



Companies Act 2006

2006 CHAPTER 46

PART 14

CONTROL OF POLITICAL DONATIONS AND EXPENDITURE

Remedies in case of unauthorised donations or expenditure

369 Liability of directors in case of unauthorised donation or expenditure

- (1) This section applies where a company has made a political donation or incurred political expenditure without the authorisation required by this Part.
- (2) The directors in default are jointly and severally liable—
 - (a) to make good to the company the amount of the unauthorised donation or expenditure, with interest, and
 - (b) to compensate the company for any loss or damage sustained by it as a result of the unauthorised donation or expenditure having been made.
- (3) The directors in default are—
 - (a) those who, at the time the unauthorised donation was made or the unauthorised expenditure was incurred, were directors of the company by which the donation was made or the expenditure was incurred, and
 - (b) where—
 - (i) that company was a subsidiary of a relevant holding company, and
 - (ii) the directors of the relevant holding company failed to take all reasonable steps to prevent the donation being made or the expenditure being incurred,the directors of the relevant holding company.
- (4) For the purposes of subsection (3)(b) a “relevant holding company” means a company that, at the time the donation was made or the expenditure was incurred—
 - (a) was a holding company of the company by which the donation was made or the expenditure was incurred,

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- (b) was a UK-registered company, and
 - (c) was not a subsidiary of another UK-registered company.
- (5) The interest referred to in subsection (2)(a) is interest on the amount of the unauthorised donation or expenditure, so far as not made good to the company—
- (a) in respect of the period beginning with the date when the donation was made or the expenditure was incurred, and
 - (b) at such rate as the Secretary of State may prescribe by regulations.

Section 379(2) (construction of references to date when donation made or expenditure incurred) does not apply for the purposes of this subsection.

- (6) Where only part of a donation or expenditure was unauthorised, this section applies only to so much of it as was unauthorised.

Modifications etc. (not altering text)

- C1** Ss. 362-379 applied (with modifications) (1.10.2009) by [The Unregistered Companies Regulations 2009 \(S.I. 2009/2436\)](#), regs. 3-5, [Sch. 1 para. 9](#) (with transitional provisions and savings in [regs. 7, 9](#), [Sch. 2](#))

Commencement Information

- II** S. 369 wholly in force at 1.11.2007; s. 369 not in force at Royal Assent, see s. 1300; s. 369 in force for specified purposes at 20.1.2007 by [S.I. 2006/3428](#), [art. 3\(3\)](#) (subject to [art. 5](#), [Sch. 1](#) and with [arts. 6, 8](#), [Sch. 5](#)); s. 369 in force at 1.10.2007 (E.W.S.) and at 1.11.2007 (N.I.) by [S.I. 2007/2194](#), [arts. 2\(2\), 3\(1\)](#), (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

370 Enforcement of directors' liabilities by shareholder action

- (1) Any liability of a director under section 369 is enforceable—
- (a) in the case of a liability of a director of a company to that company, by proceedings brought under this section in the name of the company by an authorised group of its members;
 - (b) in the case of a liability of a director of a holding company to a subsidiary, by proceedings brought under this section in the name of the subsidiary by—
 - (i) an authorised group of members of the subsidiary, or
 - (ii) an authorised group of members of the holding company.
- (2) This is in addition to the right of the company to which the liability is owed to bring proceedings itself to enforce the liability.
- (3) An “authorised group” of members of a company means—
- (a) the holders of not less than 5% in nominal value of the company's issued share capital,
 - (b) if the company is not limited by shares, not less than 5% of its members, or
 - (c) not less than 50 of the company's members.
- (4) The right to bring proceedings under this section is subject to the provisions of section 371.
- (5) Nothing in this section affects any right of a member of a company to bring or continue proceedings under Part 11 (derivative claims or proceedings).

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Modifications etc. (not altering text)

- C2** Ss. 362-379 applied (with modifications) (1.10.2009) by [The Unregistered Companies Regulations 2009 \(S.I. 2009/2436\)](#), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in [regs. 7, 9, Sch. 2](#))

Commencement Information

- I2** S. 370 wholly in force at 1.11.2007; s. 370 not in force at Royal Assent see s. 1300; s. 370 in force at 1.10.2007 (E.W.S.) and at 1.11.2007 (N.I.) by [S.I. 2007/2194](#), **arts. 2(2), 3(1)**, (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

371 Enforcement of directors' liabilities by shareholder action: supplementary

- (1) A group of members may not bring proceedings under section 370 in the name of a company unless—
- (a) the group has given written notice to the company stating—
 - (i) the cause of action and a summary of the facts on which the proceedings are to be based,
 - (ii) the names and addresses of the members comprising the group, and
 - (iii) the grounds on which it is alleged that those members constitute an authorised group; and
 - (b) not less than 28 days have elapsed between the date of the giving of the notice to the company and the bringing of the proceedings.
- (2) Where such a notice is given to a company, any director of the company may apply to the court within the period of 28 days beginning with the date of the giving of the notice for an order directing that the proposed proceedings shall not be brought, on one or more of the following grounds—
- (a) that the unauthorised amount has been made good to the company;
 - (b) that proceedings to enforce the liability have been brought, and are being pursued with due diligence, by the company;
 - (c) that the members proposing to bring proceedings under this section do not constitute an authorised group.
- (3) Where an application is made on the ground mentioned in subsection (2)(b), the court may as an alternative to directing that the proposed proceedings under section 370 are not to be brought, direct—
- (a) that such proceedings may be brought on such terms and conditions as the court thinks fit, and
 - (b) that the proceedings brought by the company—
 - (i) shall be discontinued, or
 - (ii) may be continued on such terms and conditions as the court thinks fit.
- (4) The members by whom proceedings are brought under section 370 owe to the company in whose name they are brought the same duties in relation to the proceedings as would be owed by the company's directors if the proceedings were being brought by the company.

