



# Companies Act 1985

## 1985 CHAPTER 6

### PART IX

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

##### *Officers and registered office*

#### **282 Directors**

- (1) Every company registered on or after 1st November 1929 (other than a private company) shall have at least two directors.
- (2) Every company registered before that date (other than a private company) shall have at least one director.
- (3) Every private company shall have at least one director.

#### **283 Secretary**

- (1) Every company shall have a secretary.
- (2) A sole director shall not also be secretary.
- (3) Anything required or authorised to be done by or to the secretary may, if the office is vacant or there is for any other reason no secretary capable of acting, be done by or to any assistant or deputy secretary or, if there is no assistant or deputy secretary capable of acting, by or to any officer of the company authorised generally or specially in that behalf by the directors.
- (4) No company shall—
  - (a) have as secretary to the company a corporation the sole director of which is a sole director of the company;
  - (b) have as sole director of the company a corporation the sole director of which is secretary to the company.

#### **284 Acts done by person in dual capacity**

A provision requiring or authorising a thing to be done by or to a director and the secretary is not satisfied by its being done by or to the same person acting both as director and as, or in place of, the secretary.

#### **285 Validity of acts of directors**

The acts of a director or manager are valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification; and this provision is not excluded by section 292(2) (void resolution to appoint).

#### **286 Qualifications of company secretaries**

- (1) It is the duty of the directors of a public company to take all reasonable steps to secure that the secretary (or each joint secretary) of the company is a person who appears to them to have the requisite knowledge and experience to discharge the functions of secretary of the company and who—
- (a) on 22nd December 1980 held the office of secretary or assistant or deputy secretary of the company; or
  - (b) for at least 3 of the 5 years immediately preceding his appointment as secretary held the office of secretary of a company other than a private company ; or
  - (c) is a member of any of the bodies specified in the following subsection; or
  - (d) is a barrister, advocate or solicitor called or admitted in any part of the United Kingdom ; or
  - (e) is a person who, by virtue of his holding or having held any other position or his being a member of any other body, appears to the directors to be capable of discharging those functions.
- (2) The bodies referred to in subsection (1)(c) are—
- (a) the Institute of Chartered Accountants in England and Wales;
  - (b) the Institute of Chartered Accountants of Scotland ;
  - (c) the Chartered Association of Certified Accountants;
  - (d) the Institute of Chartered Accountants in Ireland;
  - (e) the Institute of Chartered Secretaries and Administrators;
  - (f) the Institute of Cost and Management Accountants;
  - (g) the Chartered Institute of Public Finance and Accountancy.

#### **287 Registered office**

- (1) A company shall at all times have a registered office to which all communications and notices may be addressed.
- (2) Notice (in the prescribed form) of any change in the situation of a company's registered office shall be given within 14 days of the change to the registrar of companies, who shall record the new situation.
- (3) If default is made in complying with subsection (1) or (2), the company and every officer of it who is in default is liable to a fine and, for continued contravention, to a daily default fine.

## **288 Register of directors and secretaries**

- (1) Every company shall keep at its registered office a register of its directors and secretaries; and the register shall, with respect to the particulars to be contained in it of those persons, comply with sections 289 and 290 below.
- (2) The company shall, within the period of 14 days from the occurrence of—
  - (a) any change among its directors or in its secretary, or
  - (b) any change in the particulars contained in the register,send to the registrar of companies a notification in the prescribed form of the change and of the date on which it occurred ; and a notification of a person having become a director or secretary, or one of joint secretaries, of the company shall contain a consent, signed by that person, to act in the relevant capacity.
- (3) The register shall during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that not less than 2 hours in each day be allowed for inspection) be open to the inspection of any member of the company without charge and of any other person on payment of 5 pence or such less sum as the company may prescribe, for each inspection.
- (4) If an inspection required under this section is refused, or if default is made in complying with subsection (1) or (2), the company and every officer of it who is in default is liable to a fine and, for continued contravention, to a daily default fine.
- (5) In the case of a refusal of inspection of the register, the court may by order compel an immediate inspection of it
- (6) For purposes of this and the next section, a shadow director of a company is deemed a director and officer of it

