



# Companies Act 2006

## 2006 CHAPTER 46

### PART 10

#### A COMPANY'S DIRECTORS

#### CHAPTER 4

##### TRANSACTIONS WITH DIRECTORS REQUIRING APPROVAL OF MEMBERS

##### *Service contracts*

#### **188 Directors' long-term service contracts: requirement of members' approval**

- (1) This section applies to provision under which the guaranteed term of a director's employment—
  - (a) with the company of which he is a director, or
  - (b) where he is the director of a holding company, within the group consisting of that company and its subsidiaries,is, or may be, longer than two years.
- (2) A company may not agree to such provision unless it has been approved—
  - (a) by resolution of the members of the company, and
  - (b) in the case of a director of a holding company, by resolution of the members of that company.
- (3) The guaranteed term of a director's employment is—
  - (a) the period (if any) during which the director's employment—
    - (i) is to continue, or may be continued otherwise than at the instance of the company (whether under the original agreement or under a new agreement entered into in pursuance of it), and
    - (ii) cannot be terminated by the company by notice, or can be so terminated only in specified circumstances, or

---

*Status: This is the original version (as it was originally enacted).*

---

- (b) in the case of employment terminable by the company by notice, the period of notice required to be given,  
or, in the case of employment having a period within paragraph (a) and a period within paragraph (b), the aggregate of those periods.
- (4) If more than six months before the end of the guaranteed term of a director's employment the company enters into a further service contract (otherwise than in pursuance of a right conferred, by or under the original contract, on the other party to it), this section applies as if there were added to the guaranteed term of the new contract the unexpired period of the guaranteed term of the original contract.
- (5) A resolution approving provision to which this section applies must not be passed unless a memorandum setting out the proposed contract incorporating the provision is made available to members—
  - (a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;
  - (b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both—
    - (i) at the company's registered office for not less than 15 days ending with the date of the meeting, and
    - (ii) at the meeting itself.
- (6) No approval is required under this section on the part of the members of a body corporate that—
  - (a) is not a UK-registered company, or
  - (b) is a wholly-owned subsidiary of another body corporate.
- (7) In this section "employment" means any employment under a director's service contract.

### **189 Directors' long-term service contracts: civil consequences of contravention**

If a company agrees to provision in contravention of section 188 (directors' long-term service contracts: requirement of members' approval)—

- (a) the provision is void, to the extent of the contravention, and
- (b) the contract is deemed to contain a term entitling the company to terminate it at any time by the giving of reasonable notice.

### *Substantial property transactions*

### **190 Substantial property transactions: requirement of members' approval**

- (1) A company may not enter into an arrangement under which—
  - (a) a director of the company or of its holding company, or a person connected with such a director, acquires or is to acquire from the company (directly or indirectly) a substantial non-cash asset, or
  - (b) the company acquires or is to acquire a substantial non-cash asset (directly or indirectly) from such a director or a person so connected,
 unless the arrangement has been approved by a resolution of the members of the company or is conditional on such approval being obtained.

---

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

---

For the meaning of “substantial non-cash asset” see section 191.

- (2) If the director or connected person is a director of the company's holding company or a person connected with such a director, the arrangement must also have been approved by a resolution of the members of the holding company or be conditional on such approval being obtained.
- (3) A company shall not be subject to any liability by reason of a failure to obtain approval required by this section.
- (4) No approval is required under this section on the part of the members of a body corporate that—
  - (a) is not a UK-registered company, or
  - (b) is a wholly-owned subsidiary of another body corporate.
- (5) For the purposes of this section—
  - (a) an arrangement involving more than one non-cash asset, or
  - (b) an arrangement that is one of a series involving non-cash assets,shall be treated as if they involved a non-cash asset of a value equal to the aggregate value of all the non-cash assets involved in the arrangement or, as the case may be, the series.
- (6) This section does not apply to a transaction so far as it relates—
  - (a) to anything to which a director of a company is entitled under his service contract, or
  - (b) to payment for loss of office as defined in section 215 (payments requiring members' approval).

## **191 Meaning of “substantial”**

- (1) This section explains what is meant in section 190 (requirement of approval for substantial property transactions) by a “substantial” non-cash asset.
- (2) An asset is a substantial asset in relation to a company if its value—
  - (a) exceeds 10% of the company's asset value and is more than £5,000, or
  - (b) exceeds £100,000.
- (3) For this purpose a company's “asset value” at any time is—
  - (a) the value of the company's net assets determined by reference to its most recent statutory accounts, or
  - (b) if no statutory accounts have been prepared, the amount of the company's called-up share capital.
- (4) A company's “statutory accounts” means its annual accounts prepared in accordance with Part 15, and its “most recent” statutory accounts means those in relation to which the time for sending them out to members (see section 424) is most recent.
- (5) Whether an asset is a substantial asset shall be determined as at the time the arrangement is entered into.

---

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

---

## **192 Exception for transactions with members or other group companies**

Approval is not required under section 190 (requirement of members' approval for substantial property transactions)—

- (a) for a transaction between a company and a person in his character as a member of that company, or
- (b) for a transaction between—
  - (i) a holding company and its wholly-owned subsidiary, or
  - (ii) two wholly-owned subsidiaries of the same holding company.

