



# Companies Act 1985

## 1985 CHAPTER 6

### PART IX

#### A COMPANY'S MANAGEMENT ; DIRECTORS AND SECRETARIES ; THEIR QUALIFICATIONS, DUTIES AND RESPONSIBILITIES

##### *Other provisions about directors and officers*

#### **305 Directors' names on company correspondence, etc.**

- (1) A company to which this section applies shall not state, in any form, the name of any of its directors (otherwise than in the text or as a signatory) on any business letter on which the company's name appears unless it states on the letter in legible characters the Christian name (or its initials) and surname of every director of the company who is an individual and the corporate name of every corporate director.
- (2) This section applies to—
  - (a) every company registered under this Act or under the former Companies Acts (except a company registered before 23rd November 1916); and
  - (b) every company incorporated outside Great Britain which has an established place of business within Great Britain, unless it had established such a place of business before that date.
- (3) If a company makes default in complying with this section, every officer of the company who is in default is liable for each offence to a fine; and for this purpose, where a corporation is an officer of the company, any officer of the corporation is deemed an officer of the company.
- (4) For purposes of this section—
  - (a) " director " includes shadow director, and " officer " is to be construed accordingly ;
  - (b) " Christian name " includes a forename;
  - (c) " initials " includes a recognised abbreviation of a Christian name; and

- (d) in the case of a peer or a person usually known by a title different from his surname, " surname" means that tide.

### **306 Limited company may have directors with unlimited liability**

- (1) In the case of a limited company the liability of the directors or managers, or of the managing director, may, if so provided by the memorandum, be unlimited.
- (2) In the case of a limited company in which the liability of a director or manager is unlimited, the directors and any managers of the company and the member who proposes any person for election or appointment to the office of director or manager, shall add to that proposal a statement that the liability of the person holding that office will be unlimited.
- (3) Before the person accepts the office or acts in it, notice in writing that his liability will be unlimited shall be given to him by the following or one of the following persons, namely—
  - (a) the promoters of the company,
  - (b) the directors of the company,
  - (c) any managers of the company,
  - (d) the company secretary.
- (4) If a director, manager or proposer makes default in adding such a statement, or if a promoter, director, manager or secretary makes default in giving the notice required by subsection (3), then—
  - (a) he is liable to a fine, and
  - (b) he is also liable for any damage which the person so elected or appointed may sustain from the default;but the liability of the person elected or appointed is not affected by the default.

### **307 Special resolution making liability of directors unlimited**

- (1) A limited company, if so authorised by its articles, may by special resolution alter its memorandum so as to render unlimited the liability of its directors or managers, or of any managing director.
- (2) When such a special resolution is passed, its provisions are as valid as if they had been originally contained in the memorandum.

### **308 Assignment of office by directors**

If provision is made by a company's articles, or by any agreement entered into between any person and the company, for empowering a director or manager of the company to assign his office as such to another person, any assignment of office made in pursuance of that provision is (notwithstanding anything to the contrary contained in the provision) of no effect unless and until it is approved by a special resolution of the company.

### **309 Directors to have regard to interests of employees**

- (1) The matters to which the directors of a company are to have regard in the performance of their functions include the interests of the company's employees in general, as well as the interests of its members.
- (2) Accordingly, the duty imposed by this section on the directors is owed by them to the company (and the company alone) and is enforceable in the same way as any other fiduciary duty owed to a company by its directors.
- (3) This section applies to shadow directors as it does to directors.

### **310 Provisions exempting officers and auditors from liability**

- (1) This section applies to any provision, whether contained in a company's articles or in any contract with the company or otherwise, for exempting any officer of the company or any person (whether an officer or not) employed by the company as auditor from, or indemnifying him against, any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the company.
- (2) Except as provided by the following subsection, any such provision is void.
- (3) A company may, in pursuance of such a provision, indemnify any such officer or auditor against any liability incurred by him in defending any proceedings (whether civil or criminal) in which judgment is given in his favour or he is acquitted, or in connection with any application under section 144(3) or (4) (acquisition of shares by innocent nominee) or section 727 (director in default, but not dishonest or unreasonable), in which relief is granted to him by the court.