## **289 Particulars of directors to be registered under s. 288**

- (1) Subject to the provisions of this section, the register kept by a company under section 288 shall contain the following particulars with respect to each director—
  - (a) in the case of an individual—
    - (i) his present Christian name and surname,
    - (ii) any former Christian name or surname,
    - (iii) his usual residential address,
    - (iv) his nationality,
    - (v) his business occupation (if any),
    - (vi) particulars of any other directorships held by him or which have been held by him, and
    - (vii) in the case of a company subject to section 293 (age-limit), the date of his birth ;
  - (b) in the case of a corporation, its corporate name and registered or principal office.
- (2) In subsection (1)—
  - (a) " Christian name " includes a forename,
  - (b) " surname ", in the case of a peer or a person usually known by a title different from his surname, means that title, and
  - (c) the reference to a former Christian name or surname does not include—

- (i) in the case of a peer or a person usually known by a British title different from his surname, the name by which he was known previous to the adoption of or succession to the title, or
  - (ii) in the case of any person, a former Christian name or surname where that name or surname was changed or disused before the person bearing the name attained the age of 18, or has been changed or disused for a period of not less than 20 years, or
  - (iii) in the case of a married woman, the name or surname by which she was known previous to the marriage.
- (3) It is not necessary for the register to contain on any day particulars of a directorship—
- (a) which has not been held by a director at any time during the 5 years preceding that day,
  - (b) which is held by a director in a company which—
    - (i) is dormant or grouped with the company keeping the register, and
    - (ii) if he also held that directorship for any period during those 5 years, was for the whole of that period either dormant or so grouped,
  - (c) which was held by a director for any period during those 5 years in a company which for the whole of that period was either dormant or grouped with the company keeping the register.
- (4) For purposes of subsection (3), " company " includes any body corporate incorporated in Great Britain; and—
- (a) section 252(5) applies as regards whether and when a company is or has been dormant, and
  - (b) a company is to be regarded as being, or having been, grouped with another at any time if at that time it is or was a company of which the other is or was a wholly-owned subsidiary, or if it is or was a wholly-owned subsidiary of the other or of another company of which that other is or was a wholly-owned subsidiary.

## **290 Particulars of secretaries to be registered under s. 288**

- (1) The register to be kept by a company under section 288 shall contain the following particulars with respect to the secretary or, where there are joint secretaries, with respect to each of them—
- (a) in the case of an individual, his present Christian name and surname, any former Christian name or surname and his usual residential address, and
  - (b) in the case of a corporation or a Scottish firm, its corporate or firm name and registered or principal office.
- (2) Where all the partners in a firm are joint secretaries, the name and principal office of the firm may be stated instead of the particulars specified above.
- (3) Section 289(2) applies as regards the meaning of " Christian name ", " surname " and " former Christian name or surname ".

*Provisions governing appointment of directors*

**291 Share qualification of directors**

- (1) It is the duty of every director who is by the company's articles required to hold a specified share qualification, and who is not already qualified, to obtain his qualification within 2 months after his appointment, or such shorter time as may be fixed by the articles.
- (2) For the purpose of any provision of the articles requiring a director or manager to hold any specified share qualification, the bearer of a share warrant is not deemed the holder of the shares specified in the warrant.
- (3) The office of director of a company is vacated if the director does not within 2 months from the date of his appointment (or within such shorter time as may be fixed by the articles) obtain his qualification, or if after the expiration of that period or shorter time he ceases at any time to hold his qualification.
- (4) A person vacating office under this section is incapable of being reappointed to be a director of the company until he has obtained his qualification.
- (5) If after the expiration of that period or shorter time any unqualified person acts as a director of the company, he is liable to a fine and, for continued contravention, to a daily default fine.

**292 Appointment of directors to be voted on individually**

- (1) At a general meeting of a public company, a motion for the appointment of two or more persons as directors of the company by a single resolution shall not be made, unless a resolution that it shall be so made has first been agreed to by the meeting without any vote being given against it.
- (2) A resolution moved in contravention of this section is void, whether or not its being so moved was objected to at the time; but where a resolution so moved is passed, no provision for the automatic reappointment of retiring directors in default of another appointment applies.
- (3) For purposes of this section, a motion for approving a person's appointment, or for nominating a person for appointment, is to be treated as a motion for his appointment.
- (4) Nothing in this section applies to a resolution altering the company's articles.

**293 Age limit for directors**

- (1) A company is subject to this section if—
  - (a) it is a public company, or
  - (b) being a private company, it is a subsidiary of a public company or of a body corporate registered under the law relating to companies for the time being in force in Northern Ireland as a public company.
- (2) No person is capable of being appointed a director of a company which is subject to this section if at the time of his appointment he has attained the age of 70.
- (3) A director of such a company shall vacate his office at the conclusion of the annual general meeting commencing next after he attains the age of 70; but acts done by a

person as director are valid notwithstanding that it is afterwards discovered that his appointment had terminated under this subsection.