## **193 Exception in case of company in winding up or administration**

- (1) This section applies to a company—
  - (a) that is being wound up (unless the winding up is a members' voluntary winding up), or
  - (b) that is in administration within the meaning of Schedule B1 to the Insolvency Act 1986 (c. 45) or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).
- (2) Approval is not required under section 190 (requirement of members' approval for substantial property transactions)—
  - (a) on the part of the members of a company to which this section applies, or
  - (b) for an arrangement entered into by a company to which this section applies.

## **194 Exception for transactions on recognised investment exchange**

- (1) Approval is not required under section 190 (requirement of members' approval for substantial property transactions) for a transaction on a recognised investment exchange effected by a director, or a person connected with him, through the agency of a person who in relation to the transaction acts as an independent broker.
- (2) For this purpose—
  - (a) “independent broker” means a person who, independently of the director or any person connected with him, selects the person with whom the transaction is to be effected; and
  - (b) “recognised investment exchange” has the same meaning as in Part 18 of the Financial Services and Markets Act 2000 (c. 8).

## **195 Property transactions: civil consequences of contravention**

- (1) This section applies where a company enters into an arrangement in contravention of section 190 (requirement of members' approval for substantial property transactions).
- (2) The arrangement, and any transaction entered into in pursuance of the arrangement (whether by the company or any other person), is voidable at the instance of the company, unless—
  - (a) restitution of any money or other asset that was the subject matter of the arrangement or transaction is no longer possible,
  - (b) the company has been indemnified in pursuance of this section by any other persons for the loss or damage suffered by it, or

---

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

---

- (c) rights acquired in good faith, for value and without actual notice of the contravention by a person who is not a party to the arrangement or transaction would be affected by the avoidance.
- (3) Whether or not the arrangement or any such transaction has been avoided, each of the persons specified in subsection (4) is liable—
- (a) to account to the company for any gain that he has made directly or indirectly by the arrangement or transaction, and
  - (b) (jointly and severally with any other person so liable under this section) to indemnify the company for any loss or damage resulting from the arrangement or transaction.
- (4) The persons so liable are—
- (a) any director of the company or of its holding company with whom the company entered into the arrangement in contravention of section 190,
  - (b) any person with whom the company entered into the arrangement in contravention of that section who is connected with a director of the company or of its holding company,
  - (c) the director of the company or of its holding company with whom any such person is connected, and
  - (d) any other director of the company who authorised the arrangement or any transaction entered into in pursuance of such an arrangement.
- (5) Subsections (3) and (4) are subject to the following two subsections.
- (6) In the case of an arrangement entered into by a company in contravention of section 190 with a person connected with a director of the company or of its holding company, that director is not liable by virtue of subsection (4)(c) if he shows that he took all reasonable steps to secure the company's compliance with that section.
- (7) In any case—
- (a) a person so connected is not liable by virtue of subsection (4)(b), and
  - (b) a director is not liable by virtue of subsection (4)(d),
- if he shows that, at the time the arrangement was entered into, he did not know the relevant circumstances constituting the contravention.
- (8) Nothing in this section shall be read as excluding the operation of any other enactment or rule of law by virtue of which the arrangement or transaction may be called in question or any liability to the company may arise.

## **196 Property transactions: effect of subsequent affirmation**

Where a transaction or arrangement is entered into by a company in contravention of section 190 (requirement of members' approval) but, within a reasonable period, it is affirmed—

- (a) in the case of a contravention of subsection (1) of that section, by resolution of the members of the company, and
  - (b) in the case of a contravention of subsection (2) of that section, by resolution of the members of the holding company,
- the transaction or arrangement may no longer be avoided under section 195.

---

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

---

*Loans, quasi-loans and credit transactions*

**197 Loans to directors: requirement of members' approval**

- (1) A company may not—
  - (a) make a loan to a director of the company or of its holding company, or
  - (b) give a guarantee or provide security in connection with a loan made by any person to such a director,unless the transaction has been approved by a resolution of the members of the company.
- (2) If the director is a director of the company's holding company, the transaction must also have been approved by a resolution of the members of the holding company.
- (3) A resolution approving a transaction to which this section applies must not be passed unless a memorandum setting out the matters mentioned in subsection (4) is made available to members—
  - (a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;
  - (b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both—
    - (i) at the company's registered office for not less than 15 days ending with the date of the meeting, and
    - (ii) at the meeting itself.
- (4) The matters to be disclosed are—
  - (a) the nature of the transaction,
  - (b) the amount of the loan and the purpose for which it is required, and
  - (c) the extent of the company's liability under any transaction connected with the loan.
- (5) No approval is required under this section on the part of the members of a body corporate that—
  - (a) is not a UK-registered company, or
  - (b) is a wholly-owned subsidiary of another body corporate.

**198 Quasi-loans to directors: requirement of members' approval**

- (1) This section applies to a company if it is—
  - (a) a public company, or
  - (b) a company associated with a public company.
- (2) A company to which this section applies may not—
  - (a) make a quasi-loan to a director of the company or of its holding company, or
  - (b) give a guarantee or provide security in connection with a quasi-loan made by any person to such a director,unless the transaction has been approved by a resolution of the members of the company.

