

Companies Act, 1990

[GA]

CHAPTER 2 *Individual and Group Acquisitions*

[GA] Obligation of disclosure and the cases in which it may arise.

67.—(1) Where a person either—

[GA]

(a) to his knowledge acquires an interest in shares comprised in a public limited company's relevant share capital, or ceases to be interested in shares so comprised (whether or not retaining an interest in other shares so comprised), or

[GA]

(b) becomes aware that he has acquired an interest in shares so comprised or that he has ceased to be interested in shares so comprised in which he was previously interested,

[GA]

then, subject to the provisions of *sections 68 to 79*, he shall be under an obligation ("the obligation of disclosure") to make notification to the company of the interests which he has, or had, in its shares.

[GA]

(2) In relation to a public limited company, "relevant share capital" means the company's issued share capital of a class carrying rights to vote in all circumstances at general meetings of the company and it is hereby declared for the avoidance of doubt that—

[GA]

(a) where a company's relevant share capital is divided into different classes of shares, references in this Chapter to a percentage of the nominal value of its relevant share capital are to a percentage of the nominal value of the issued shares comprised in each of the classes taken separately, and

[GA]

(b) the temporary suspension of voting rights in respect of shares comprised in issued share capital of a company of any such class does not affect the application of this Chapter in relation

to interests in those or any other shares
comprised in that class.

[GA]

(3) Where, otherwise than in circumstances within *subsection (1)*, a person—

[GA]

(*a*) is aware at the time when it occurs of any change of circumstances affecting facts relevant to the application of the next following section to an existing interest of his in shares comprised in a company's share capital of any description, or

[GA]

(*b*) otherwise becomes aware of any such facts (whether or not arising from any such change of circumstances),

[GA]

then, subject to the provisions of *sections 68 to 79*, he shall be under the obligation of disclosure.

[GA]

(4) The acquisition by any person of an interest in shares or debentures of a company registered in the State shall be deemed to be a consent by that person to the disclosure by him, his agents or intermediaries of any information required to be disclosed in relation to shares or debentures by the Companies Acts.

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- [\[GA\]](#) Interests to be disclosed. **68.**—(1) For the purposes of the obligation of disclosure, the interests to be taken into account are those in relevant share capital of the company concerned.
- [\[GA\]](#) (2) A person has a notifiable interest at any time when he is interested in shares comprised in that share capital of an aggregate nominal value equal to or more than the percentage of the nominal value of that share capital which is for the time being the notifiable percentage.
- [\[GA\]](#) (3) All facts relevant to determining whether a person has a notifiable interest at any time (or the percentage level of his interest) are taken to be what he knows the facts to be at that time.
- [\[GA\]](#) (4) The obligation of disclosure arises under *section 67 (1) or (3)* where the person has a notifiable interest immediately after the relevant time, but did not have such an interest immediately before that time.
- [\[GA\]](#) (5) The obligation also arises under *section 67 (1)* where—
- [\[GA\]](#) (a) the person had a notifiable interest immediately before the relevant time, but does not have such an interest immediately after it, or
- [\[GA\]](#) (b) he had a notifiable interest immediately before that time, and has such an interest immediately after it, but the percentage levels of his interest immediately before and immediately after that time are not the same.
- [\[GA\]](#) (6) For the purposes of this section, "the relevant time" means—
- [\[GA\]](#) (a) in a case within *section 67 (1) (a) or (3) (a)*, the time of the event or change of circumstances there mentioned, and
- [\[GA\]](#) (b) in a case within *section 67 (1) (b) or (3) (b)*, the time at which the person became aware of the facts in question.

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[\[GA\]](#) "Percentage level" in relation to notifiable interests.

69.—(1) Subject to the qualification mentioned below, "percentage in relation to level", in *section 68 (5) (b)*, means the percentage figure found by expressing the aggregate nominal value of all the shares comprised in the share capital concerned in which the person is interested immediately before or (as the case may be) immediately after the relevant time as a percentage of the nominal value of that share capital and rounding that figure down, if it is not a whole number, to the next whole number.

[\[GA\]](#)

(2) Where the nominal value of the share capital is greater immediately after the relevant time than it was immediately before, the percentage level of the person's interest immediately before (as well as immediately after) that time is determined by reference to the larger amount.

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[\[GA\]](#) The notifiable percentage. **70.**—(1) The reference in *section 68 (2)* to the notifiable percentage. is to 5 per cent, or such other percentage as may be prescribed by the Minister under this section.

[\[GA\]](#) (2) The Minister may prescribe the percentage to apply in determining whether a person's interest in a company's shares is notifiable under *section 67*; and different percentages may be prescribed in relation to companies of different classes or descriptions.

[\[GA\]](#) (3) Where in consequence of a reduction prescribed under this section in the percentage made by such order a person's interest in a company's shares becomes notifiable, he shall then come under the obligation of disclosure in respect of it; and the obligation must be performed within the period of 10 days next following the day on which it arises.

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- [\[GA\]](#) Particulars to be contained in notification.
- 71.—**(1) Subject to *section 70 (3)* a person's obligation to make a notification under *section 67* must be performed within the period of 5 days next following the day on which the obligation arises; and the notification must be in writing to the company.
- [\[GA\]](#) (2) The notification must specify the share capital to which it relates, and must also—
- [\[GA\]](#) (a) state the number of shares comprised in that share capital in which the person making the notification knows he was interested immediately after the time when the obligation arose, or
- [\[GA\]](#) (b) in a case where the person no longer has a notifiable interest in shares comprised in that share capital, state that he no longer has that interest.
- [\[GA\]](#) (3) A notification with respect to a person's interest in a company's relevant share capital (other than one stating that he no longer has a notifiable interest in shares comprised in that share capital) shall include particulars of—
- [\[GA\]](#) (a) the identity of each registered holder of shares to which the notification relates, and
- [\[GA\]](#) (b) the number of those shares held by each such registered holder,
- [\[GA\]](#) so far as known to the person making the notification at the date when the notification is made.
- [\[GA\]](#) (4) A person who has an interest in shares comprised in a company's relevant share capital, that interest being notifiable, is under obligation to notify the company in writing—
- [\[GA\]](#) (a) of any particulars in relation to those shares which are specified in *subsection (3)*, and
- [\[GA\]](#) (b) of any change in those particulars,
- [\[GA\]](#) of which in either case he becomes aware at any time after any interest notification date and before the first occasion following that date on which he comes under any further

obligation of disclosure with respect to his interest in shares comprised in that share capital.

