

Contents

Preface v

Table of Cases xvii

Table of Statutes xxvii

Table of Statutory Instruments xxxvii

Table of European and International Legislation xlv

1: The nature of office of director 1

Definition 3

Requirement for directors 3

Types of director 4

Eligibility 14

Appointment of directors 15

Composition of the Board 16

Succession Planning 18

Induction and training 20

2: Directors, the Board and the company secretary 23

The role of the Board and power to act 25

Board effectiveness and decision-making 27

Appointment and role of the chairman 29

Matters reserved for the Board 31

Board meetings 32

Committees of directors 37

The Board and the company secretary 39

Board evaluation 40

Disagreements amongst directors 43

3. Directors' rights 45

Appointment and resignation of officers 48

Meetings of directors 49

Calls on partly paid shares 50

Transfer of shares 51

Allotment of shares 51

Meetings of shareholders 52

Rights in relation to contracts 52

Payment of dividends 53

Contract of service and remuneration – executive directors 54

Letter of appointment – non-executive directors 55

Compensation 56

Indemnity 57

Access to information and accounting records 59

Pensions to former directors 59
Service address 59

4. Statutory statement of directors' general duties 61

To whom duty is owed 63
General duties 64
Common law origins 72

5. Breach of duty by a director 81

Dismissal of the director 83
Breach of general duties 84
Breach of statutory duties 87
Personal liability 88
Disqualification 92
Voluntary disqualification undertaking 101
Ratification of breaches of duty 103

6. Statutory duties of directors 105

Appointment and removal of company officers 110
Maintenance, inspection and disclosure of information in statutory books 122
Documents, forms and returns for submission to Companies House 131
Retention and disposal of records 136
Display of company name and other details 139
Directors' interests in transactions and arrangements 143
Directors' interests in shares and debentures 146
Substantial property transactions 149
Loans to directors 151
Service contracts 154
Takeovers and mergers 162
Directors' and officers' indemnity insurance 170
Disclosure of information during an investigation 170

7. Accounting and financial responsibilities of directors 175

Accounting duties of directors 179
Other financial responsibilities 210

8. Directors' duties and the members 235

Ownership of shares 239
Meetings of members 251
Minority interest 271
Derivative action 273
Communication with members 275

9. Directors' duties in public and listed companies 279

Public issues 281
Unlisted offers 282
Listed offers 284
Listed companies and continuing obligations 287

Prohibition on dealing in share options	308
Insider dealing	308
Market abuse	310

10. Directors and corporate governance 313

Corporate governance recommendations and reviews	316
Key corporate governance components	331
Directors' remuneration	347
Communication and relations with shareholders	350
The Stewardship Code	350
EU Corporate Governance Regime	353

11. Directors' duties and employment issues 355

Requirements of CA 2006	358
Contracts of employment	359
Handbook and Policies	362
Dismissal	363
Equal opportunities and discrimination	369
Transfer of undertakings and employment rights	375
Other statutory rights	378
Health and safety requirements	384
Employers' liability insurance	410
Employers' practices liability insurance	411
Employment of immigrant workers	412
Employment of children and young persons	413
Employees and pensions	415
Employment records and data protection	418

12. Directors' duties and the environment 427

The Environment Act 1995	432
The Environment Protection Act 1990	433
Environmental permit	435
Prevention and remediation of environmental damage	436
Environmental reporting	438
Environmental policy statements	439
Environmental management systems	440
Control of major accidents	441
Packaging	444
Carbon Reduction Commitment ('CRC')	446
Insurance	448

13. Duties and the customer 449

HSWA requirements	451
Product safety	451
Contract terms	452
Trade descriptions	453
Commercial practice	454
Competition and consumer protection	458
Marketing	473

Advertising 476
Disability discrimination 478
Data protection 479
Consumer credit 484

14. Directors, creditors and insolvency 489

Duties to creditors generally 492
Duties in relation to the struggling company 493
Duties on appointment of a liquidator 501
Duties and winding-up 504
Penalties and breach of duty 506
Personal liability of directors 508

Appendix 1 Checklist of matters to include in a director's service contract 509

Appendix 2 Extract from ICSA guidance: a sample non-executive director's appointment letter (Guidance Note 111214) 511

Appendix 3 Schedule 1: matters for determining unfitness of directors 521

Appendix 4 Statutory registers 524

Appendix 5 Inspection of company records 530

Appendix 6 Companies Act 2006: statutory forms and filing periods 533

Appendix 7 Schedule of recommended retention periods 548

Appendix 8 Retention and disposal of records 558

Appendix 9 General notice by director of interest in any contract of the company 559

Appendix 10 Minute recording a director's disclosure of interest 560

Appendix 11 Extract from Regulation 5 of the Consumer Protection from Unfair Trading Regulations 2008 561

Appendix 12 Directors' responsibilities: statement for a non-publicly traded company preparing financial statements under UK GAAP 563

Appendix 13 Summary of Companies' Accounts Filing Obligations 565

Appendix 14 Qualification as a small or medium-sized group or company for financial years commencing on or after 6 April 2008 567

Appendix 15 Extract from the Consumer Protection from Unfair Trading Regulations 2008 568

Appendix 16 Wording of special resolution amending the Articles of Association of a private company to provide power to purchase own shares 572

Appendix 17 Notice of redemption of shares	573
Appendix 18 Summary of procedural requirements where resolutions of private companies are passed by written resolution	574
Appendix 19 Special notice to company of resolution to remove a director	575
Appendix 20 Draft format for a written resolution	576
Appendix 21 Wording of a directors' responsibility statement	578
Appendix 22 FSA Handbook, LR 9 Annex 1, The Model Code (R)	579
Appendix 23 Extract from ICSA Guidance on Terms of Reference – Remuneration Committee (Guidance Note 101019)	589
Appendix 24 Extract from ICSA Guidance on Terms of Reference – Audit Committee (Guidance Note 101017)	594
Appendix 25 Basic contents of the written statement of employment	602
Appendix 26 Sample disciplinary and grievance policy (a modified extract from The ACAS Guide: Discipline and Grievances at Work)	604
Appendix 27 Example of a Whistleblowing Policy	610
Appendix 28 HSE's Health and Safety Leadership Checklist	613
Appendix 29 Punishment of offences under IA 1986	614
Appendix 30 Schedule A1 to IA 1986 – Punishment of offences whilst a voluntary arrangement is in force	616
Appendix 31 Extract from ICSA Guidance on Terms of Reference – Nomination Committee (Guidance Note 101020)	619
Appendix 32 ICSA Guidance on Induction of Directors (Guidance Note 120606)	624
Appendix 33 Extract from ICSA Guidance on Matters Reserved for the Board	633
Glossary	637
Index	645