---

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

---

- (3) If the director is a director of the company's holding company, the transaction must also have been approved by a resolution of the members of the holding company.
- (4) A resolution approving a transaction to which this section applies must not be passed unless a memorandum setting out the matters mentioned in subsection (5) is made available to members—
  - (a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;
  - (b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both—
    - (i) at the company's registered office for not less than 15 days ending with the date of the meeting, and
    - (ii) at the meeting itself.
- (5) The matters to be disclosed are—
  - (a) the nature of the transaction,
  - (b) the amount of the quasi-loan and the purpose for which it is required, and
  - (c) the extent of the company's liability under any transaction connected with the quasi-loan.
- (6) No approval is required under this section on the part of the members of a body corporate that—
  - (a) is not a UK-registered company, or
  - (b) is a wholly-owned subsidiary of another body corporate.

## **199 Meaning of “quasi-loan” and related expressions**

- (1) A “quasi-loan” is a transaction under which one party (“the creditor”) agrees to pay, or pays otherwise than in pursuance of an agreement, a sum for another (“the borrower”) or agrees to reimburse, or reimburses otherwise than in pursuance of an agreement, expenditure incurred by another party for another (“the borrower”)—
  - (a) on terms that the borrower (or a person on his behalf) will reimburse the creditor; or
  - (b) in circumstances giving rise to a liability on the borrower to reimburse the creditor.
- (2) Any reference to the person to whom a quasi-loan is made is a reference to the borrower.
- (3) The liabilities of the borrower under a quasi-loan include the liabilities of any person who has agreed to reimburse the creditor on behalf of the borrower.

## **200 Loans or quasi-loans to persons connected with directors: requirement of members' approval**

- (1) This section applies to a company if it is—
  - (a) a public company, or
  - (b) a company associated with a public company.
- (2) A company to which this section applies may not—

---

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

---

- (a) make a loan or quasi-loan to a person connected with a director of the company or of its holding company, or
  - (b) give a guarantee or provide security in connection with a loan or quasi-loan made by any person to a person connected with such a director,
- unless the transaction has been approved by a resolution of the members of the company.
- (3) If the connected person is a person connected with a director of the company's holding company, the transaction must also have been approved by a resolution of the members of the holding company.
- (4) A resolution approving a transaction to which this section applies must not be passed unless a memorandum setting out the matters mentioned in subsection (5) is made available to members—
- (a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;
  - (b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both—
    - (i) at the company's registered office for not less than 15 days ending with the date of the meeting, and
    - (ii) at the meeting itself.
- (5) The matters to be disclosed are—
- (a) the nature of the transaction,
  - (b) the amount of the loan or quasi-loan and the purpose for which it is required, and
  - (c) the extent of the company's liability under any transaction connected with the loan or quasi-loan.
- (6) No approval is required under this section on the part of the members of a body corporate that—
- (a) is not a UK-registered company, or
  - (b) is a wholly-owned subsidiary of another body corporate.

## **201 Credit transactions: requirement of members' approval**

- (1) This section applies to a company if it is—
- (a) a public company, or
  - (b) a company associated with a public company.
- (2) A company to which this section applies may not—
- (a) enter into a credit transaction as creditor for the benefit of a director of the company or of its holding company, or a person connected with such a director, or
  - (b) give a guarantee or provide security in connection with a credit transaction entered into by any person for the benefit of such a director, or a person connected with such a director,
- unless the transaction (that is, the credit transaction, the giving of the guarantee or the provision of security, as the case may be) has been approved by a resolution of the members of the company.



---

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

---

- (3) If the director or connected person is a director of its holding company or a person connected with such a director, the transaction must also have been approved by a resolution of the members of the holding company.
- (4) A resolution approving a transaction to which this section applies must not be passed unless a memorandum setting out the matters mentioned in subsection (5) is made available to members—
  - (a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;
  - (b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both—
    - (i) at the company's registered office for not less than 15 days ending with the date of the meeting, and
    - (ii) at the meeting itself.
- (5) The matters to be disclosed are—
  - (a) the nature of the transaction,
  - (b) the value of the credit transaction and the purpose for which the land, goods or services sold or otherwise disposed of, leased, hired or supplied under the credit transaction are required, and
  - (c) the extent of the company's liability under any transaction connected with the credit transaction.
- (6) No approval is required under this section on the part of the members of a body corporate that—
  - (a) is not a UK-registered company, or
  - (b) is a wholly-owned subsidiary of another body corporate.

## **202 Meaning of “credit transaction”**

- (1) A “credit transaction” is a transaction under which one party (“the creditor”)—
  - (a) supplies any goods or sells any land under a hire-purchase agreement or a conditional sale agreement,
  - (b) leases or hires any land or goods in return for periodical payments, or
  - (c) otherwise disposes of land or supplies goods or services on the understanding that payment (whether in a lump sum or instalments or by way of periodical payments or otherwise) is to be deferred.
- (2) Any reference to the person for whose benefit a credit transaction is entered into is to the person to whom goods, land or services are supplied, sold, leased, hired or otherwise disposed of under the transaction.
- (3) In this section—

“conditional sale agreement” has the same meaning as in the Consumer Credit Act 1974 (c. 39); and

“services” means anything other than goods or land.