[\[GA\]](#)

An obligation arising under this section must be performed within the period of 5 days next following the day on which it arises.

[\[GA\]](#)

(5) The reference in *subsection (4)* to an interest notification date, in relation to a person's interest in shares comprised in a public limited company's relevant share capital, is to either of the following—

[\[GA\]](#)

(a) the date of any notification made by him with respect to his interest under this Part, and

[\[GA\]](#)

(b) where he has failed to make a notification, the date on which the period allowed for making it came to an end.

[\[GA\]](#)

(6) A person who at any time has an interest in shares which is notifiable is to be regarded under *subsection (4)* as continuing to have a notifiable interest in them unless and until he comes under obligation to make a notification stating that he no longer has such an interest in those shares.

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[\[GA\]](#) Notification of family and corporate interests.

72.—(1) For the purposes of *sections 67 to 7171* a person is taken to be interested in any shares in which his spouse or any minor child of his is interested.

[\[GA\]](#)

(2) For those purposes, a person is taken to be interested in shares if a body corporate is interested in them and—

[\[GA\]](#)

(*a*) that body or its directors are accustomed to act in accordance with his directions or instructions, or

[\[GA\]](#)

(*b*) he is entitled to exercise or control the exercise of one-third or more of the voting power at general meetings of that body corporate.

[\[GA\]](#)

(3) Where a person is entitled to exercise or control the exercise of one-third or more of the voting power at general meetings of a body corporate and that body corporate is entitled to exercise or control the exercise of any of the voting power at general meetings of another body corporate ("the effective voting power") then, for the purposes of *subsection (2) (b)*, the effective voting power is taken as exercisable by that person.

[\[GA\]](#)

(4) For the purposes of *subsections (2) and (3)* a person is entitled to exercise or control the exercise of voting power if—

[\[GA\]](#)

(*a*) he has a right (whether subject to conditions or not) the exercise of which would make him so entitled, or

[\[GA\]](#)

(*b*) he is under an obligation (whether or not so subject) the fulfilment of which would make him so entitled.

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[GA] Agreement to acquire interests in a public limited company.

73.—(1) Subject to the following provisions of this *section* an agreement between two or more persons which includes provision for the acquisition by any one or more of the parties to the agreement of interests in shares comprised in relevant share capital of a particular public limited company ("the target company") is an agreement to which this section applies if—

[GA]

(*a*) it also includes provisions imposing obligations or restrictions on any one or more of the parties to the agreement with respect to their use, retention or disposal of interests in that company's shares acquired in pursuance of the agreement (whether or not together with any other interests of theirs in that company's shares to which the agreement relates); and

[GA]

(*b*) any interest in the company's shares is in fact acquired by any of the parties in pursuance of the agreement;

[GA]

and in relation to such an agreement references in this section, and in *sections 74* and *75*, to the target company are to the company which is the target company for that agreement in accordance with this section.

[GA]

(2) The reference in *subsection (1) (a)* to the use of interests in shares in the target company is to the exercise of any rights or of any control or influence arising from those interests (including the right to enter into any agreement for the exercise, or for control of the exercise, of any of those rights by another person).

[GA]

(3) Once any interest in shares in the target company has been acquired in pursuance of such an agreement as is mentioned above, this section continues to apply to that agreement irrespective of—

[GA]

(*a*) whether or not any further acquisitions of interests in the company's shares take place in pursuance of the agreement, and

[GA]

(*b*) any change in the persons who are for the time being parties to it, and

[\[GA\]](#)

(c) any variation of the agreement, so long as the agreement continues to include provisions of any description mentioned in *subsection (1) (a)*.

[\[GA\]](#)

References in this *subsection* to the agreement include any agreement having effect (whether directly or indirectly) in substitution for the original agreement.

[\[GA\]](#)

(4) In this section, and also in references elsewhere in this Part to an agreement to which this *section* applies, "agreement" includes any agreement or arrangement; and references in this *section* to provisions of an agreement—

[\[GA\]](#)

(a) accordingly include undertakings, expectations or under standings operative under any arrangement, and

[\[GA\]](#)

(b) (without prejudice to the above) also include any provisions, whether express or implied and whether absolute or not.

[\[GA\]](#)

(5) This section does not apply to an agreement which is not legally binding unless it involves mutuality in the undertakings, expectations or understandings of the parties to it; nor does the *section* apply to an agreement to underwrite or sub-underwrite any offer of shares in a company, provided the agreement is confined to that purpose and any matters incidental to it.

- [GA] Obligations of disclosure arising under *section 73*.
- 74.**—(1) In the case of an agreement to which *section 73* applies, each party to the agreement shall be taken (for purposes of the obligation of disclosure) to be interested in all shares in the target company in which any other party to it is interested apart from the agreement (whether or not the interest of the other party in question was acquired, or includes any interest which was acquired, in pursuance of the agreement).
- [GA] (2) For those purposes, and also for those of *section 75*, an interest of a party to such an agreement in shares in the target company is an interest apart from the agreement if he is interested in those shares otherwise than by virtue of the application of *section 73* and this *section* in relation to the agreement.
- [GA] (3) Accordingly, any such interest of the person (apart from the agreement) includes for those purposes any interest treated as his under *section 72* or by the application of *section 73* and this *section* in relation to any other agreement with respect to shares in the target company to which he is a party.
- [GA] (4) A notification with respect to his interest in shares in the target company made to that company under this Part by a person who is for the time being a party to an agreement to which *section 73* applies shall—
- [GA] (a) state that the person making the notification is a party to such an agreement,
- [GA] (b) include the names and (so far as known to him) the addresses of the other parties to the agreement, identifying them as such, and
- [GA] (c) state whether or not any of the shares to which the notification relates are shares in which he is interested by virtue of *section 73* and this *section* and, if so, the number of those shares.
- [GA] (5) Where a person makes a notification to a company under this Part in consequence of ceasing to be interested in any shares of that company by virtue of the fact that he or any other person has ceased to be a party to an agreement to which *section 73* applies, the notification shall include a statement that he or that other person has ceased to be a party to the

agreement (as the case may require) and also (in the latter case) the name and (if known to him) the address of that other.

