

# **POLITICAL PARTIES, ELECTIONS AND REFERENDUMS ACT 2000**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part IX : Political donations and expenditure by companies**

##### ***Section 139 and Schedule 19 : Control of political donations by companies***

##### **New Section 347I : Enforcement of directors' liabilities by shareholder action**

273. *Section 347I* provides for an action to be available under which shareholders may enforce on behalf of the company any of the remedies outlined in section 347F above.
274. Under *subsection (2)*, the shareholder action is only to be available when brought by one of the groups of shareholders described in section 54(2) of the Companies Act 1985; i.e. those groups entitled to challenge the re-registration of a public company as a private company. No shareholders other than those comprised in any one of such groups (“an authorised group”) will be able to bring the shareholder action.
275. Under *subsection (3)*, an authorised group can only commence an action after:
- (a) serving a notice on the company which sets out the cause of action, a summary of the facts on which it is based, the names and addresses of the shareholders making up the group and the grounds on which they qualify as an authorised group; and
  - (b) a period of 28 days has elapsed between the service of the notice and the commencement of the action.
276. Under *subsections (4), (5) and (6)*, any director may apply to the court during the period of 28 days to bar the shareholder action on any of the following grounds:
- (a) repayment of the amounts claimed has been made in accordance with the procedures described in section 347H above;
  - (b) the company has itself commenced proceedings and is pursuing those proceedings with due diligence. If the company makes an application on this basis, the court has a full discretion under *subsection (6)* not only to bar the shareholder action but to permit it to continue on such terms and conditions as the court thinks fit or to require the company's action to be discontinued in favour of the shareholder action or for the company's action to be continued on such terms and conditions as the court may think fit;
  - (c) the members proposing to bring the shareholder action do not constitute an authorised group.
277. *Subsection (7)* provides that, if proceedings are brought by an authorised group of members, the group is to conduct the action on behalf of the company as if they were the directors of the company bringing an action on its behalf in the normal manner. The

*These notes refer to the Political Parties, Elections and Referendums Act 2000 (c.41) which received Royal Assent on 30th November 2000*

members are, in so far as they are acting on behalf of the company, to be subject to the same duties in relation to their acting on behalf of the company as would be owed by the directors themselves when conducting the action. But no action by the company to enforce such a duty is to be brought without the leave of the court.

278. Under *subsection (8)*, the authorised group is to require the leave of the court to discontinue or compromise a shareholder action, and the court may give such leave on such terms as it thinks fit.