

PART VII

PROVISIONS APPLICABLE TO LISTED CORPORATIONS

Duty of chief executive and directors of listed corporation to disclose interests in securities

- 317.** (1) Unless exempted by the Commission in writing, a person who is a chief executive or director of a listed corporation who has an interest in the securities of such listed corporation or any of its associated corporation shall notify the listed corporation in writing—
- (a) of the subsistence of his interests at that time; and
 - (b) the extent of his interests in the listed corporation or associated corporation of the listed corporation at that time.
- (2) A chief executive or director of a listed corporation shall notify the listed corporation immediately in writing of the occurrence, while he is a chief executive or director of the listed corporation, of any of the following events:
- (a) any event in consequence of which he becomes, or ceases to be, interested in securities in the listed corporation or any associated corporation of the listed corporation;
 - (b) the entering into by him of a contract to purchase or sell any securities in the listed corporation or any associated corporation of the listed corporation in which he has an interest;
 - (c) the assignment by him to any other person of a right granted to him by the listed corporation to subscribe for securities in the listed corporation;
 - (d) the grant to him by another corporation, being an associated corporation of the listed corporation, of a right to subscribe for securities in that associated corporation, the exercise of such a right granted to him and the assignment by him to any other person of such a right so granted; and
 - (e) any event in consequence of which a corporation becomes an associated corporation of the listed corporation where immediately after the event he has an interest in the securities of the corporation.
- (3) Subsection (2) does not require the notification by a person of the occurrence of an event which comes to his knowledge after he had ceased to be a chief executive or director.
- (4) Where the Commission deems it necessary for the administration of securities laws, the Commission may require the listed corporation to provide the Commission such information that is notified under subsection (1) or (2).

- (5) For the purpose of this section—
- (a) “chief executive” and “director” include a spouse, child or parent of the chief executive or director; and
 - (b) an exemption granted to a chief executive or director under subsection (1) shall not exempt the chief executive or director concerned from having to comply with section 135 of the Companies Act 1965.

Disqualification of chief executive or director of listed corporations

318. (1) A person—

- (a) to whom subsection 130(1) of the Companies Act 1965 applies; and
- (b) who intends to apply for leave of the court to be a director or promoter of a listed corporation, or to be directly or indirectly concerned, or to take part, or engage, in the management of a listed corporation,

shall give to the Commission not less than ten days’ notice of his intention to apply, and the Commission shall be made a party to the proceedings.

(2) On the hearing of any application referred to in subsection (1), the Commission may—

- (a) oppose the granting of an application; or
- (b) apply to the court to disallow the person to be a director or promoter of a listed corporation, or to be directly or indirectly concerned, or to take part, or engage, in the management of the listed corporation, for such longer period exceeding five years as the court thinks appropriate.

(3) Notwithstanding subsection 130(1) of the Companies Act 1965, where it appears to the Commission that by reason of any chief executive or director of a listed corporation—

- (a) having been convicted of an offence under a securities law;
- (b) having had an action taken against him under section 199, 200, 210, 211, 354, 355 or 356 or subsection 201(5) or (6) or section 360; or
- (c) having been compounded for an offence under section 373,

the chief executive or the director is unfit, to be directly or indirectly concerned, or to take part, engage, in the management of the listed corporation, the Commission may apply to the court to remove from office such chief executive or director of the listed corporation or bar such person from becoming a director or chief executive of any public company for such period of time as may be determined by the court.

- (4) The Commission may require a chief executive or director concerned in an application under subsection (3) or the listed corporation in which the chief executive or director holds office—
- (a) to furnish the Commission with such information with respect to the affairs of the listed corporation; and
 - (b) to produce and permit inspection of such books or documents of or relevant to the listed corporation,

as the Commission may require for the purpose of determining whether or not to make an application under subsection (3); and if the chief executive or director concerned contravenes any requirement under this section, the court may, on the application of the Commission, make an order requiring the chief executive or director to comply with the requirement within such time as may be specified by the court.

- (5) Where on an application under subsection (3), the court is satisfied—
- (a) that a chief executive or director of the listed corporation—
 - (i) has been convicted under a securities law;
 - (ii) has had an action taken against him under section 199, 200, 210, 211, 354, 355 or 356 or subsection 201(5) or (6) or section 360; or
 - (iii) has been compounded for an offence under section 373; and
 - (b) that his conduct as chief executive or director of the listed corporation renders him unfit to be directly or indirectly concerned, or to take part, or engage, in the management of the listed corporation,

the court may make an order that the chief executive or director concerned be removed from office with effect from such date as may be set out in the order, notwithstanding anything in any other written law or any limitations contained in the memorandum and articles of association of the listed corporation, and, in particular, notwithstanding any limitation therein as to the minimum or maximum number of directors in that listed corporation.