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[GA] Obligation of persons acting together to keep each other informed.

75.—(1) A person who is a party to an agreement to which *section 73* applies shall be subject to the requirements of this *section* at any each other time when—

[GA]

(a) the target company is a public limited company, and he knows it to be so, and

[GA]

(b) the shares in that company to which the agreement relates consist of or include shares comprised in relevant share capital of the company, and he knows that to be the case, and

[GA]

(c) he knows the facts which make the agreement one to which *section 73* applies.

[GA]

(2) Such a person shall be under obligation to notify every other party to the agreement, in writing, of the relevant particulars of his interest (if any) apart from the agreement in shares comprised in relevant share capital of the target company—

[GA]

(a) on his first becoming subject to the requirements of this section, and

[GA]

(b) on each occurrence after that time while he is still subject to those requirements of any event or circumstances within *section 67 (1)* (as it applies to his case otherwise than by reference to interests treated as his under *section 74* as applying to that agreement).

[GA]

(3) The relevant particulars to be notified under *subsection (2)* are—

[GA]

(a) the number of shares (if any) comprised in the target company's relevant share capital in which the person giving the notice would be required to state his interest if he were under the obligation of disclosure with respect to that interest (apart from the agreement) immediately after the time when the obligation to give notice under *subsection (2)* arose, and

[GA]

(b) the relevant particulars with respect to the registered ownership of those shares, so far as known to him at the date of the notice.

[GA]

(4) A person who is for the time being subject to the requirements of this section shall be under obligation to notify every other party to the agreement, in writing—

[GA]

(a) of any relevant particulars with respect to the registered ownership of any shares comprised in relevant share capital of the target company in which he is interested apart from the agreement, and

[GA]

(b) of any change in those particulars, of which in either case he becomes aware at any time after any interest notification date and before the first occasion following that date on which he becomes subject to any further obligation to give notice under *subsection (2)* with respect to his interest in shares comprised in that share capital.

[GA]

(5) The reference in *subsection (4)* to an interest notification date, in relation to a person's interest in shares comprised in the target company's relevant share capital, is to either of the following—

[GA]

(a) the date of any notice given by him with respect to his interest under *subsection (2)*, and

[GA]

(b) where he has failed to give that notice, the date on which the period allowed by this *section* for giving the notice came to an end.

[GA]

(6) A person who is a party to an agreement to which *section 73* applies shall be under an obligation to notify each other party to the agreement, in writing, of his current address—

[GA]

(a) on his first becoming subject to the requirements of this section, and

[GA]

(b) on any change in his address occurring after that time and while he is still subject to those requirements.

[\[GA\]](#)

(7) A reference to the relevant particulars with respect to the registered ownership of shares is to such particulars in relation to those shares as are mentioned in *section 71 (3) (a)* or *(b)*.

[\[GA\]](#)

(8) A person's obligation to give any notice required by this *section* to any other person must be performed within the period of 5 days next following the day on which that obligation arose.

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- [\[GA\]](#) Interest in shares by attribution.
- 76.**—(1) Where *section 67* or *68* refers to a person acquiring an interest in shares or ceasing to be interested in shares, that reference in certain cases includes his becoming or ceasing to be interested in those shares by virtue of another person's interest.
- [\[GA\]](#) (2) This *section* applies where he becomes or ceases to be interested by virtue of *section 72* or (as the case may be) *section 74* whether—
- [\[GA\]](#) (a) by virtue of the fact that the person who is interested in the shares becomes or ceases to be a person whose interests (if any) fall by virtue of either *section* to be treated as his, or
- [\[GA\]](#) (b) in consequence of the fact that such a person has become or ceased to be interested in the shares, or
- [\[GA\]](#) (c) in consequence of the fact that he himself becomes or ceases to be a party to an agreement to which *section 73* applies to which the person interested in the shares is for the time being a party, or
- [\[GA\]](#) (d) in consequence of the fact that an agreement to which both he and that person are parties becomes or ceases to be one to which the said *section 73* applies.
- [\[GA\]](#) (3) The person shall be treated under *section 67* as knowing he has acquired an interest in the shares or (as the case may be) that he has ceased to be interested in them, if and when he knows both—
- [\[GA\]](#) (a) the relevant facts with respect to the other person's interest in the shares, and
- [\[GA\]](#) (b) the relevant facts by virtue of which he himself has become or ceased to be interested in them in accordance with *section 72* or *74*.
- [\[GA\]](#) (4) He shall be deemed to know the relevant facts referred to in *subsection (3) (a)* if he knows (whether contemporaneously or not) either of the subsistence of the other person's interest at any material time or of the fact that the other has become or ceased to be interested in the shares at any such time; and "material time" is

any time at which the other's interests (if any) fall or fell to be treated as his under *section 72* or *74*.

[\[GA\]](#)

(5) A person is to be regarded as knowing of the subsistence of another's interest in shares or (as the case may be) that another has become or ceased to be interested in shares if he has been notified under *section 75* of facts with respect to the other's interest which indicate that he is or has become or ceased to be interested in the shares (whether on his own account or by virtue of a third party's interest in them).

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[\[GA\]](#) Interests in shares which are to be notified. **77.**—(1) This section applies, subject to *section 78*, in determining for purposes of *sections 67 to 71* whether a person has a notifiable interest in shares.