## **203 Related arrangements: requirement of members' approval**

- (1) A company may not—

---

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

---

- (a) take part in an arrangement under which—
    - (i) another person enters into a transaction that, if it had been entered into by the company, would have required approval under section 197, 198, 200 or 201, and
    - (ii) that person, in pursuance of the arrangement, obtains a benefit from the company or a body corporate associated with it, or
  - (b) arrange for the assignment to it, or assumption by it, of any rights, obligations or liabilities under a transaction that, if it had been entered into by the company, would have required such approval,
- unless the arrangement in question has been approved by a resolution of the members of the company.
- (2) If the director or connected person for whom the transaction is entered into is a director of its holding company or a person connected with such a director, the arrangement must also have been approved by a resolution of the members of the holding company.
- (3) A resolution approving an arrangement to which this section applies must not be passed unless a memorandum setting out the matters mentioned in subsection (4) is made available to members—
- (a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;
  - (b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both—
    - (i) at the company's registered office for not less than 15 days ending with the date of the meeting, and
    - (ii) at the meeting itself.
- (4) The matters to be disclosed are—
- (a) the matters that would have to be disclosed if the company were seeking approval of the transaction to which the arrangement relates,
  - (b) the nature of the arrangement, and
  - (c) the extent of the company's liability under the arrangement or any transaction connected with it.
- (5) No approval is required under this section on the part of the members of a body corporate that—
- (a) is not a UK-registered company, or
  - (b) is a wholly-owned subsidiary of another body corporate.
- (6) In determining for the purposes of this section whether a transaction is one that would have required approval under section 197, 198, 200 or 201 if it had been entered into by the company, the transaction shall be treated as having been entered into on the date of the arrangement.

## **204 Exception for expenditure on company business**

- (1) Approval is not required under section 197, 198, 200 or 201 (requirement of members' approval for loans etc) for anything done by a company—
- (a) to provide a director of the company or of its holding company, or a person connected with any such director, with funds to meet expenditure incurred or to be incurred by him—

---

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

---

- (i) for the purposes of the company, or
    - (ii) for the purpose of enabling him properly to perform his duties as an officer of the company, or
  - (b) to enable any such person to avoid incurring such expenditure.
- (2) This section does not authorise a company to enter into a transaction if the aggregate of—
  - (a) the value of the transaction in question, and
  - (b) the value of any other relevant transactions or arrangements, exceeds £50,000.

## **205 Exception for expenditure on defending proceedings etc**

- (1) Approval is not required under section 197, 198, 200 or 201 (requirement of members' approval for loans etc) for anything done by a company—
  - (a) to provide a director of the company or of its holding company with funds to meet expenditure incurred or to be incurred by him—
    - (i) in defending any criminal or civil proceedings in connection with any alleged negligence, default, breach of duty or breach of trust by him in relation to the company or an associated company, or
    - (ii) in connection with an application for relief (see subsection (5)), or
  - (b) to enable any such director to avoid incurring such expenditure, if it is done on the following terms.
- (2) The terms are—
  - (a) that the loan is to be repaid, or (as the case may be) any liability of the company incurred under any transaction connected with the thing done is to be discharged, in the event of—
    - (i) the director being convicted in the proceedings,
    - (ii) judgment being given against him in the proceedings, or
    - (iii) the court refusing to grant him relief on the application; and
  - (b) that it is to be so repaid or discharged not later than—
    - (i) the date when the conviction becomes final,
    - (ii) the date when the judgment becomes final, or
    - (iii) the date when the refusal of relief becomes final.
- (3) For this purpose a conviction, judgment or refusal of relief becomes final—
  - (a) if not appealed against, at the end of the period for bringing an appeal;
  - (b) if appealed against, when the appeal (or any further appeal) is disposed of.
- (4) An appeal is disposed of—
  - (a) if it is determined and the period for bringing any further appeal has ended, or
  - (b) if it is abandoned or otherwise ceases to have effect.
- (5) The reference in subsection (1)(a)(ii) to an application for relief is to an application for relief under—
  - section 661(3) or (4) (power of court to grant relief in case of acquisition of shares by innocent nominee), or
  - section 1157 (general power of court to grant relief in case of honest and reasonable conduct).

## **206 Exception for expenditure in connection with regulatory action or investigation**

Approval is not required under section 197, 198, 200 or 201 (requirement of members' approval for loans etc) for anything done by a company—

- (a) to provide a director of the company or of its holding company with funds to meet expenditure incurred or to be incurred by him in defending himself—
  - (i) in an investigation by a regulatory authority, or
  - (ii) against action proposed to be taken by a regulatory authority,
 in connection with any alleged negligence, default, breach of duty or breach of trust by him in relation to the company or an associated company, or
- (b) to enable any such director to avoid incurring such expenditure.

