



# Companies Act 1985

## 1985 CHAPTER 6

### PART X

#### ENFORCEMENT OF FAIR DEALING BY DIRECTORS

##### *Share dealings by directors and their families*

#### **323 Prohibition on directors dealing in share options.**

- (1) It is an offence for a director of a company to buy—
  - (a) a right to call for delivery at a specified price and within a specified time of a specified number of relevant shares or a specified amount of relevant debentures; or
  - (b) a right to make delivery at a specified price and within a specified time of a specified number of relevant shares or a specified amount of relevant debentures; or
  - (c) a right (as he may elect) to call for delivery at a specified price and within a specified time or to make delivery at a specified price and within a specified time of a specified number of relevant shares or a specified amount of relevant debentures.
- (2) A person guilty of an offence under subsection (1) is liable to imprisonment or a fine, or both.
- (3) In subsection (1)—
  - (a) “relevant shares”, in relation to a director of a company, means shares in the company or in any other body corporate, being the company’s subsidiary or holding company, or a subsidiary of the company’s holding company, being shares as respects which there has been granted a listing on a stock exchange (whether in Great Britain or elsewhere);
  - (b) “relevant debentures”, in relation to a director of a company, means debentures of the company or of any other body corporate, being the company’s subsidiary or holding company or a subsidiary of the company’s

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- holding company, being debentures as respects which there has been granted such a listing; and
- (c) “price” includes any consideration other than money.
- (4) This section applies to a shadow director as to a director.
- (5) This section is not to be taken as penalising a person who buys a right to subscribe for shares in, or debentures of, a body corporate or buys debentures of a body corporate that confer upon the holder of them a right to subscribe for, or to convert the debentures (in whole or in part) into, shares of that body.
- [<sup>F1</sup>(6) This section is not to be taken as penalising a director of a company who buys a right to call for delivery at a specified price within a specified time of a specified number of shares held as treasury shares by the company or by a relevant company which is that company’s subsidiary or holding company or a subsidiary of that company’s holding company.
- (7) For the purposes of subsection (6)—
- (a) “relevant company” means a company listed in Article 1 of Council Directive [77/91/EEC](#)<sup>F2</sup>; and
- (b) shares of a relevant company (other than a company within the meaning of section 735(1)) are held as treasury shares if—
- (i) they fall within section 162(4)(a) to (d) (qualifying shares); and
- (ii) they are held by the relevant company in accordance with provisions of the law of a member State implementing Articles 19 to 22 of that Directive.]

#### Textual Amendments

- F1** [S. 323\(6\)\(7\)](#) inserted (18.12.2003) by The Companies (Acquisition of Own Shares) (Treasury Shares) No. 2 Regulations 2003 ([S.I. 2003/3031](#), [reg. 4](#))
- F2** [OJ L 26/77](#) with amendments [291/79](#), [345/80](#), [302/85](#), [347/92](#).

#### Modifications etc. (not altering text)

- C1** [S. 323](#) modified (1.2.2001) by [2000 c. 38](#), [s. 56\(4\)\(5\)\(e\)\(8\)](#); [S.I. 2001/57](#), [art. 3\(1\)](#), [Sch. 2 Pt. I](#) (subject to transitional provisions and saving in [Sch. 2 Pt. II](#))

### 324 Duty of director to disclose shareholdings in own company.

- (1) A person who becomes a director of a company and at the time when he does so is interested in shares in, or debentures of, the company or any other body corporate, being the company’s subsidiary or holding company or a subsidiary of the company’s holding company, is under obligation to notify the company in writing—
- (a) of the subsistence of his interests at that time; and
- (b) of the number of shares of each class in, and the amount of debentures of each class of, the company or other such body corporate in which each interest of his subsists at that time.
- (2) A director of a company is under obligation to notify the company in writing of the occurrence, while he is a director, of any of the following events—
- (a) any event in consequence of whose occurrence he becomes, or ceases to be, interested in shares in, or debentures of, the company or any other body

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corporate, being the company's subsidiary or holding company or a subsidiary of the company's holding company;

- (b) the entering into by him of a contract to see any such shares or debentures;
- (c) the assignment by him of a right granted to him by the company to subscribe for shares in, or debentures of, the company; and
- (d) the grant to him by another body corporate, being the company's subsidiary or holding company or a subsidiary of the company's holding company, of a right to subscribe for shares in, or debentures of, that other body corporate, the exercise of such a right granted to him and the assignment by him of such a right so granted;

and notification to the company must state the number or amount, and class, of shares or debentures involved.