[\[GA\]](#) (2) A reference to an interest in shares is to be read as including an interest of any kind whatsoever in the shares. Accordingly there are to be disregarded any restraints or restrictions to which the exercise of any right attached to the interest is or may be subject.

[\[GA\]](#) (3) Where property is held on trust and an interest in shares is comprised in the property, a beneficiary of the trust who apart from this subsection does not have an interest in the shares is to be taken as having such an interest; but this subsection is without prejudice to the following provisions of this section.

[\[GA\]](#) (4) A person is taken to have an interest in shares if—

[\[GA\]](#) (a) he enters into a contract for their purchase by him (whether for cash or other consideration), or

[\[GA\]](#) (b) not being the registered holder, he is entitled to exercise any right conferred by the holding of the shares or is entitled to control the exercise of any such right.

[\[GA\]](#) (5) For the purposes of *subsection (4) (b)*, a person is entitled to exercise or control the exercise of any right conferred by the holding of shares if he—

[\[GA\]](#) (a) has a right (whether subject to conditions or not) the exercise of which would make him so entitled, or

[\[GA\]](#) (b) is under an obligation (whether so subject or not) the fulfilment of which would make him so entitled.

[\[GA\]](#) (6) A person is taken to have an interest in shares if, otherwise than by virtue of having an interest under a trust—

[\[GA\]](#) (a) he has a right to call for delivery of the shares to himself or to his order, or

[\[GA\]](#)

(b) he has a right to acquire an interest in shares or is under an obligation to take an interest in shares,

[\[GA\]](#)

whether in any case the right or obligation is conditional or absolute.

[\[GA\]](#)

(7) Without prejudice to *subsection (2)*, rights or obligations to subscribe for any shares shall not be taken for the purposes of *subsection (6)* to be rights to acquire, or obligations to take, any interest in shares.

[\[GA\]](#)

(8) Where persons have a joint interest each of them shall be taken to have that interest.

[\[GA\]](#)

(9) It is immaterial that shares in which a person has an interest are unidentifiable.

[\[GA\]](#)

(10) Delivery to a person's order of shares in fulfilment of a contract for the purchase thereof by him or in satisfaction of a right of his to call for delivery thereof, or failure to deliver shares in accordance with the terms of such a contract or on which such a right falls to be satisfied, shall be deemed to constitute an event in consequence of the occurrence of which he ceases to be interested in them, and so shall the lapse of a person's right to call for delivery of shares.

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[\[GA\]](#) Interest to be disregarded. **78.**—(1) The following interests in shares shall be disregarded for interests to be the purposes of *sections 67 to 7171*—

[\[GA\]](#) (a) where property is held on trust and an interest in shares is comprised in that property, an interest in reversion or remainder or of a bare trustee and any discretionary interest;

[\[GA\]](#) (b) an interest of a person subsisting by virtue of—

[\[GA\]](#) (i) his holding units in—

[\[GA\]](#) (I) a registered unit trust scheme within the meaning of *section 3* of the [Unit Trusts Act, 1972](#) ;

[\[GA\]](#) (II) a unit trust to which *section 31* of the [Capital Gains Tax Act, 1975](#) , as amended by *section 34* of the [Finance Act, 1977](#) , relates;

[\[GA\]](#) (III) an undertaking for collective investment in transferable securities, within the meaning of the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations, 1989 ([S.I. No. 78 of 1989](#));

[\[GA\]](#) or

[\[GA\]](#) (ii) a scheme made under *section 46* of the [Charities Act, 1961](#) ;

[\[GA\]](#) (c) an interest for the life of himself or another of a person under a settlement in the case of which the property comprised in the settlement consists of or includes shares, and the conditions mentioned in *subsection (3)* are satisfied;

[\[GA\]](#) (d) an exempt security interest;

[\[GA\]](#) (e) an interest of the President of the High Court

subsisting by virtue of *section 13* of the [Succession Act, 1965](#) ;

[GA]

(*f*) an interest of the Accountant of the High Court in shares held by him in accordance with rules of court;

[GA]

(*g*) such interests, or interests of such a class, as may be prescribed for purposes of this paragraph by regulations made by the Minister.

[GA]

(2) A person shall not by virtue of *section 77 (4) (b)* be taken to be interested in shares by reason only that he has been appointed a proxy to vote at a specified meeting of a company or of any class of its members and at any adjournment of that meeting, or has been appointed by a body corporate to act as its representative at any meeting of a company or of any class of its members.

[GA]

(3) The conditions referred to in *subsection (1) (c)* are, in relation to a settlement—

[GA]

(*a*) that it is irrevocable, and

[GA]

(*b*) that the settlor (within the meaning of [section 96](#) of the [Income Tax Act, 1967](#)) has no interest in any income arising under, or property comprised in, the settlement.

[GA]

(4) An interest in shares is an exempt security interest for purposes of *subsection (1) (d)* if—

[GA]

(*a*) it is held by—

[GA]

(i) the holder of a licence under [section 9](#) of the [Central Bank Act, 1971](#) , or an insurance company within the meaning of the Insurance Acts, 1909 to 1990,

[GA]

(ii) a trustee savings bank (within the meaning of the Trustee Savings Banks Acts, 1863 to 1979) or a Post Office Savings Bank within the meaning of the Post Office Savings Bank Acts, 1861 to 1958,

[GA]

(iii) Agricultural Credit Corporation plc or Industrial Credit Corporation plc,

[\[GA\]](#)

(iv) a member of a recognised stock exchange carrying on business as a stockbroker, and

[\[GA\]](#)

(*b*) it is held by way of security only for the purposes of a transaction entered into by the person or body concerned in the ordinary course of business of such person or body.