## **207 Exceptions for minor and business transactions**

- (1) Approval is not required under section 197, 198 or 200 for a company to make a loan or quasi-loan, or to give a guarantee or provide security in connection with a loan or quasi-loan, if the aggregate of—
  - (a) the value of the transaction, and
  - (b) the value of any other relevant transactions or arrangements,
 does not exceed £10,000.
- (2) Approval is not required under section 201 for a company to enter into a credit transaction, or to give a guarantee or provide security in connection with a credit transaction, if the aggregate of—
  - (a) the value of the transaction (that is, of the credit transaction, guarantee or security), and
  - (b) the value of any other relevant transactions or arrangements,
 does not exceed £15,000.
- (3) Approval is not required under section 201 for a company to enter into a credit transaction, or to give a guarantee or provide security in connection with a credit transaction, if—
  - (a) the transaction is entered into by the company in the ordinary course of the company's business, and
  - (b) the value of the transaction is not greater, and the terms on which it is entered into are not more favourable, than it is reasonable to expect the company would have offered to, or in respect of, a person of the same financial standing but unconnected with the company.

## **208 Exceptions for intra-group transactions**

- (1) Approval is not required under section 197, 198 or 200 for—
  - (a) the making of a loan or quasi-loan to an associated body corporate, or
  - (b) the giving of a guarantee or provision of security in connection with a loan or quasi-loan made to an associated body corporate.
- (2) Approval is not required under section 201—
  - (a) to enter into a credit transaction as creditor for the benefit of an associated body corporate, or
  - (b) to give a guarantee or provide security in connection with a credit transaction entered into by any person for the benefit of an associated body corporate.

## **209 Exceptions for money-lending companies**

- (1) Approval is not required under section 197, 198 or 200 for the making of a loan or quasi-loan, or the giving of a guarantee or provision of security in connection with a loan or quasi-loan, by a money-lending company if—
  - (a) the transaction (that is, the loan, quasi-loan, guarantee or security) is entered into by the company in the ordinary course of the company's business, and
  - (b) the value of the transaction is not greater, and its terms are not more favourable, than it is reasonable to expect the company would have offered to a person of the same financial standing but unconnected with the company.
- (2) A “money-lending company” means a company whose ordinary business includes the making of loans or quasi-loans, or the giving of guarantees or provision of security in connection with loans or quasi-loans.
- (3) The condition specified in subsection (1)(b) does not of itself prevent a company from making a home loan—
  - (a) to a director of the company or of its holding company, or
  - (b) to an employee of the company,if loans of that description are ordinarily made by the company to its employees and the terms of the loan in question are no more favourable than those on which such loans are ordinarily made.
- (4) For the purposes of subsection (3) a “home loan” means a loan—
  - (a) for the purpose of facilitating the purchase, for use as the only or main residence of the person to whom the loan is made, 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, or
  - (c) in substitution for any loan made by any person and falling within paragraph (a) or (b).

## **210 Other relevant transactions or arrangements**

- (1) This section has effect for determining what are “other relevant transactions or arrangements” for the purposes of any exception to section 197, 198, 200 or 201.

In the following provisions “the relevant exception” means the exception for the purposes of which that falls to be determined.
- (2) Other relevant transactions or arrangements are those previously entered into, or entered into at the same time as the transaction or arrangement in question in relation to which the following conditions are met.
- (3) Where the transaction or arrangement in question is entered into—
  - (a) for a director of the company entering into it, or
  - (b) for a person connected with such a director,the conditions are that the transaction or arrangement was (or is) entered into for that director, or a person connected with him, by virtue of the relevant exception by that company or by any of its subsidiaries.
- (4) Where the transaction or arrangement in question is entered into—
  - (a) for a director of the holding company of the company entering into it, or

---

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

---

(b) for a person connected with such a director,  
the conditions are that the transaction or arrangement was (or is) entered into for that director, or a person connected with him, by virtue of the relevant exception by the holding company or by any of its subsidiaries.

(5) A transaction or arrangement entered into by a company that at the time it was entered into—

(a) was a subsidiary of the company entering into the transaction or arrangement in question, or

(b) was a subsidiary of that company's holding company,

is not a relevant transaction or arrangement if, at the time the question arises whether the transaction or arrangement in question falls within a relevant exception, it is no longer such a subsidiary.

## **211 The value of transactions and arrangements**

(1) For the purposes of sections 197 to 214 (loans etc)—

(a) the value of a transaction or arrangement is determined as follows, and

(b) the value of any other relevant transaction or arrangement is taken to be the value so determined reduced by any amount by which the liabilities of the person for whom the transaction or arrangement was made have been reduced.

(2) The value of a loan is the amount of its principal.

(3) The value of a quasi-loan is the amount, or maximum amount, that the person to whom the quasi-loan is made is liable to reimburse the creditor.

(4) The value of a credit transaction is the price that it is reasonable to expect could be obtained for the goods, services or land to which the transaction relates if they had been supplied (at the time the transaction is entered into) in the ordinary course of business and on the same terms (apart from price) as they have been supplied, or are to be supplied, under the transaction in question.

(5) The value of a guarantee or security is the amount guaranteed or secured.

(6) The value of an arrangement to which section 203 (related arrangements) applies is the value of the transaction to which the arrangement relates.

(7) If the value of a transaction or arrangement is not capable of being expressed as a specific sum of money—

(a) whether because the amount of any liability arising under the transaction or arrangement is unascertainable, or for any other reason, and

(b) whether or not any liability under the transaction or arrangement has been reduced,

its value is deemed to exceed £50,000.

