

Breaches of certain duties: liability to account and indemnify

232. (1) Subject to section 233, where a director of a company acts in breach of his or her duty under section 228 (1)(a), (c), (d), (e), (f) or (g), he or she shall be liable to do either or both (as the corresponding common law rule or equitable principle with respect to the matter would have required) of the following things, namely—

(a) account to the company for any gain which he or she makes directly or indirectly from the breach of duty;

(b) indemnify the company for any loss or damage resulting from that breach.

(2) Subject to subsection (6), where a company enters into a transaction or arrangement contrary to section 238 or 239 with—

(a) a director of the company,

(b) a director of its holding company, or

(c) a person connected with a director of the company or its holding company,

that director and the person so connected and any other director of the company who authorised the transaction or arrangement (or, as the case may be, any transaction entered into in pursuance of the arrangement) shall be liable—

(i) to account to the company for any gain which he or she makes directly or indirectly from the transaction or arrangement;

(ii) (jointly and severally with any other person liable under this subsection) to indemnify the company for any loss or damage resulting from the transaction or arrangement; or

(iii) to do both of those things as the circumstances may require.

(3) Subject to section 233, where a company makes a payment to a director contrary to section 251 or 252 that director shall be liable—

(a) to account to the company for any gain which he or she makes directly or indirectly from the payment,

(b) to indemnify the company for any loss or damage resulting from the payment, or

(c) to do both of those things as the circumstances may require,

and, in the case of section 252, this is without prejudice to subsection (3) of that section.

(4) Subsection (2) applies irrespective of whether the transaction or arrangement concerned has been avoided.

(5) Subsections (1) to (3) are without prejudice to—

(a) the company's right at common law to claim damages for breach of duty, or

(b) the company's right to make an application seeking the grant of equitable relief,

but the provisions of this section shall not be read as having the combined effect of enabling the company to be afforded more compensation for any damage or injury, or more protection of any proprietary right, than is just and equitable in the circumstances.

(6) Where a transaction or arrangement is entered into by a company and a person connected with a director of the company or of its holding company in contravention of section 238 or 239—

(a) that director shall not be liable under subsection (2) (or under any law referred to in subsection (5)) if he or she shows that he or she took all reasonable steps to secure the company's compliance with section 238 or 239, as the case may be, and

(b) in any case, a person so connected and any such other director as is mentioned in subsection (2) shall not be so liable if he or she shows that, at the time the transaction or arrangement was entered into (or, as the case may be, at the time the particular transaction was entered into in pursuance of the arrangement), he or she did not know the relevant circumstances constituting the contravention.