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- [GA] Other provisions relating to notification.
- 79.**—(1) Where a person authorises any other person ("the agent") to acquire or dispose of, on his behalf, interests in shares comprised in relevant share capital of a public limited company, he shall secure that the agent notifies him immediately of acquisitions or disposals of interests in shares so comprised effected by the agent which will or may give rise to any obligation on his part to make a notification under this Chapter with respect to his interest in that share capital.
- [GA] (2) An obligation to make any notification imposed on any person by this Chapter shall be treated as not being fulfilled unless the notice by means of which it purports to be fulfilled identifies him and gives his address, and in a case where he is a director or secretary of the company, is expressed to be given in fulfilment of that obligation.
- [GA] (3) Where a person—
- [GA] (a) fails to fulfil, within the proper period, an obligation to make any notification required by this Chapter; or
- [GA] (b) in purported fulfilment of any such obligation makes to a company a statement which he knows to be false or recklessly makes to a company a statement which is false; or
- [GA] (c) fails to fulfil, within the proper period, an obligation to give any other person any notice required by *section 75*,
- [GA] no right or interest of any kind whatsoever in respect of any shares in the company concerned, held by him, shall be enforceable by him, whether directly or indirectly, by action or legal proceeding.
- [GA] (4) Where any right or interest is restricted under *subsection (3)*, any person in default under that *subsection* or any other person affected by such restriction may apply to the court for relief against a disability imposed by or arising out of *subsection (3)* and the court on being satisfied that the default was accidental, or due to inadvertence, or some other sufficient cause, or that on other grounds it is just and equitable to grant relief, may grant such relief either generally, or as respects any particular right or interest on such terms and conditions as it sees fit.

[GA] (5) Where an applicant for relief under *subsection (4)* is a person referred to in *subsection (3)*, the court may not grant such relief if it appears that the default has arisen as a result of any deliberate act or omission on the part of the applicant.

[GA] (6) *Subsection (3)* shall not apply to an obligation relating to a person ceasing to be interested in shares in any company.

[GA] (7) A person who—

[GA] (a) fails to fulfil, within the proper period, an obligation of disclosure imposed on him by this Chapter, or

[GA] (b) fails to fulfil, within the proper period, an obligation to give any other person a notice required by *section 75*, or

[GA] (c) fails without reasonable excuse to comply with *subsection (1)*,

[GA] shall be guilty of an offence.

[GA] (8) It shall be a defence for a person charged with an offence under *subsection (7) (b)* to prove that it was not possible for him to give the notice to that other person required by *section 75* within the proper period, and either—

[GA] (a) that it has not since become possible for him to give the notice so required; or

[GA] (b) that he gave that notice as soon after the end of that period as it became possible for him to do so.

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- [\[GA\]](#) Register of interests in shares. **80.**—(1) Every public limited company shall keep a register for purposes of *sections 67 to 71* and whenever the company receives information from a person in consequence of the fulfilment of an obligation imposed on him by any of those sections, it is under obligation to inscribe in the register, against that person's name, that information and the date of the inscription.
- [\[GA\]](#) (2) Without prejudice to *subsection (1)*, where a company receives a notification under this Part which includes a statement that the person making the notification, or any other person, has ceased to be a party to an agreement to which *section 73* applies, the company shall be under obligation to record that information against the name of that person in every place where his name appears in the register as a party to that agreement (including any entry relating to him made against another person's name).
- [\[GA\]](#) (3) An obligation imposed by *subsection (1)* or (2) must be fulfilled within the period of 3 days next following the day on which it arises.
- [\[GA\]](#) (4) The nature and extent of an interest recorded in the said register of a person in any shares shall, if he so requires, be recorded in the said register.
- [\[GA\]](#) (5) The company shall not, by virtue of anything done for the purposes of this section, be affected with notice of, or put upon enquiry as to, the rights of any person in relation to any shares.
- [\[GA\]](#) (6) The register must be so made up that the entries against the several names entered in it appear in chronological order.
- [\[GA\]](#) (7) Unless the register is in such form as to constitute in itself an index, the company shall keep an index of the names entered in the register which shall in respect of each name contain a sufficient indication to enable the information entered against it to be readily found; and the company shall, within 10 days after the date on which a name is entered in the register, make any necessary alteration in the index.
- [\[GA\]](#) (8) If the company ceases to be a public limited company it shall continue to keep the register and any associated index until the end of the period of 6 years beginning with the day next following that on which it ceases to be such a company.
- [\[GA\]](#) (9) The register and any associated index—

[\[GA\]](#)

(*a*) shall be kept at the place at which the register required to be kept by the company by *section 59* (register of directors' and secretaries' interests) is kept, and

[\[GA\]](#)

(*b*) shall be available for inspection in accordance with *section 88*.

[\[GA\]](#)

(10) If default is made in complying with any of the provisions of this section, the company and every officer of it who is in default shall be liable to a fine not exceeding £1,000, and for continued contravention, to a daily default fine not exceeding £50.

Companies Act, 1990

[GA] Company investigations.

81.—(1) A public limited company may by notice in writing require a person whom the company knows or has reasonable cause to believe to be or, at any time during the 3 years immediately preceding the date on which the notice is issued (but excluding any time before the commencement of this section), to have been interested in shares comprised in the company's relevant share capital—

[GA]

(a) to confirm that fact or (as the case may be) to indicate whether or not it is the case, and

[GA]

(b) where he holds or has during that time held an interest in shares so comprised, to give such further information as may be required in accordance with the following subsection.

[GA]

(2) A notice under this *section* may require the person to whom it is addressed—

[GA]

(a) to give particulars of his own past or present interest in shares comprised in relevant share capital of the company (held by him at any time during the 3 year period mentioned in *subsection (1)*),

[GA]

(b) where the interest is a present interest and any other interest in shares subsists or, in any case, where another interest in the shares subsisted during that 3 year period at any time when his own interest subsisted, to give (so far as lies within his knowledge) such particulars with respect to that other interest as may be required by the notice,

[GA]

(c) where his interest is a past interest, to give (so far as lies within his knowledge) particulars of the identity of the person who held that interest immediately upon his ceasing to hold it.