## **212 The person for whom a transaction or arrangement is entered into**

For the purposes of sections 197 to 214 (loans etc) the person for whom a transaction or arrangement is entered into is—

(a) in the case of a loan or quasi-loan, the person to whom it is made;

(b) in the case of a credit transaction, the person to whom goods, land or services are supplied, sold, hired, leased or otherwise disposed of under the transaction;

---

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

---

- (c) in the case of a guarantee or security, the person for whom the transaction is made in connection with which the guarantee or security is entered into;
- (d) in the case of an arrangement within section 203 (related arrangements), the person for whom the transaction is made to which the arrangement relates.

### **213 Loans etc: civil consequences of contravention**

- (1) This section applies where a company enters into a transaction or arrangement in contravention of section 197, 198, 200, 201 or 203 (requirement of members' approval for loans etc).
- (2) The transaction or arrangement is voidable at the instance of the company, unless—
  - (a) restitution of any money or other asset that was the subject matter of the transaction or arrangement is no longer possible,
  - (b) the company has been indemnified for any loss or damage resulting from the transaction or arrangement, or
  - (c) rights acquired in good faith, for value and without actual notice of the contravention by a person who is not a party to the transaction or arrangement would be affected by the avoidance.
- (3) Whether or not the transaction or arrangement has been avoided, each of the persons specified in subsection (4) is liable—
  - (a) to account to the company for any gain that he has made directly or indirectly by the transaction or arrangement, and
  - (b) (jointly and severally with any other person so liable under this section) to indemnify the company for any loss or damage resulting from the transaction or arrangement.
- (4) The persons so liable are—
  - (a) any director of the company or of its holding company with whom the company entered into the transaction or arrangement in contravention of section 197, 198, 201 or 203,
  - (b) any person with whom the company entered into the transaction or arrangement in contravention of any of those sections who is connected with a director of the company or of its holding company,
  - (c) the director of the company or of its holding company with whom any such person is connected, and
  - (d) any other director of the company who authorised the transaction or arrangement.
- (5) Subsections (3) and (4) are subject to the following two subsections.
- (6) In the case of a transaction or arrangement entered into by a company in contravention of section 200, 201 or 203 with a person connected with a director of the company or of its holding company, that director is not liable by virtue of subsection (4)(c) if he shows that he took all reasonable steps to secure the company's compliance with the section concerned.
- (7) In any case—
  - (a) a person so connected is not liable by virtue of subsection (4)(b), and
  - (b) a director is not liable by virtue of subsection (4)(d),

---

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

---

if he shows that, at the time the transaction or arrangement was entered into, he did not know the relevant circumstances constituting the contravention.

- (8) Nothing in this section shall be read as excluding the operation of any other enactment or rule of law by virtue of which the transaction or arrangement may be called in question or any liability to the company may arise.

#### **214 Loans etc: effect of subsequent affirmation**

Where a transaction or arrangement is entered into by a company in contravention of section 197, 198, 200, 201 or 203 (requirement of members' approval for loans etc) but, within a reasonable period, it is affirmed—

- (a) in the case of a contravention of the requirement for a resolution of the members of the company, by a resolution of the members of the company, and
- (b) in the case of a contravention of the requirement for a resolution of the members of the company's holding company, by a resolution of the members of the holding company,

the transaction or arrangement may no longer be avoided under section 213.

#### *Payments for loss of office*

#### **215 Payments for loss of office**

- (1) In this Chapter a “payment for loss of office” means a payment made to a director or past director of a company—
- (a) by way of compensation for loss of office as director of the company,
  - (b) by way of compensation for loss, while director of the company or in connection with his ceasing to be a director of it, of—
    - (i) any other office or employment in connection with the management of the affairs of the company, or
    - (ii) any office (as director or otherwise) or employment in connection with the management of the affairs of any subsidiary undertaking of the company,
  - (c) as consideration for or in connection with his retirement from his office as director of the company, or
  - (d) as consideration for or in connection with his retirement, while director of the company or in connection with his ceasing to be a director of it, from—
    - (i) any other office or employment in connection with the management of the affairs of the company, or
    - (ii) any office (as director or otherwise) or employment in connection with the management of the affairs of any subsidiary undertaking of the company.
- (2) The references to compensation and consideration include benefits otherwise than in cash and references in this Chapter to payment have a corresponding meaning.
- (3) For the purposes of sections 217 to 221 (payments requiring members' approval)—
- (a) payment to a person connected with a director, or
  - (b) payment to any person at the direction of, or for the benefit of, a director or a person connected with him,



is treated as payment to the director.

- (4) References in those sections to payment by a person include payment by another person at the direction of, or on behalf of, the person referred to.

## **216 Amounts taken to be payments for loss of office**

- (1) This section applies where in connection with any such transfer as is mentioned in section 218 or 219 (payment in connection with transfer of undertaking, property or shares) a director of the company—
- (a) is to cease to hold office, or
  - (b) is to cease to be the holder of—
    - (i) any other office or employment in connection with the management of the affairs of the company, or
    - (ii) any office (as director or otherwise) or employment in connection with the management of the affairs of any subsidiary undertaking of the company.
- (2) If in connection with any such transfer—
- (a) the price to be paid to the director for any shares in the company held by him is in excess of the price which could at the time have been obtained by other holders of like shares, or
  - (b) any valuable consideration is given to the director by a person other than the company,
- the excess or, as the case may be, the money value of the consideration is taken for the purposes of those sections to have been a payment for loss of office.

