jurisdiction.
- (5) Any moneys recovered by the Public Trustee under this section shall be disposed of in such manner as the Governor may direct.

6 Appointment of persons to act for the Public Trustee

- (1) The Public Trustee may appoint any person to exercise or discharge all or any of the rights, powers, authorities, duties and functions conferred and imposed on the Public Trustee by or under this Act.

Every such appointment shall be made under the hand and seal of the Public Trustee.

Any such appointment may be general or may be limited to the exercise or discharge of any specified right, power, authority, duty or function, or of all rights, powers,

authorities, duties or functions other than those specified.

- (2) A reference in any provision of this Act (other than this section) to the Public Trustee shall be deemed to include any Deputy Public Trustee and also any person appointed by the Public Trustee under subsection one of this section to the extent of the rights, powers, authorities, duties and functions conferred and imposed on such person by such appointment.
- (3) No person dealing with a person appointed by the Public Trustee under this section shall be concerned to inquire whether the appointment extends to the exercise or discharge of the right, power, authority, duty or function of the Public Trustee involved in such dealing.

7 Exoneration

Neither the Public Trustee nor any Deputy Public Trustee nor any person appointed by the Public Trustee under section six of this Act shall be liable to any person for any act or thing done or omitted to be done bona-fide in the exercise or discharge or purported exercise or discharge of any right, power, authority, duty or function conferred or imposed on the Public Trustee by or under this Act.

8 Duration of Act

- (1) The Governor may, at any time after the Public Trustee has furnished his report pursuant to section three of this Act, by notification published in the Gazette, revoke the appointment of the Public Trustee as inspector under this Act.

Upon the revocation of such appointment the provisions of sections three, four and five of this Act shall cease to have effect.

- (2) Subject to subsection one of this section this Act shall continue in force until Parliament otherwise provides.

9 Expenses of Public Trustee

All expenses incurred by the Public Trustee in the exercise and discharge of the rights, powers, authorities, duties and functions conferred and imposed on the Public Trustee by or under this Act shall, unless Parliament otherwise declares, be paid out of moneys provided by Parliament.