[GA]

(3) The particulars referred to in *subsection (2) (a)* and *(2) (b)* include particulars of the identity of persons interested in the shares in question and of whether persons interested in the same shares are or were parties to any agreement to which *section 73* applies or to any agreement or arrangement relating to the exercise of any rights conferred by the holding of the shares.

[\[GA\]](#)

(4) A notice under this section shall require any information given in response to the notice to be given in writing within such reasonable time as may be specified in the notice.

[\[GA\]](#)

(5) *Sections 72 to 74 and 77* apply for the purpose of construing references in this *section* to persons interested in shares and to interests in shares respectively, as they apply in relation to *sections 67 to 7070* (but with the omission of any reference to *section 78*).

[\[GA\]](#)

(6) This *section* applies in relation to a person who has or previously had, or is or was entitled to acquire, a right to subscribe for shares in a public limited company which would on issue be comprised in relevant share capital of that company as it applies in relation to a person who is or was interested in shares so comprised; and references in this *section* to an interest in shares so comprised and to shares so comprised are to be read accordingly in any such case as including respectively any such right and shares which would on issue be so comprised.

Companies Act, 1990

[\[GA\]](#) Registration of interest disclosed under *section 81*.

82.—(1) Whenever in pursuance of a requirement imposed on a person a company receives information to which this *section 81* applies relating to shares comprised in its relevant share capital, it is under obligation to enter against the name of the registered holder of those shares, in a separate part of its register of interests in shares—

[\[GA\]](#)

(a) the fact that the requirement was imposed and the date on which it was imposed, and

[\[GA\]](#)

(b) any information to which this section applies received in pursuance of the requirement.

[\[GA\]](#)

(2) This section applies to any information received in pursuance of a requirement imposed by *section 81* which relates to the present interests held by any persons in shares comprised in relevant share capital of the company in question.

[\[GA\]](#)

(3) *Subsections (3) to (10) of section 80* apply in relation to any part of the register maintained in accordance with *subsection (1) of this section*, reading references to *subsection (1) of that section* to include *subsection (1) of this section*.

Companies Act, 1990

[GA] Company investigations on requisition by members.

83.—(1) A company may be required to exercise its powers under investigations on requisition by *section 81* on the requisition of members of the company holding at the date of the deposit of the requisition not less than one-tenth of such of the paid-up capital of the company as carries at that date the right of voting at general meetings of the company.

[GA]

(2) The requisition must—

[GA]

(a) state that the requisitionists are requiring the company to exercise its powers under *section 81*,

[GA]

(b) specify the manner in which they require those powers to be exercised, and

[GA]

(c) give reasonable grounds for requiring the company to exercise those powers in the manner specified,

[GA]

and must be signed by the requisitionists and deposited at the company's registered office.

[GA]

(3) The requisition may consist of several documents in like form each signed by one or more requisitionists.

[GA]

(4) On the deposit of a requisition complying with this section the company shall exercise its powers under *section 81* in the manner specified in the requisition.

[GA]

(5) If default is made in complying with *subsection (4)*, the court may, on the application of the requisitionists, or any of them, and on being satisfied that it is reasonable to do so, require the company to exercise its powers under *section 81* in a manner specified in the order.

Companies Act, 1990

[GA] Company report to members.

84.—(1) On the conclusion of an investigation carried out by a company in pursuance of a requisition under *section 83* it is the company's duty to cause a report of the information received in pursuance of that investigation to be prepared, and the report shall be made available at the company's registered office within a reasonable period after the conclusion of that investigation.

[GA]

(2) Where—

[GA]

(a) a company undertakes an investigation in pursuance of a requisition under *section 83*, and

[GA]

(b) the investigation is not concluded before the end of 3 months beginning with the date immediately following the date of the deposit of the requisition,

[GA]

the company shall cause to be prepared, in respect of that period and each successive period of 3 months ending before the conclusion of the investigation, an interim report of the information received during that period in pursuance of the investigation. Each such report shall be made available at the company's registered office within a reasonable period after the end of the period to which it relates.

[GA]

(3) The period for making any report prepared under this *section* available as required by *subsection (1)* or *(2)* shall not exceed 15 days.

[GA]

(4) The company shall, within 3 days of making any report prepared under this section available at its registered office, notify the requisitionists that the report is so available.

[GA]

(5) An investigation carried out by a company in pursuance of a requisition under *section 83* shall be regarded for the purposes of this *section* as concluded when the company has made all such inquiries as are necessary or expedient for the purposes of the requisition and in the case of each such inquiry, either a response has been received by the company or the time allowed for a response has elapsed.

[GA]

(6) A report prepared under this section—

[GA]

(a) shall be kept at the company's registered office from the day on which it is first available there in accordance with *subsection (1)* or *(2)* until the expiration of 6 years beginning with the day next

following that day, and

[\[GA\]](#)

(*b*) shall be available for inspection in accordance with *section 88* so long as it is so kept.

[\[GA\]](#)

(7) If default is made in complying with *subsection (1), (2), (3), (4) or (6) (a)*, the company and every officer of the company who is in default shall be guilty of an offence and be liable to a fine.

Companies Act, 1990

[\[GA\]](#) Penalty for failure to provide information.

85.—(1) Where notice is served by a company under *section 81* on a person who is or was interested in shares of the company and that person fails to give the company any information required by the in notice within the time specified in it, the company may apply to the court for an order directing that the shares in question be subject to restrictions under *section 16*.

[\[GA\]](#)

(2) Such an order may be made by the court notwithstanding any power contained in the applicant company's memorandum or articles enabling the company itself to impose similar restrictions on the shares in question.

[\[GA\]](#)

(3) Subject to the following subsections, a person who fails to comply with a notice under *section 81* shall be guilty of an offence.

[\[GA\]](#)

(4) A person shall not be guilty of an offence by virtue of failing to comply with a notice under *section 81* if he proves that the requirement to give the information was frivolous or vexatious.