## **217 Payment by company: requirement of members' approval**

- (1) A company may not make a payment for loss of office to a director of the company unless the payment has been approved by a resolution of the members of the company.
- (2) A company may not make a payment for loss of office to a director of its holding company unless the payment has been approved by a resolution of the members of each of those companies.
- (3) A resolution approving a payment to which this section applies must not be passed unless a memorandum setting out particulars of the proposed payment (including its amount) is made available to the members of the company whose approval is sought—
- (a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;
  - (b) in the case of a resolution at a meeting, by being made available for inspection by the members both—
    - (i) at the company's registered office for not less than 15 days ending with the date of the meeting, and
    - (ii) at the meeting itself.
- (4) No approval is required under this section on the part of the members of a body corporate that—
- (a) is not a UK-registered company, or
  - (b) is a wholly-owned subsidiary of another body corporate.

**218 Payment in connection with transfer of undertaking etc: requirement of members' approval**

- (1) No payment for loss of office may be made by any person to a director of a company in connection with the transfer of the whole or any part of the undertaking or property of the company unless the payment has been approved by a resolution of the members of the company.
- (2) No payment for loss of office may be made by any person to a director of a company in connection with the transfer of the whole or any part of the undertaking or property of a subsidiary of the company unless the payment has been approved by a resolution of the members of each of the companies.
- (3) A resolution approving a payment to which this section applies must not be passed unless a memorandum setting out particulars of the proposed payment (including its amount) is made available to the members of the company whose approval is sought—
  - (a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;
  - (b) in the case of a resolution at a meeting, by being made available for inspection by the members both—
    - (i) at the company's registered office for not less than 15 days ending with the date of the meeting, and
    - (ii) at the meeting itself.
- (4) No approval is required under this section on the part of the members of a body corporate that—
  - (a) is not a UK-registered company, or
  - (b) is a wholly-owned subsidiary of another body corporate.
- (5) A payment made in pursuance of an arrangement—
  - (a) entered into as part of the agreement for the transfer in question, or within one year before or two years after that agreement, and
  - (b) to which the company whose undertaking or property is transferred, or any person to whom the transfer is made, is privy,is presumed, except in so far as the contrary is shown, to be a payment to which this section applies.

**219 Payment in connection with share transfer: requirement of members' approval**

- (1) No payment for loss of office may be made by any person to a director of a company in connection with a transfer of shares in the company, or in a subsidiary of the company, resulting from a takeover bid unless the payment has been approved by a resolution of the relevant shareholders.
- (2) The relevant shareholders are the holders of the shares to which the bid relates and any holders of shares of the same class as any of those shares.
- (3) A resolution approving a payment to which this section applies must not be passed unless a memorandum setting out particulars of the proposed payment (including its amount) is made available to the members of the company whose approval is sought—

---

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

---

- (a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;
  - (b) in the case of a resolution at a meeting, by being made available for inspection by the members both—
    - (i) at the company's registered office for not less than 15 days ending with the date of the meeting, and
    - (ii) at the meeting itself.
- (4) Neither the person making the offer, nor any associate of his (as defined in section 988), is entitled to vote on the resolution, but—
- (a) where the resolution is proposed as a written resolution, they are entitled (if they would otherwise be so entitled) to be sent a copy of it, and
  - (b) at any meeting to consider the resolution they are entitled (if they would otherwise be so entitled) to be given notice of the meeting, to attend and speak and if present (in person or by proxy) to count towards the quorum.
- (5) If at a meeting to consider the resolution a quorum is not present, and after the meeting has been adjourned to a later date a quorum is again not present, the payment is (for the purposes of this section) deemed to have been approved.
- (6) No approval is required under this section on the part of shareholders in a body corporate that—
- (a) is not a UK-registered company, or
  - (b) is a wholly-owned subsidiary of another body corporate.
- (7) A payment made in pursuance of an arrangement—
- (a) entered into as part of the agreement for the transfer in question, or within one year before or two years after that agreement, and
  - (b) to which the company whose shares are the subject of the bid, or any person to whom the transfer is made, is privy,
- is presumed, except in so far as the contrary is shown, to be a payment to which this section applies.

## **220 Exception for payments in discharge of legal obligations etc**

- (1) Approval is not required under section 217, 218 or 219 (payments requiring members' approval) for a payment made in good faith—
- (a) in discharge of an existing legal obligation (as defined below),
  - (b) by way of damages for breach of such an obligation,
  - (c) by way of settlement or compromise of any claim arising in connection with the termination of a person's office or employment, or
  - (d) by way of pension in respect of past services.
- (2) In relation to a payment within section 217 (payment by company) an existing legal obligation means an obligation of the company, or any body corporate associated with it, that was not entered into in connection with, or in consequence of, the event giving rise to the payment for loss of office.
- (3) In relation to a payment within section 218 or 219 (payment in connection with transfer of undertaking, property or shares) an existing legal obligation means an obligation

---

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

---

of the person making the payment that was not entered into for the purposes of, in connection with or in consequence of, the transfer in question.