- (4) Where a person retires under subsection (3), no provision for the automatic reappointment of retiring directors in default of another appointment applies; and if at the meeting at which he retires the vacancy is not filled, it may be filled as a casual vacancy.
- (5) Nothing in subsections (2) to (4) prevents the appointment of a director at any age, or requires a director to retire at any time, if his appointment is or was made or approved by the company in general meeting ; but special notice is required of a resolution appointing or approving the appointment of a director for it to have effect under this subsection, and the notice of the resolution given to the company, and by the company to its members, must state, or have stated, the age of the person to whom it relates.
- (6) A person reappointed director on retiring under subsection (3), or appointed in place of a director so retiring, is to be treated, for the purpose of determining the time at which he or any other director is to retire, as if he had become director on the day on which the retiring director was last appointed before his retirement. Subject to this, the retirement of a director out of turn under subsection (3) is to be disregarded in determining when any other directors are to retire.
- (7) In the case of a company first registered after the beginning of 1947, this section has effect subject to the provisions of the company's articles; and in the case of a company first registered before the beginning of that year—
  - (a) this section has effect subject to any alterations of the company's articles made after the beginning of that year; and
  - (b) if at the beginning of that year the company's articles contained provision for retirement of directors under an age limit, or for preventing or restricting appointments of directors over a given age, this section does not apply to directors to whom that provision applies.

#### **294 Duty of director to disclose his age**

- (1) A person who is appointed or to his knowledge proposed to be appointed director of a company subject to section 293 at a time when he has attained any retiring age applicable to him under that section or under the company's articles shall give notice of his age to the company.
- (2) For purposes of this section, a company is deemed subject to section 293 notwithstanding that all or any of the section's provisions are excluded or modified by the company's articles.
- (3) Subsection (1) does not apply in relation to a person's reappointment on the termination of a previous appointment as director of the company.
- (4) A person who—
  - (a) fails to give notice of his age as required by this section ;
 or
  - (b) acts as director under any appointment which is invalid or has terminated by reason of his age. is liable to a fine and, for continued contravention, to a daily default fine.

- (5) For purposes of subsection (4), a person who has acted as director under an appointment which is invalid or has terminated is deemed to have continued so to act throughout the period from the invalid appointment or the date on which the appointment terminated (as the case may be), until the last day on which he is shown to have acted thereunder.

### *Disqualification*

#### **295 Disqualification orders: introductory**

- (1) In the circumstances specified in sections 296 to 300, a court may make against a person a disqualification order, that is to say an order that he shall not, without leave of the court—
- (a) be a director of a company, or
  - (b) be a liquidator of a company, or
  - (c) be a receiver or manager of a company's property, or
  - (d) in any way, whether directly or indirectly, be concerned or take part in the promotion, formation or management of a company,
- for a specified period beginning with the date of the order.
- (2) The maximum period to be so specified is—
- (a) in the case of an order made under section 297 or made by a court of summary jurisdiction, 5 years, and
  - (b) in any other case, 15 years.
- (3) In this section and sections 296 to 300, "company" includes any company which may be wound up under Part XXI.
- (4) A disqualification order may be made on grounds which are or include matters other than criminal convictions, notwithstanding that the person in respect of whom it is to be made may be criminally liable in respect of those matters.
- (5) In sections 296 to 299, any reference to provisions, or to a particular provision, of this Act or the Consequential Provisions Act includes the corresponding provision or provisions of the former Companies Acts.
- (6) Parts I and II of Schedule 12 have effect with regard to the procedure for obtaining a disqualification order, and to applications for leave under such an order; and Part III of that Schedule has effect—
- (a) in connection with certain transitional cases arising under sections 93 and 94 of the Companies Act 1981, so as to limit the power to make a disqualification order, or to restrict the duration of an order, by reference to events occurring or things done before those sections came into force, and
  - (b) to preserve orders made under section 28 of the Companies Act 1976 (repealed by the Act of 1981).
- (7) If a person acts in contravention of a disqualification order, he is in respect of each offence liable to imprisonment or a fine, or both.

