

Enforcement of notification obligation

266. (1) Where a person authorises any other person (the “agent”) to acquire or dispose of, on his or her behalf, interests in shares in, or debentures of, a company, the person shall secure that the agent notifies him or her immediately of acquisitions or disposals of interests in such shares or debentures effected by the agent which will or may give rise to any duty on the person's part to make a notification under this Chapter with respect to his or her interest in those shares or debentures.

(2) Subject to the subsequent provisions of this section, where a person fails to fulfil, within the period specified by this Chapter in that behalf, a duty to which he or she is, by virtue of section 261, 262 or 263, subject, no right or interest of any kind whatsoever in respect of the shares or debentures concerned shall be enforceable by him or her, whether directly or indirectly, by action or legal proceeding.

(3) Where any right or interest is restricted under subsection (2)—

(a) any person in default as is mentioned in that subsection or any other person affected by such restriction may apply to the court for relief against a disability imposed by or arising out of that subsection,

(b) the court, on being satisfied that the default was accidental or due to inadvertence or some other sufficient cause or that on other grounds it is just and equitable to grant relief, may grant such relief either generally or as respects any particular right or interest, on such terms and conditions as it sees fit,

(c) where an applicant for relief under this subsection is a person referred to in subsection (2), the court may not grant such relief if it appears that the default has arisen as a result of any deliberate act or omission on the part of the applicant.

(4) Where a director or secretary is in default as mentioned in subsection (2), then, notwithstanding that default, that subsection shall not apply in respect of the shares or debentures concerned if the following condition is satisfied.

(5) That condition is that the identity of the director or secretary and his or her holding, acquisition and disposal (as the case may be) of the shares or debentures in question and the consideration paid or payable therefor has, from not later than 30 days after the date the duty arose, been apparent on the face of all or any of the following registers or documents of the company concerned (including some or all of them when consulted together), namely—

(a) the register of members,

(b) the register of directors and secretaries,

(c) the register of interests under section 267,

(d) documents made available by that company with those registers.

(6) If a company in general meeting passes a special resolution providing that the following protection shall apply in favour of a third party having the following dealing in relation to shares in, or debentures of, the company specified in the resolution then, upon production of a copy of such resolution by the secretary of the company to the third party, a third party having any dealing with the company or the registered holder of the shares or debentures in question shall be entitled to presume, without further enquiry, that—

(a) the provisions of this Chapter have been complied with in relation to the shares or debentures, and

(b) the registered holder is entitled to deal with the shares or debentures registered in his or her name.

(7) Subsection (2) shall not apply to a duty relating to a person ceasing to be interested in shares in, or debentures of, a company.

(8) A person who fails without reasonable excuse to comply with subsection (1) shall be guilty of a category 3 offence.

(9) A person who fails to fulfil, within the period specified in this Chapter in that behalf, a duty to which he or she is, by virtue of section 261, 262 or 263, subject shall be guilty of a category 3 offence.

(10) Where before the commencement of this section, default has been made in complying with section 53 of the Act of 1990 in relation to shares in, or debentures of, a company, the board of directors of the company, at any time before the expiry of 18 months after that commencement, may, if authorised by an ordinary resolution of the company in that behalf, resolve that any restrictions that continue to operate (by virtue of section 58(3) of the Act of 1990) in relation to the shares or debentures shall, on and from the time of their so resolving, cease to operate if—

(a) the person upon whom the duty to make the notification concerned under that section 53 fell presents evidence (by way of affidavit or such other satisfactory means as the board may specify) to the board that the default concerned was inadvertent, and

(b) the board is satisfied from that evidence that the default was inadvertent,

and, where the board so resolves, such restrictions shall cease to operate accordingly.