[\[GA\]](#)

(5) Where an order is made under this section directing that shares shall be subject to restrictions under *section 16*, the company or any person aggrieved by the order may apply to the court for an order directing that the shares shall cease to be subject thereto.

[\[GA\]](#)

(6) *Subsections (6) to (16) of section 16* shall apply in relation to any shares subject to the restrictions imposed by that section by virtue of an order under this section but with the omission in *subsections (6) to (15)* of any reference to the Minister.

Companies Act, 1990

[\[GA\]](#) Removal of entries from register. **86.**—(1) A company may remove an entry against a person's name from its register of interests in shares if more than 6 years have elapsed since the date of the entry being made, and either—

[\[GA\]](#) (a) that entry recorded the fact that the person in question had ceased to have an interest notifiable under this Chapter in relevant share capital of the company, or

[\[GA\]](#) (b) it has been superseded by a later entry made under *section 80 against* the same person's name;

[\[GA\]](#) and in a case within *paragraph (a)* the company may also remove that person's name from the register.

[\[GA\]](#) (2) If a person in pursuance of an obligation imposed on him by any provision of this Chapter gives to a company the name and address of another person as being interested in shares in the company, the company shall, within 15 days of the date on which it was given that information, notify the other person that he has been so named and shall include in that notification—

[\[GA\]](#) (a) particulars of any entry relating to him made, in consequence of its being given that information, by the company in its register of interests in shares, and

[\[GA\]](#) (b) a statement informing him of his right to apply to have the entry removed in accordance with the following provisions of this section.

[\[GA\]](#) (3) A person who has been notified by a company in pursuance of *subsection (2)* that an entry relating to him has been made in the company's register of interests in shares may apply in writing to the company for the removal of that entry from the register; and the company shall remove the entry if satisfied that the information in pursuance of which the entry was made was incorrect.

[\[GA\]](#) (4) If a person who is identified in a company's register of interests in shares as being a party to an agreement to which *section 73* applies (whether by an entry against his own name or by an entry relating to him made against another person's name as mentioned in *subsection (2) (a)*) ceases to be a party to that agreement, he may apply in writing to the company for the inclusion of that information in the register; and if the company is satisfied that he

has ceased to be a party to the agreement, it shall record that information (if not already recorded) in every place where his name appears as a party to that agreement in the register.

[\[GA\]](#)

(5) If an application under *subsection (3)* or *(4)* is refused (in a case within *subsection (4)*, otherwise than on the ground that the information has already been recorded) the applicant may apply to the court for an order directing the company to remove the entry in question from the register or (as the case may be) to include the information in question in the register; and the court may, if it thinks fit, make such an order.

[\[GA\]](#)

(6) Where a name is removed from a company's register of interests in shares in pursuance of *subsection (1)* or *(3)* or an order under *subsection (5)*, the company shall within 14 days of the date of that removal make any necessary alteration in any associated index.

[\[GA\]](#)

(7) If default is made in complying with *subsection (2)* or *(6)*, the company and every officer of it who is in default shall be guilty of an offence and liable to a fine.

Companies Act, 1990

[\[GA\]](#) Entries, when not to be removed.

87.—(1) Entries in a company's register of interests in shares under this Chapter shall not be deleted except in accordance with *section 86*.

[\[GA\]](#)

(2) If an entry is deleted from a company's register of interests in shares in contravention of *subsection (1)*, the company shall restore that entry to the register as soon as is reasonably practicable.

[\[GA\]](#)

(3) If default is made in complying with *subsection (1)* or (2), the company and every officer of it who is in default shall be guilty of an offence and liable to a fine.

Companies Act, 1990

- [\[GA\]](#) Inspection of register and reports. **88.**—(1) Any register of interests in shares and any report which is required by *section 84 (6)* to be available for inspection in accordance with this *section* shall, during business hours (subject to such reasonable restrictions as the company may in general meeting impose, but so that not less than 2 hours in each day are allowed for inspection) be open to the inspection of any member of the company or of any other person without charge.
- [\[GA\]](#) (2) The register referred to in *subsection (1)* shall also be and remain open and accessible to any person attending the company's annual general meeting at least one quarter hour before the appointed time for the commencement of the meeting and during the continuance of the meeting.
- [\[GA\]](#) (3) Any such member or other person may require a copy of any such register or report, or any part of it, on payment of 15 pence or such less sum as the company may prescribe, for every 100 words or fractional part of 100 words required to be copied; and the company shall cause any copy so required by a person to be sent to him before the expiration of the period of 10 days beginning with the day next following that on which the requirement is received by the company.
- [\[GA\]](#) (4) If an inspection required under this section is refused or a copy so required is not sent within the proper period, the company and every officer of it who is in default shall be guilty of an offence and liable to a fine.
- [\[GA\]](#) (5) In the case of a refusal of an inspection required under this section of any register or report, the court may by order compel an immediate inspection of it; and in the case of failure to send a copy required under this section, the court may by order direct that the copy required shall be sent to the person requiring it.

Companies Act, 1990

[\[GA\]](#) The 1988 Directive. **89.**—*Sections 90 to 96* are for the purpose of giving effect to Council Directive 88/627/EEC of 12th December, 1988 ¹ (the 1988 Directive") on the information to be published when a major holding in a listed company is acquired or disposed of.

*OJ No. L348, 17.12.1988, p.62.

Companies Act, 1990

[\[GA\]](#) Provisions as to interpretation.

90.—(1) In *sections 91 to 9696*—

[\[GA\]](#)

"the Exchange" means the Committee of the Irish Unit of the International Stock Exchange of the United Kingdom and the Republic of Ireland Limited;

[\[GA\]](#)

"functions" includes powers and duties and references to the exercise of functions include, as respects powers and duties, references to the exercise of powers and the carrying out of duties.

[\[GA\]](#)

(2) For the purposes of *sections 91 to 9696*, each of the following shall be a "relevant authority" in relation to the Exchange—

[\[GA\]](#)

(i) its committee of management,

[\[GA\]](#)

(ii) its manager, however described.