- (6) A chief executive or director removed from office under subsection (5) shall cease to hold office from the date set out in the order, and shall not thereafter hold any other office in that listed corporation or in any manner, whether directly or indirectly, be concerned with, or take part, or engage, in any activity, affairs or business of or in relation to that listed corporation.

Submission of information

- 319.** (1) A listed corporation shall cause to be submitted to the Commission—
- (a) a copy of its audited annual accounts within two weeks from the date of its annual general meeting; and

- (b) its interim and periodic financial reports immediately after figures are available.
- (2) A listed corporation shall notify the Commission in writing–
 - (a) of any change in the registered or business address of the listed corporation;
 - (b) if the chief executive or any of the directors of the listed corporation ceases to hold office as a chief executive or director; and
 - (c) of the names and particulars of any new chief executive or director of the listed corporation,within two weeks of the occurrence of such a change or event.
- (3) A listed corporation and its directors shall cause to be kept such accounting records and other records as will sufficiently explain the transactions and financial position of the listed corporation and its related corporation and enable true and fair profit and loss accounts and balance sheets and any documents required to be attached thereto to be prepared from time to time, and shall cause those records to be kept in such a manner as to enable them to be conveniently and properly audited.
- (4) A listed corporation shall ensure that the corporation shall retain the records referred to in subsection (1) for seven years after the completion of the transaction or operation to which they respectively relate.
- (5) A person who contravenes this section commits an offence.

Duties of auditor of listed corporations

- 320.** (1) If an auditor, in the course of the performance of his duties as an auditor of a listed corporation, is of the professional opinion that there has been a breach or non-performance of any requirement or provision of the securities laws, a breach of any of the rules of the stock exchange or any matter which may adversely affect to a material extent the financial position of the listed corporation, the auditor shall immediately submit a written report on the matter–
- (a) in the case of a breach or non-performance of any requirement or provision of the securities laws, to the Commission;
 - (b) in the case of a breach or non-performance of any of the rules of a stock exchange, to the relevant stock exchange and the Commission; or
 - (c) in any other case which adversely affects to a material extent the financial position of the listed corporation, to the relevant stock exchange and the Commission.
- (2) No auditor shall be liable to be sued in any court for any report submitted by the auditor in good faith and in the intended performance of any duty imposed on the auditor under this section.

- (3) The Commission may, at any time during or after an audit, require an auditor of a listed corporation to–
- (a) submit such additional information in relation to his audit as the Commission may specify;
 - (b) enlarge or extend the scope of his audit of the business and affairs of the listed corporation in such manner or to such extent as the Commission may specify;
 - (c) carry out any specific examination or establish any procedure in any particular case;
 - (d) submit a report on any matter referred to in paragraphs (a) to (c); or
 - (e) submit an interim report on any matter referred to in paragraphs (a) to (d),
- and the Commission may specify the time within which any of such requirements shall be complied with by the auditor and may specify the remuneration which the listed corporation shall pay to the auditor in respect thereof.
- (4) The auditor shall comply with any requirement of the Commission under subsection (3) and the listed corporation shall remunerate the auditor in respect of the discharge by him of all or any of the additional duties under this section.
- (5) Where the listed corporation has failed to remunerate the auditor as required under subsection (4), the auditor may sue for and recover the remuneration as a debt due to the auditor.
- (6) The listed corporation shall provide such information and access to such information as the auditor shall require in respect of the discharge by him of all or any of the additional duties under this section.

Protection for persons against retaliation for reporting to authorities in specific circumstances

- 321.** (1) Where a chief executive, any officer responsible for preparing or approving financial statements or financial information, an internal auditor or a secretary of a listed corporation by whatever name described, has in the course of the performance of his duties reasonable belief of any matter which may or will constitute a breach or non-performance of any requirement or provision of the securities laws or a breach of any of the rules of a stock exchange or any matter which may adversely affect to a material extent the financial position of the listed corporation and any of the aforementioned persons submits a report on the matter–
- (a) in the case of a breach or non-performance of any requirement or provision of the securities laws, to the Commission;
 - (b) in the case of a breach or non-performance of any of the rules of a stock exchange, to the relevant stock exchange or the Commission; or

- (c) in any other case which adversely affects to a material extent the financial position of the listed corporation, to the relevant stock exchange or the Commission,

the listed corporation shall not remove, discriminate, demote, suspend or interfere with the lawful employment or livelihood of, the chief executive, any officer responsible for preparing or approving financial statements or financial information, internal auditor or secretary, of the listed corporation because of the report submitted by any of such persons.

- (2) No chief executive, officer responsible for preparing or approving financial statements or financial information, internal auditor or a secretary of a listed corporation shall be liable to be sued in any court for any report submitted by such person in good faith and in the intended performance of his duties.
- (3) For the purposes of this section, "secretary" means a person who is referred to in section 139 of the Companies Act 1965.