



Companies Act 1985

1985 CHAPTER 6

PART X

ENFORCEMENT OF FAIR DEALING BY DIRECTORS

*Restrictions on a company's power to make loans,
etc., to directors and persons connected with them*

338 Loan or quasi-loan by money-lending company

- (1) There is excepted from the prohibitions in section 330—
 - (a) a loan or quasi-loan made by a money-lending company to any person ; or
 - (b) a money-lending company entering into a guarantee in connection with any other loan or quasi-loan.
- (2) "Money-lending company" means a company whose ordinary business includes the making of loans or quasi-loans, or the giving of guarantees in connection with loans or quasi-loans.
- (3) Subsection (1) applies only if both the following conditions are satisfied—
 - (a) the loan or quasi-loan in question is made by the company, or it enters into the guarantee, in the ordinary course of the company's business; and
 - (b) the amount of the loan or quasi-loan, or the amount guaranteed, is not greater, and the terms of the loan, quasi-loan or guarantee are not more favourable, in the case of the person to whom the loan or quasi-loan is made or in respect of whom the guarantee is entered into, than that or those which it is reasonable to expect that company to have offered to or in respect of a person of the same financial standing but unconnected with the company.
- (4) But subsection (1) does not authorise a relevant company (unless it is a recognised bank) to enter into any transaction if the aggregate of the relevant amounts exceeds £50,000.

Status: This is the original version (as it was originally enacted).

- (5) In determining that aggregate, a company which a director does not control is deemed not to be connected with him.
- (6) The condition specified in subsection (3)(b) does not of itself prevent a company from making a loan to one of its directors or a director of its holding company—
- (a) for the purpose of facilitating the purchase, for use as that director's only or main residence, of the whole or part of any dwelling-house together with any land to be occupied and enjoyed with it;
 - (b) for the purpose of improving a dwelling-house or part of a dwelling-house so used or any land occupied and enjoyed with it;
 - (c) in substitution for any loan made by any person and falling within paragraph (a) or (b) of this subsection. if loans of that description are ordinarily made by the company to its employees and on terms no less favourable than those on which the transaction in question is made, and the aggregate of the relevant amounts does not exceed £50,000.