



The Association of Investment Companies

Directors' duties – useful links

Part 2 of AIC Members' Guide to
implementing the Companies Act 2006

January 2008

To discuss the issues raised in this paper please contact:

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Important information

This document is intended to provide general guidance only and is not exhaustive. It has been prepared for the sole use of the AIC's Members. AIC Members in any doubt over their legal duties and responsibilities should take professional advice before relying on anything contained in this document. This document cannot in any way override the requirements of current legislation.

The AIC accepts no responsibility for any errors or omissions in this document or for any loss occasioned to any person or organisation acting or refraining from action as a result of any material contained in this document. This document is based on our current understanding of law and practice. This can change over time and information contained within this document is based on our understanding as at time of print.

Introduction

The Companies Act 2006 contains a new statement of seven duties owed by directors to the company. This is the first time that these duties are covered by statute. Up until this point, the duties only existed in common law with developments over the years through case law. The seven duties within the Companies Act 2006 are largely a consolidation of current law but also include a new duty to promote the success of the company. There are also some changes with regard to dealing with conflicts of interest.

The seven duties are:

- Effective from 1 October 2007:
 - Duty to act within powers (section 171)
 - Duty to promote the success of the company (section 172)
 - Duty to exercise independent judgment (section 173)
 - Duty to exercise reasonable care, skill and diligence (section 174)
- Effective 1 October 2008:
 - Duty to avoid conflicts of interest (section 175)
 - Duty not to accept benefits from third parties (section 176)
 - Duty to declare an interest in a proposed transaction or arrangement (section 177)

In September 2007, the AIC published a timetable and AIC plan of support as part of its wider project to assist Members to prepare for the implementation of the Companies Act 2006¹. In this paper, the AIC stated that it would circulate a note to Members containing useful links to articles and guidance written by other organisations on the issue of directors' legal duties. This paper seeks to achieve that objective.

If you have any comments or questions on the content of this paper, or if you are aware of other useful links which could be added, please contact Alison Andrews at alison.andrews@theaic.co.uk. The AIC intends to update this paper as it becomes aware of new material which may be useful.

¹ This is available on our website at <http://www.theaic.co.uk/files/technical/AICGuidetoCompaniesAct2006.pdf>

General links relating to the Companies Act 2006

Full text of the Companies Act 2006

www.opsi.gov.uk/acts/acts2006/pdf/ukpga_20060046_en.pdf

Explanatory notes to the Companies Act 2006

www.opsi.gov.uk/acts/en2006/ukpgaen_20060046_en.pdf

Ministerial statements on directors' duties

www.berr.gov.uk/files/file40139.pdf

A selection of articles and publications from major law firms

Ashurst LLP

www.ashurst.com/doc.aspx?id_Content=2662

CMS Cameron McKenna LLP

www.law-now.com/law-now/sys/getpdf.htm?pdf=directorsdutiesoct2007.pdf

Eversheds LLP

Slides from a seminar in September 2007 entitled 'A year in the life of an investment trust'
www.theaic.co.uk/files/AYearInTheLifeofanInvestmentTrustSep07.pdf

Freshfields Bruckhaus Deringer

www.freshfields.com/publications/pdfs/2007/oct17/20166.pdf

Herbert Smith LLP

www.herbertsmith.com/NR/rdonlyres/B65D78B4-23E8-463E-8D51-9E893A0705E7/3831/IntheLineofFire.pdf

Lovells LLP

www.lovells.com/NR/rdonlyres/5F627F49-6413-46B4-9826-97DCDC6117F1/0/5366_C3_CompaniesAct_BRO.pdf

Norton Rose LLP

www.nortonrose.com/knowledge/publications/2007/pub5860.aspx?lang=en-gb

SJ Berwin LLP

www.sjberwin.com/gfx/pdfs/CA_duties2007.pdf
www.sjberwin.com/gfx/pdfs/CA_directors_duties.pdf

Simmons and Simmons (users need to register to access this information)

<http://elexica.com/microsites/extras/CLR/CLR1b.aspx>

Other useful links

Institute of Chartered Secretaries and Administrators (users need to register to access this information)

www.zoomerang.com/Survey/survey-intro.zgi?p=WEB227BLF2A2BG

The Association of Chartered Certified Accountants

www.accaglobal.com/pubs/publicinterest/activities/library/company_law/tech-tp-cdd.pdf



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