- (3) Schedule 13 has effect in connection with subsections (1) and (2) above; and of that Schedule—

- (a) Part I contains rules for the interpretation of, and otherwise in relation to, those subsections and applies in determining, for purposes of those subsections, whether a person has an interest in shares or debentures;
- (b) Part II applies with respect to the periods within which obligations imposed by the subsections must be fulfilled; and
- (c) Part III specifies certain circumstances in which obligations arising from subsection (2) are to be treated as not discharged;

and subsections (1) and (2) are subject to any exceptions for which provision may be made by regulations made by the Secretary of State by statutory instrument.

- (4) Subsection (2) does not require the notification by a person of the occurrence of an event whose occurrence comes to his knowledge after he has ceased to be a director.

- (5) An obligation imposed by this section is treated as not discharged unless the notice by means of which it purports to be discharged is expressed to be given in fulfilment of that obligation.

- (6) This section applies to shadow directors as to directors; but nothing in it operates so as to impose an obligation with respect to shares in a body corporate which is the wholly-owned subsidiary of another body corporate.

- (7) A person who—

- (a) fails to discharge, within the proper period, an obligation to which he is subject under subsection (1) or (2), or
- (b) in purported discharge of an obligation to which he is so subject, makes to the company a statement which he knows to be false, or recklessly makes to it a statement which is false,

is guilty of an offence and liable to imprisonment or a fine, or both.

- (8) Section 732 (restriction on prosecutions) applies to an offence under this section.

**Modifications etc. (not altering text)**

- C2** S. 324 modified (1.2.2001) by 2000 c. 38, s. 56(4)(5)(f)(8); S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to transitional provisions and saving in Sch. 2 Pt. II)
- C3** S. 324 excluded (12.2.1992) by S.I. 1992/225, reg. 23(1)(b).  
S. 324 modified (12.2.1992) by S.I. 1992/225, reg. 121, Sch. 8 para. 1(b).

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### **325 Register of directors' interests notified under s. 324.**

- (1) Every company shall keep a register for the purposes of section 324.
- (2) Whenever a company receives information from a director given in fulfilment of an obligation imposed on him by that section, it is under obligation to enter in the register, against the director's name, the information received and the date of the entry.
- (3) The company is also under obligation, whenever it grants to a director a right to subscribe for shares in, or debentures of, the company to enter in the register against his name—
  - (a) the date on which the right is granted,
  - (b) the period during which, or time at which, it is exercisable,
  - (c) the consideration for the grant (or, if there is no consideration, that fact), and
  - (d) the description or shares or debentures involved and the number or amount of them, and the price to be paid for them (or the consideration, if otherwise than in money).
- (4) Whenever such a right as is mentioned above is exercised by a director, the company is under obligation to enter in the register against his name that fact (identifying the right), the number or amount of shares or debentures in respect of which it is exercised and, if they were registered in his name, that fact and, if not, the name or names of the person or persons in whose name or names they were registered, together (if they were registered in the names of two persons or more) with the number or amount of the shares or debentures registered in the name of each of them.
- (5) Part IV of Schedule 13 has effect with respect to the register to be kept under this section, to the way in which entries in it are to be made, to the right of inspection, and generally.
- (6) For purposes of this section, a shadow director is deemed a director.