**296 Disqualification on conviction of indictable offence**

- (1) The court may make a disqualification order against a person where he is convicted of an indictable offence (whether on indictment or summarily) in connection with the promotion, formation, management or liquidation of a company, or with the receivership or management of a company's property.
- (2) " The court" for this purpose means—
  - (a) any court having jurisdiction to wind up the company in relation to which the offence was committed, or
  - (b) the court by or before which the person is convicted of the offence, or
  - (c) In the case of a summary conviction in England and Wales, any other magistrates' court acting for the same petty sessions area; and for purposes of this section the definition of " indictable offence " in Schedule 1 to the Interpretation Act 1978 applies in relation to Scotland as it does in relation to England and Wales.

**297 Disqualification for persistent default under Companies Acts**

- (1) The court may make a disqualification order against a person where it appears to it that he has been persistently in default in relation to provisions of this Act or the Consequential Provisions Act requiring any return, account or other document to be filed with, delivered or sent, or notice of any matter to be given, to the registrar of companies.
- (2) On an application to the court for an order to be made under this section, the fact that a person has been persistently in default in relation to such provisions as are mentioned above may (without prejudice to its proof in any other manner) be conclusively proved by showing that in the 5 years ending with the date of the application he has been adjudged guilty (whether or not on the same occasion) of three or more defaults in relation to those provisions.
- (3) A person is treated under subsection (2) as being adjudged guilty of a default in relation to any such provision if—
  - (a) he is convicted (whether on indictment or summarily) of an offence consisting in a contravention of or failure to comply with that provision (whether on his own part or on the part of any company), or
  - (b) a default order is made against him, that is to say an order under—
    - (i) section 244 (order requiring delivery of company accounts), or
    - (ii) section 499 (enforcement of receiver's or manager's duty to make returns), or
    - (iii) section 636 (corresponding provision for liquidator in winding-up), or
    - (iv) section 713 (enforcement of company's duty to make returns),
 in respect of any such contravention of or failure to comply with that provision (whether on his own part or on the part of any company).
- (4) In this section " the court" means any court having jurisdiction to wind up any of the companies in relation to which the offence or other default has been or is alleged to have been committed.

### **298 Disqualification for fraud etc. in winding up**

- (1) The court may make a disqualification order against a person if, in the course of the winding up of a company, it appears that he—
  - (a) has been guilty of an offence for which he is liable (whether he has been convicted or not) under section 458 (fraudulent trading), or
  - (b) has otherwise been guilty, while an officer or liquidator of the company or receiver or manager of its property, of any fraud in relation to the company or of any breach of his duty as such officer, liquidator, receiver or manager.
- (2) In this section " the court" means the same as in section 297 ; and " officer " includes a shadow director.

### **299 Disqualification on summary conviction**

- (1) An offence counting for the purposes of this section is one of which a person is convicted (either on indictment or summarily) in consequence of a contravention of, or failure to comply with, any provision of this Act or the Consequential Provisions Act requiring a return, account or other document to be filed with, delivered or sent, or notice of any matter to be given, to the registrar of companies (whether the contravention or failure is on the person's own part or on the part of any company).
- (2) Where a person is convicted of a summary offence counting for those purposes, the court by which he is convicted (or, in England and Wales, any other magistrates' court acting for the same petty sessions area) may make a disqualification order against him if the circumstances specified in the next subsection are present
- (3) Those circumstances are that during the 5 years ending with the date of the conviction, the person has had made against him, or has been convicted of, in total not less than 3 default orders and offences counting for the purposes of this section; and those offences may include that of which he is convicted as mentioned in subsection (2) and any other offence of which he is convicted on the same occasion.
- (4) For the purposes of this section—
  - (a) the definition of " summary offence" in Schedule 1 to the Interpretation Act 1978 applies for Scotland as for England and Wales, and
  - (b) " default order" means the same as in section 297(3)(b).

### **300 Disqualification by reference to association with insolvent companies**

- (1) The court may make a disqualification order against a person where, on an application under this section, it appears to it that he—
  - (a) is or has been a director of a company which has at any time gone into liquidation (whether while he was a director or subsequently) and was insolvent at that time, and
  - (b) is or has been a director of another such company which has gone into liquidation within 5 years of the date on which the first-mentioned company went into liquidation,and that his conduct as director of any of those companies makes him unfit to be concerned in the management of a company.
- (2) In the case of a person who is or has been a director of a company which has gone into liquidation as above-mentioned and is being wound up by the court, " the court"

in subsection (1) means the court by which the company is being wound up; and in any other case it means the High Court or, in Scotland, the Court of Session.

