

# Company director's duties

[Business](#), [Company](#)



A company director is a person that has been appointed by shareholders or other directors to act in accordance with the Companies Articles of Association. The position of director is extremely sensitive. This is because one ought be fully aware of all their obligations, responsibilities and duties. In view of this, the UK government passed the Companies Act of 2006 to set out duties of the company director. (Butterworths Company, 2008) Company director's duties at Common law The Company director's duties were laid in previous legislations.

However, in the year 2006, the UK parliament decided to codify these duties and also at the same time establish some new aspects to these obligations. According to common law, the company director was expected to accommodate employee interests. This was largely because it could heighten success within any respective company when implemented. Most of the companies that adhered to this principle would eliminate or reduce cases of litigation. (Kluwer, 2006) How it was codified Codification of company directors' duties occurred as a result of the company reform Bill that was proposed in November 2005.

The purpose of the Bill was to modernise company law. This is because in the past, the duties of the company director were mainly laid out in case law. This left a lot of room for speculation as some of these duties were not well explained. These included issues about auditor's liability, accountability, transparency and rules governing private companies. The Bill was then passed into law as the Company Act 2006. It should be noted that this new law is not simply a new creation, instead it has merged previous case law with statutory provisions.

In summary, the codification of company director's duties creates a venue for making company directors exercise diligence, care, skill and independent judgement. The company director should look out for the interests of consumers, employees, and the environment in general. It should be noted that such an approach was not prevalent in the previous case laws. Now company directors need to watch out for the emission of pollutant gases and increased waste emission to the environment. (Thiaray, 2006) Codification of director's duties was also created for the purpose of clearly outlining the rules governing this role.

This is because company directors can now have an understanding of their boundaries in simple language. This is especially so owing to the fact that the codification forbids benefiting out of company profitability. This means that company directors should operate within a given moral code. This also ascertains that most of the company shareholders are also able to understand the code. Consequently, company directors who choose to break it may find themselves in larger levels of problems than those who do not do the same.

The following are the duties as laid out in the new statute; • the duty to consider all relevant issues when acting on behalf of the company • the duty to abide by company decisions and laws • the duty to treat company property as a separate entity from the company director's or shareholders' • the duty to record decisions made by the company director • the duty to apply special skills and improve one's knowledge about one's company • the duty to take up responsibility for assigning work to organisational members

the duty to avoid potential conflicting scenarios between the director and the company. When this is inevitable, the company director must inform others of these conflicts immediately • the duty to seek counsel from other individuals outside the company- the latter is specifically applicable to financially challenging situations (Hannigan & Prentice, 2007) According to the Minister for industry and the Regions, this codification represents a shift from common law in one major way; it presents a unification of obligations to the shareholder and to the public.

In the past, shareholder's interests were considered contradictory to company director's duties because it was assumed when the company director was trying to protect the interests of shareholders, he would have to forego environmentalists rights and the interests of the general public. However, with introduction of the new law, now the two interests can be merged to work as one. The minister also asserted that the statute reflected a new method of doing business because it employed business sense.

Overly, this new Act is trying to highlight how companies can incorporate social responsibilities into their way of business. The law had made provisions for suing company directors. However, owing to the fact the very few shareholders often conduct litigations against their bosses, then chances are that shareholders will not choose that option. The statute states that company directors are answerable to the company in case they breach their duties. However, it should be noted that a substantial amount of shareholders rarely conduct litigations against their company director. (Reece & Ryan, 2007) The law has also assisted in the process of clarifying how the

company director should act in case of a difficult decision making process. According to the statement of duties, the company director is supposed to consider the interests of the company rather than his own interests. It should be noted that there is a distinct difference between company dependants and company shareholders. Besides that, the Act also lays out some specific issues that need to be incorporated in the decisions making process.

There are numerous players that can be affected by the company director's choice. Consequently, company directors who follow the latter provisions are likely to heighten their chances of success than those who do not. It should be noted that success in this case is measured by a company's achievement of its long term objectives. The latter are usually laid out at the inception of the company or are revised by shareholders as they continue with their operations. Additionally, the statute talks about company directors ensuring that their words are often documented.

It should be noted here that this requirement is not forced upon the company director; instead it merely prompts him. Precedent case The particular duty chosen for study in this case is the duty to consider all the relevant issues when acting on behalf of the company. . The case chosen for analysis is BAE vs. the state 2006. The latter company BAE was a supplier of war planes. In this particular case, it had been contracted by Saudi Arabia to supply those commodities to them. However, the BAE company was found to have involved itself in corruption.

The company director who acted on behalf of the firm did not consider all the issues surrounding the reception of bribes. In order to secure the contract to

supply Saudi Arabia with warplanes, the latter utilised bribery to secure the contract. This has the capability of affecting the whole of the United Kingdom. Saudi Arabia was providing assistance to Britain in its effort towards fighting terrorism. However, upon hearing the news of BAE company's decision, Saudi Arabia was angered and therefore discontinued their provision of aid to Britain. (Lorie, 2006)

It should be noted that the Attorney general decided to cancel the inquiries placed upon the representatives of that company especially the company director. This decision to halt inquiries was done secretly and it made it appear as though companies did not adhere to the duties of the company director. Many people asserted that the case brought into question a conflict between the rule of law and public interest. It should be noted that the latter two have been merged in the codification of company director's duties. But before that codification, the latter two seemed very conflicting.

This is exactly what took place here. There were differing opinions about whether the company's directors' breach of duty can be questioned before the law. However, the case brought out the fact that it can be difficult to implement this law especially when the case involves a large company. The situation was further aggravated by the fact that the nature of the business conducted by the company was rather sensitive, some of the analysts of the case claimed that the issue of arms supplies kind of grants immunity to the respective parties and makes it extremely easy for company directors to get away with wrong doings.

However, other experts asserted that the company has lost public confidence owing to the fact that the case was not tried properly. The Attorney general who holds three dockets; government chief officer, politician and legal advisor, may have overstepped his boundaries by letting this company go without giving it the right to defend its name in the public. It should be noted that consumers will have serious doubts about the integrity of the company and whether they can approach it for business in the future. (Lorie, 2006)

The codification of code company director's duties also indicated the fact that a company director ought to consider all parties involved in a decisions; this refers to the shareholders and the public alike. However, before the code, the major emphasis was on shareholder's interests alone. Consequently, the effect was that case law was a mere regulator rather than an implementer of the company directors duties. This means that when one commits a business crime as a company director, then they are not susceptible to face the full force of the law.

In fact, the codification has assisted in laying out clear violations as some people may have problems ironing out what affects them and what does not. Overly, the latter case was never tried. Consequently, it is difficult to determine whether the respective director would have been made accountable for his crimes or whether he would have been set free. What one can conclude about this particular case is the fact that company directors tend to act with immunity. The UK government has a serious challenge of instituting the rule of law with regard to wealthy individuals like

the one under trial. Buckley, 2005) Conclusion The codification of company director's duties was done in order to iron out some grey areas in this aspect. Additionally, it was done to ascertain that company directors act within the confines of economic and social responsibility. Company directors can no longer feign ignorance as a result of the complexities of such an approach. Also, they are likely to be easily detected in case they act poorly. Despite the latter positives, the UK government is still faced with a number of challenges in this sector.

Some of the negatives that can emanate from the latter law are related to fear of looking for alternative solutions to problems plaguing a company. It is also possible that some people may be discouraged from vying for the post of company director due to these numerous rules. On top of that, the new laws do not match laws on punishing non compliance. The latter are still the same old methods that ere used in the past. This means that implementation of the company Act 2006 may be very difficult.