

*These notes refer to the Companies Act 2006 (c.46)  
which received Royal Assent on 8 November 2006*

# COMPANIES ACT 2006

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## EXPLANATORY NOTES

### COMMENTARY

#### *Section 366: Authorisation required for donations or expenditure*

619. This section prohibits a company from making a donation or incurring political expenditure unless the transaction or the expenditure is authorised by a resolution of the members of the company. If the company is a subsidiary of another company, a resolution may instead, or in addition, be required from the members of the holding company. Sections 1159, 1160 and Schedule 6 provide the definition of “subsidiary”. This section reproduces the effect of section 347C(1) and (6) and section 347D of the 1985 Act, except that:

- in line with the general approach in the Act, the section does not refer to the general meeting, to make it clear that private companies can authorise donations and/or expenditure by written resolution;
- a donation or expenditure by a subsidiary company must be authorised by the members of the company and by members of a “relevant holding company” (rather than by the members of each holding company within a group). A “relevant holding company” is the ultimate holding company or, where such a company is not a “UK-registered company”, the holding company highest up the chain which is a “UK-registered company”;
- a resolution is not required on the part of a company that is a wholly-owned subsidiary of a “UK-registered company” (rather than of any holding company, as in section 347D of the 1985 Act);
- the section does not reproduce the prohibition (in section 347C(5) of the 1985 Act) on retrospective ratification of breaches of the rules.