#### **Modifications etc. (not altering text)**

- C4** S. 325 modified (1.2.2001) by 2000 c. 38, s. 56(4)(5)(g)(8); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to transitional provisions and saving in **Sch. 2 Pt. II**)
- C5** S. 325 explained (1.11.1991) by S.I. 1991/1998, **reg. 3(1)**.  
S. 325 excluded (12.2.1992) by S.I. 1992/225, **reg. 23(1)(b)**.  
S. 325 modified (12.2.1992) by S.I. 1992/225, **reg. 121, Sch. 8 para. 1(b)**.

### **326 Sanctions for non-compliance.**

- (1) The following applies with respect to defaults in complying with, and to contraventions of, section 325 and Part IV of Schedule 13.
- (2) If default is made in complying with any of the following provisions—
  - (a) section 325(1), (2), (3) or (4), or
  - (b) Schedule 13, paragraph 21, 22 or 28,
 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.
- (3) If an inspection of the register required under paragraph 25 of the Schedule is refused, or a copy required under paragraph 26 is not sent within the proper period, the

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company and every officer of it who is in default is liable to a fine and, for continued contravention, to a daily default fine.

- (4) If default is made for 14 days in complying with paragraph 27 of the Schedule (notice to registrar of where register is kept), 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) If default is made in complying with paragraph 29 of the Schedule (register to be produced at annual general meeting), the company and every officer of it who is in default is liable to a fine.
- (6) In the case of a refusal of an inspection of the register required under paragraph 25 of the Schedule, the court may by order compel an immediate inspection of it; and in the case of failure to send within the proper period a copy required under paragraph 26, the court may by order direct that the copy be sent to the person requiring it.

**Modifications etc. (not altering text)**

- C6** S. 326 excluded (12.2.1992) by S.I. 1992/225, reg. 23(1)(b).  
S. 326 modified (12.2.1992) by S.I. 1992/225, reg. 121, Sch. 8 para. 1(b).

**327 Extension of s. 323 to spouses and children.**

- (1) Section 323 applies to—
  - (a) the wife or husband of a director of a company (not being herself or himself a director of it), and
  - (b) an infant son or infant daughter of a director (not being himself or herself a director of the company),as it applies to the director; but it is a defence for a person charged by virtue of this section with an offence under section 323 to prove that he (she) had no reason to believe that his (her) spouse or, as the case may be, parent was a director of the company in question.
- (2) For purposes of this section—
  - (a) “son” includes step-son, and “daughter” includes step-daughter (“parent” being construed accordingly),
  - (b) “infant” means, in relation to Scotland, [<sup>F3</sup>person under the age of 18 years], and
  - (c) a shadow director of a company is deemed a director of it.

**Textual Amendments**

- F3** Words in s. 327(2)(b) substituted (S.) (25.9.1991) by Age of Legal Capacity (Scotland) Act 1991 (c. 50, SIF 49:8), ss. 10(1), 11(2), Sch. 1 para.39 (with s. 1(3))

**328 Extension of s. 324 to spouses and children.**

- (1) For the purposes of section 324—
  - (a) an interest of the wife or husband of a director of a company (not being herself or himself a director of it) in shares or debentures is to be treated as the director’s interest; and