But proceedings to enforce any such duty may be brought by the company only with the permission of the court.

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- (5) Proceedings brought under section 370 may not be discontinued or settled by the group except with the permission of the court, which may be given on such terms as the court thinks fit.

Modifications etc. (not altering text)

- C3** Ss. 362-379 applied (with modifications) (1.10.2009) by [The Unregistered Companies Regulations 2009 \(S.I. 2009/2436\)](#), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in [regs. 7, 9, Sch. 2](#))

Commencement Information

- I3** S. 371 wholly in force at 1.11.2007; s. 371 not in force at Royal Assent see s. 1300; s. 371 in force at 1.10.2007 (E.W.S.) and s. 371 in force at 1.11.2007 (N.I.) by [S.I. 2007/2194](#), **arts. 2(2), 3(1)**, (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

372 Costs of shareholder action

- (1) This section applies in relation to proceedings brought under section 370 in the name of a company (“the company”) by an authorised group (“the group”).
- (2) The group may apply to the court for an order directing the company to indemnify the group in respect of costs incurred or to be incurred by the group in connection with the proceedings.

The court may make such an order on such terms as it thinks fit.

- (3) The group is not entitled to be paid any such costs out of the assets of the company except by virtue of such an order.
- (4) If no such order has been made with respect to the proceedings, then—
- (a) if the company is awarded costs in connection with the proceedings, or it is agreed that costs incurred by the company in connection with the proceedings should be paid by any defendant, the costs shall be paid to the group; and
 - (b) if any defendant is awarded costs in connection with the proceedings, or it is agreed that any defendant should be paid costs incurred by him in connection with the proceedings, the costs shall be paid by the group.
- (5) In the application of this section to Scotland for “costs” read “expenses” and for “defendant” read “defender”.

Modifications etc. (not altering text)

- C4** Ss. 362-379 applied (with modifications) (1.10.2009) by [The Unregistered Companies Regulations 2009 \(S.I. 2009/2436\)](#), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in [regs. 7, 9, Sch. 2](#))

Commencement Information

- I4** S. 372 wholly in force at 1.11.2007; s. 372 not in force at Royal Assent see s. 1300; s. 372 in force at 1.10.2007 (E.W.S.) and at 1.11.2007 (N.I.) by [S.I. 2007/2194](#), **arts. 2(2), 3(1)**, (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

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373 Information for purposes of shareholder action

- (1) Where proceedings have been brought under section 370 in the name of a company by an authorised group, the group is entitled to require the company to provide it with all information relating to the subject matter of the proceedings that is in the company's possession or under its control or which is reasonably obtainable by it.
- (2) If the company, having been required by the group to do so, refuses to provide the group with all or any of that information, the court may, on an application made by the group, make an order directing—
 - (a) the company, and
 - (b) any of its officers or employees specified in the application,to provide the group with the information in question in such form and by such means as the court may direct.

Modifications etc. (not altering text)

- C5** Ss. 362-379 applied (with modifications) (1.10.2009) by [The Unregistered Companies Regulations 2009 \(S.I. 2009/2436\)](#), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in [regs. 7, 9, Sch. 2](#))

Commencement Information

- I5** S. 373 wholly in force at 1.11.2007; s. 373 not in force at Royal Assent see s. 1300; s. 373 in force at 1.10.2007 (E.W.S.) and s. 373 in force at 1.11.2007 (N.I.) by [S.I. 2007/2194](#), **arts. 2(2), 3(1)**, (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act amendment to earlier affecting provision S.I. 1989/638, Sch. 4 by [S.I. 2024/410 Sch. 2 para. 1](#)
- Act amendment to earlier affecting provision S.I. 2008/373 reg. 11(1) by [S.I. 2013/1971 reg. 9\(a\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked (1.10.2013) without ever being in force by S.I. 2013/2224, reg. 2)
- Act amendment to earlier affecting provision S.I. 2008/373 reg. 3(4) by [S.I. 2013/1971 reg. 4](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked (1.10.2013) without ever being in force by S.I. 2013/2224, reg. 2)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 479A(2)(c)(zi) inserted by [S.I. 2019/177 reg. 4\(b\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 4 substituted by regs. 4, 4A immediately before IP completion day by S.I. 2019/1392, regs. 1(2), 4)
- s. 479B(a)(iii) amendment to earlier affecting provision S.I.2008/1991 reg.34 by [S.R. 2024/78 reg. 31\(4\)](#)
- s. 479B(a)(iii) amendment to earlier affecting provision S.I.2008/1991 reg.34A by [S.R. 2024/78 reg. 31\(5\)](#)
- s. 1087A-1807C applied by S.I. 2009/2436, Sch. 1 para. 20(1)(ca) (as substituted) by [S.I. 2024/410 Sch. 2 para. 5\(d\)\(ii\)](#)
- Sch. 10 para. 6(2D) inserted by [S.I. 2019/177 reg. 28\(e\)](#) (This amendment not applied to legislation.gov.uk. Reg. 28(e) omitted immediately before IP completion day by virtue of S.I. 2020/523, regs. 1(2), 14(e)(iv))
- Sch. 10 para. 7(2A) inserted by [S.I. 2019/177 reg. 29\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 29 substituted immediately before IP completion day by S.I. 2020/523, regs. 1(2), 14(f))