- (3) The Secretary of State may require the liquidator or former liquidator of a company—
- (a) to furnish him with such information with respect to the company's affairs, and
  - (b) to produce and permit inspection of such books or documents of or relevant to the company,

as the Secretary of State may reasonably require for the purpose of determining whether to make an application under this section in respect of a person who is or has been a director of that company; and if a person makes default in complying with such a requirement, the court may, on the Secretary of State's application, make an order requiring that person to make good the default within such time as may be specified.

- (4) For purposes of this section, a shadow director of a company is deemed a director of it; and a company goes into liquidation—
- (a) if it is wound up by the court, on the date of the winding up order, and
  - (b) in any other case, on the date of the passing of the resolution for voluntary winding up.

### **301 Register of disqualification orders**

- (1) The Secretary of State may make regulations requiring officers of courts to furnish him with such particulars as the regulations may specify of cases in which—
- (a) a disqualification order is made under any of sections 296 to 300, or
  - (b) any action is taken by a court in consequence of which such an order is varied or ceases to be in force, or
  - (c) leave is granted by a court for a person subject to such an order to do any thing which otherwise the order prohibits him from doing ;

and the regulations may specify the time within which, and the form and manner in which, such particulars are to be furnished.

- (2) The Secretary of State shall, from the particulars so furnished, continue to maintain the register of orders, and of cases in which leave has been granted as mentioned in subsection (1)(c), which was set up by him under section 29 of the Companies Act 1976.
- (3) When an order of which entry is made in the register ceases to be in force, the Secretary of State shall delete the entry from the register and all particulars relating to it which have been furnished to him under this section.
- (4) The register shall be open to inspection on payment of such fee as may be specified by the Secretary of State in regulations.
- (5) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

### **302 Provision against undischarged bankrupt acting as director etc.**

- (1) If any person being an undischarged bankrupt acts as director or liquidator of, or directly or indirectly takes part in or is concerned in the promotion, formation or management of, a company except with the leave of the court, he is liable to imprisonment or a fine, or both.

- (2) " The court" for this purpose is the court by which the person was adjudged bankrupt or, in Scotland, sequestration of his estates was awarded.
- (3) In England and Wales, the leave of the court shall not be given unless notice of intention to apply for it has been served on the official receiver in bankruptcy; and it is the latter's duty, if he is of opinion that it is contrary to the public interest that the application should be granted, to attend on the hearing of the application and oppose it
- (4) In this section " company " includes an unregistered company and a company incorporated outside Great Britain which has an established place of business in Great Britain.

### *Removal of directors*

#### **303 Resolution to remove director**

- (1) A company may by ordinary resolution remove a director before the expiration of his period of office, notwithstanding anything in its articles or in any agreement between it and him.
- (2) Special notice is required of a resolution to remove a director under this section or to appoint somebody instead of a director so removed at the meeting at which he is removed.
- (3) A vacancy created by the removal of a director under this section, if not filled at the meeting at which he is removed, may be filled as a casual vacancy.
- (4) A person appointed director in place of a person removed under this section is treated, for the purpose of determining the time at which he or any other director is to retire, as if he had become director on the day on which the person in whose place he is appointed was last appointed a director.
- (5) This section is not to be taken as depriving a person removed under it of compensation or damages payable to him in respect of the termination of his appointment as director or of any appointment terminating with that as director, or as derogating from any power to remove a director which may exist apart from this section.

#### **304 Director's right to protest removal**

- (1) On receipt of notice of an intended resolution to remove a director under section 303, the company shall forthwith send a copy of the notice to the director concerned; and he (whether or not a member of the company) is entitled to be heard on the resolution at the meeting.
- (2) Where notice is given of an intended resolution to remove a director under that section, and the director concerned makes with respect to it representations in writing to the company (not exceeding a reasonable length) and requests their notification to members of the company, the company shall, unless the representations are received by it too late for it to do so—
  - (a) in any notice of the resolution given to members of the company state the fact of the representations having been made; and

- (b) send a copy of the representations to every member of the company to whom notice of the meeting is sent (whether before or after receipt of the representations by the company).
- (3) If a copy of the representations is not sent as required by subsection (2) because received too late or because of the company's default, the director may (without prejudice to his right to be heard orally) require that the representations shall be read out at the meeting.
- (4) But copies of the representations need not be sent out and the representations need not be read out at the meeting if, on the application either of the company or of any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter.
- (5) The court may order the company's costs on an application under this section to be paid in whole or in part by the director, notwithstanding that he is not a party to the application.

*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.