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- (b) the same applies to an interest of an infant son or infant daughter of a director of a company (not being himself or herself a director of it) in shares or debentures.
- (2) For those purposes—
- (a) a contract, assignment or right of subscription entered into, exercised or made by, or a grant made to, the wife or husband of a director of a company (not being herself or himself a director of it) is to be treated as having been entered into, exercised or made by, or (as the case may be) as having been made to, the director; and
  - (b) the same applies to a contract, assignment or right of subscription entered into, exercised or made by, or grant made to, an infant son or infant daughter of a director of a company (not being himself or herself a director of it).
- (3) A director of a company is under obligation to notify the company in writing of the occurrence while he or she is a director, of either of the following events, namely—
- (a) the grant by the company to his (her) spouse, or to his or her infant son or infant daughter, of a right to subscribe for shares in, or debentures of, the company; and
  - (b) the exercise by his (her) spouse or by his or her infant son or infant daughter of such a right granted by the company to the wife, husband, son or daughter.
- (4) In a notice given to the company under subsection (3) there shall be stated—
- (a) in the case of the grant of a right, the like information as is required by section 324 to be stated by the director on the grant to him by another body corporate of a right to subscribe for shares in, or debentures of, that other body corporate; and
  - (b) in the case of the exercise of a right, the like information as is required by that section to be stated by the director on the exercise of a right granted to him by another body corporate to subscribe for shares in, or debentures of, that other body corporate.
- (5) An obligation imposed by subsection (3) on a director must be fulfilled by him before the end of 5 days beginning with the day following that on which the occurrence of the event giving rise to it comes to his knowledge; but in reckoning that period of days there is disregarded any Saturday or Sunday, and any day which is a bank holiday in any part of Great Britain.
- (6) A person who—
- (a) fails to fulfil, within the proper period, an obligation to which he is subject under subsection (3), or
  - (b) in purported fulfilment of such an obligation, makes to a company a statement which he knows to be false, or recklessly makes to a company a statement which is false,
- is guilty of an offence and liable to imprisonment or a fine, or both.
- (7) The rules set out in Part I of Schedule 13 have effect for the interpretation of, and otherwise in relation to, subsections (1) and (2); and subsections (5), (6) and (8) of section 324 apply with any requisite modification.
- (8) In this section, “son” includes step-son, “daughter” includes step-daughter, and “infant” means, in relation to Scotland, [<sup>F4</sup> person under the age of 18 years].

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- (9) For purposes of section 325, an obligation imposed on a director by this section is to be treated as if imposed by section 324.

#### Textual Amendments

- F4** Words in s. 328(8) substituted (S.) (25.9.1991) by [Age of Legal Capacity \(Scotland\) Act 1991 \(c. 50, SIF 49:8\)](#), ss. 10(1), 11(2), [Sch. 1 para.39](#) (with s. 1(3))

#### Modifications etc. (not altering text)

- C7** [S. 328](#) excluded (12.2.1992) by [S.I. 1992/225, reg. 23\(1\)\(b\)](#).  
[S. 328](#) modified (12.2.1992) by [S.I. 1992/225, reg. 121, Sch. 8 para. 1\(b\)](#).

### 329 Duty to notify stock exchange of matters notified under preceding sections.

- (1) Whenever a company whose shares or debentures are listed on a [<sup>F5</sup>recognised investment exchange other than an overseas investment exchange <sup>F6</sup>. . .] is notified of any matter by a director in consequence of the fulfilment of an obligation imposed by section 324 or 328, and that matter relates to shares or debentures so listed, the company is under obligation to notify [<sup>F5</sup>that investment exchange] of that matter; and [<sup>F5</sup>the investment exchange] may publish, in such manner as it may determine, any information received by it under this subsection.
- (2) An obligation imposed by subsection (1) must be fulfilled before the end of the day next following that on which it arises; but there is disregarded for this purpose a day which is a Saturday or a Sunday or a bank holiday in any part of Great Britain.
- (3) If default is made in complying with this section, the company and every officer of it who is in default is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine.

Section 732 (restriction on prosecutions) applies to an offence under this section.

- [<sup>F7</sup>(4) In subsection (1) “recognised investment exchange” and “overseas investment exchange” have the same meaning as in Part 18 of the Financial Services and Markets Act 2000.]

#### Textual Amendments

- F5** Words substituted by [Financial Services Act 1986 \(c. 60, SIF 69\)](#), s. 212(2), [Sch. 16 para. 20](#)
- F6** Words in s. 329(1) repealed (1.12.2001) by [S.I. 2001/3649, arts. 1, 20\(1\)\(2\)](#)
- F7** [S. 329\(4\)](#) inserted (1.12.2001) by [S.I. 2001/3649, arts. 1, 20\(1\)\(3\)](#)

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