- (4) In the case of a payment within both section 217 and section 218, or within both section 217 and section 219, subsection (2) above applies and not subsection (3).
- (5) A payment part of which falls within subsection (1) above and part of which does not is treated as if the parts were separate payments.

## **221 Exception for small payments**

- (1) Approval is not required under section 217, 218 or 219 (payments requiring members' approval) if—
  - (a) the payment in question is made by the company or any of its subsidiaries, and
  - (b) the amount or value of the payment, together with the amount or value of any other relevant payments, does not exceed £200.
- (2) For this purpose “other relevant payments” are payments for loss of office in relation to which the following conditions are met.
- (3) Where the payment in question is one to which section 217 (payment by company) applies, the conditions are that the other payment was or is paid—
  - (a) by the company making the payment in question or any of its subsidiaries,
  - (b) to the director to whom that payment is made, and
  - (c) in connection with the same event.
- (4) Where the payment in question is one to which section 218 or 219 applies (payment in connection with transfer of undertaking, property or shares), the conditions are that the other payment was (or is) paid in connection with the same transfer—
  - (a) to the director to whom the payment in question was made, and
  - (b) by the company making the payment or any of its subsidiaries.

## **222 Payments made without approval: civil consequences**

- (1) If a payment is made in contravention of section 217 (payment by company)—
  - (a) it is held by the recipient on trust for the company making the payment, and
  - (b) any director who authorised the payment is jointly and severally liable to indemnify the company that made the payment for any loss resulting from it.
- (2) If a payment is made in contravention of section 218 (payment in connection with transfer of undertaking etc), it is held by the recipient on trust for the company whose undertaking or property is or is proposed to be transferred.
- (3) If a payment is made in contravention of section 219 (payment in connection with share transfer)—
  - (a) it is held by the recipient on trust for persons who have sold their shares as a result of the offer made, and
  - (b) the expenses incurred by the recipient in distributing that sum amongst those persons shall be borne by him and not retained out of that sum.
- (4) If a payment is in contravention of section 217 and section 218, subsection (2) of this section applies rather than subsection (1).

- (5) If a payment is in contravention of section 217 and section 219, subsection (3) of this section applies rather than subsection (1), unless the court directs otherwise.

### *Supplementary*

#### **223 Transactions requiring members' approval: application of provisions to shadow directors**

- (1) For the purposes of—
- (a) sections 188 and 189 (directors' service contracts),
  - (b) sections 190 to 196 (property transactions),
  - (c) sections 197 to 214 (loans etc), and
  - (d) sections 215 to 222 (payments for loss of office),
- a shadow director is treated as a director.
- (2) Any reference in those provisions to loss of office as a director does not apply in relation to loss of a person's status as a shadow director.

#### **224 Approval by written resolution: accidental failure to send memorandum**

- (1) Where—
- (a) approval under this Chapter is sought by written resolution, and
  - (b) a memorandum is required under this Chapter to be sent or submitted to every eligible member before the resolution is passed,
- any accidental failure to send or submit the memorandum to one or more members shall be disregarded for the purpose of determining whether the requirement has been met.
- (2) Subsection (1) has effect subject to any provision of the company's articles.

#### **225 Cases where approval is required under more than one provision**

- (1) Approval may be required under more than one provision of this Chapter.
- (2) If so, the requirements of each applicable provision must be met.
- (3) This does not require a separate resolution for the purposes of each provision.

#### **226 Requirement of consent of Charity Commission: companies that are charities**

For section 66 of the Charities Act 1993 (c. 10) substitute—

##### **“66 Consent of Commission required for approval etc by members of charitable companies**

- (1) Where a company is a charity—
- (a) any approval given by the members of the company under any provision of Chapter 4 of Part 10 of the Companies Act 2006 (transactions with directors requiring approval by members) listed in subsection (2) below, and

---

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

---

- (b) any affirmation given by members of the company under section 196 or 214 of that Act (affirmation of unapproved property transactions and loans),

is ineffective without the prior written consent of the Commission.

- (2) The provisions are—
  - (a) section 188 (directors' long-term service contracts);
  - (b) section 190 (substantial property transactions with directors etc);
  - (c) section 197, 198 or 200 (loans and quasi-loans to directors etc);
  - (d) section 201 (credit transactions for benefit of directors etc);
  - (e) section 203 (related arrangements);
  - (f) section 217 (payments to directors for loss of office);
  - (g) section 218 (payments to directors for loss of office: transfer of undertaking etc).

#### **66A Consent of Commission required for certain acts of charitable company**

- (1) A company that is a charity may not do an act to which this section applies without the prior written consent of the Commission.
- (2) This section applies to an act that—
  - (a) does not require approval under a listed provision of Chapter 4 of Part 10 of the Companies Act 2006 (transactions with directors) by the members of the company, but
  - (b) would require such approval but for an exemption in the provision in question that disapplies the need for approval on the part of the members of a body corporate which is a wholly-owned subsidiary of another body corporate.
- (3) The reference to a listed provision is a reference to a provision listed in section 66(2) above.
- (4) If a company acts in contravention of this section, the exemption referred to in subsection (2)(b) shall be treated as of no effect in relation to the act.”.