Companies Act, 1990

[GA] Obligation to notify certain interests to the Exchange.

91.—(1) This section applies to interests in shares which—

[GA] (a) are comprised in relevant share capital of a public limited company, and

[GA] (b) are officially listed on the Exchange.

[GA] (2) Where a person becomes aware that he has acquired or ceased to have an interest in shares to which this *section* applies and, following that acquisition or disposal, the percentage level (within the meaning of *section 69*) of his interest in that share capital exceeds or falls below the percentage levels referred to in *subsection (3)*, he shall, in addition to the obligation of disclosure to which he is subject under *section 67*, be under an obligation to notify the Exchange of his interest in the shares following the acquisition or cessation, as the case may be.

[GA] (3) The percentage levels referred to in *subsection (2)* are 10 per cent, 25 per cent, 50 per cent and 75 per cent.

[GA] (4) The provisions of this Chapter shall apply as regards the interests which are to be notified to the Exchange, and the manner in which they are to be so notified, as they apply to the interests to be notified to a company under this Chapter.

[GA] (5) Where the Exchange receives a declaration under this section it shall, subject to *subsection (6)*, publish, in such manner as it shall determine, and within three days of its receipt, the information contained in that declaration.

[GA] (6) The Exchange may decide not to publish the information contained in the declaration if, but only if, it is satisfied—

[GA] (a) that the disclosure of such information would be contrary to the public interest, or

[GA] (b) that such disclosure would be seriously detrimental to the company or companies concerned:

[GA] Provided that—

[\[GA\]](#)

(i) the Exchange shall not decide not to publish the information under *paragraph (b)* unless it is satisfied that a decision to do so would be unlikely to mislead the public with regard to the facts and circumstances knowledge of which is necessary for the assessment of the interests in question, and

[\[GA\]](#)

(ii) notwithstanding any decision taken under this subsection, the Exchange may publish the information later than three days after its receipt where it is satisfied that the considerations in *paragraph (a)* or *(b)* no longer apply.

Companies Act, 1990

[\[GA\]](#) Duty of relevant authority to report to Director of Public Prosecution.

92.—(1) If it appears to a relevant authority of the Exchange that any person has contravened *section 91*, such authority shall forthwith report the matter to the Director of Public Prosecutions and shall furnish to the Director of Public Prosecutions such information and give to him such access to and facilities for inspecting and taking copies of any documents, being information or documents in the possession or under the control of such authority and relating to the matter in question, as the Director of Public Prosecutions may require.

[\[GA\]](#)

(2) Where it appears to a member of the Exchange that any person has contravened *section 91*, he shall report the matter forthwith to a relevant authority of the Exchange, who shall thereupon come under the duty referred to in *subsection (1)*.

[\[GA\]](#)

(3) If it appears to a court in any proceedings that any person has committed a contravention as aforesaid, and that no report relating to the matter has been made to the Director of Public Prosecutions under *subsection (1)*, that court may, on the application of any person interested in the proceedings concerned or of its own motion, direct a relevant authority of the Exchange to make such a report, and on a report being made accordingly, this section shall have effect as though the report had been made in pursuance of *subsection (1)*.

[\[GA\]](#)

(4) If, where any matter is reported or referred to the Director of Public Prosecutions under this section, he considers that the case is one in which a prosecution ought to be instituted and institutes proceedings accordingly, it shall be the duty of a relevant authority of the Exchange, and of every officer of the company whose securities are concerned, and of any other person who appears to the Director of Public Prosecutions to have relevant information (other than any defendant in the proceedings) to give all assistance in connection with the prosecution which he or they are reasonably able to give.

[\[GA\]](#)

(5) A relevant authority shall have the same powers and duties for the purposes of this section as it has under *section 117*.

[\[GA\]](#)

(6) Where the Minister considers it necessary or expedient

to do so for the proper and effective administration of this section, he may make such regulations as he thinks appropriate in relation to—

[\[GA\]](#)

(a) the powers of authorised persons, or

[\[GA\]](#)

(b) the matters in respect of which, or the persons from whom, authorised persons may require information under *section 117*, as applied by *subsection (5)*.

Companies Act, 1990

[GA] Application and amendment of the 1984 Regulation.

93.—(1) The annual report required by Regulation 11 of the European Communities (Stock Exchange) Regulations, 1984 ([S.I. No. 282 of 1984](#)) ("the 1984 Regulations") shall include—

[GA]

(a) the number of written complaints received suggesting possible contraventions of *section 91*,

[GA]

(b) the number of reports made under *section 92*,

[GA]

(c) the number of instances in which, following the exercise of powers by authorised persons under *section 117*, as applied by *section 92*, reports were not so made, and

[GA]

(d) such other information as may be prescribed.

[GA]

(2) The First Schedule to the 1984 Regulations is hereby amended by the substitution, for *paragraph 5 (c)* of Schedule C of the Annex to Council Directive 79/279/EEC of 5 March 1979 ² set out in that Schedule, of the following:

[GA]

"(c) The company must inform the public of any changes in the structure (shareholders and breakdown of holdings) of the major holdings in its capital as compared with information previously published on that subject as soon as such changes come to its notice.

[GA]

In particular, a company which is not subject to Council Directive 88/627/EEC on the information to be published when a major holding in a listed company is acquired or disposed of must inform the public within nine calendar days whenever it comes to its notice that a person or entity has acquired or disposed of a number of shares such that his or its holding exceeds or falls below one of the thresholds laid down in Article 4 of that Directive."

*OJ No. L66, 16.3.1979, p.21.

Companies Act, 1990

[GA] Obligation of professional secrecy.

94.—(1) Information obtained by any of the following persons by virtue of the exercise by the Exchange of its functions under this Part shall not be disclosed except in accordance with law, namely—

[GA] (a) a relevant authority of the Exchange,

[GA] (b) an authorised person, or

[GA] (c) any person employed or formerly employed by the Exchange.

[GA] (2) *Subsection (1)* shall not prevent a relevant authority of the Exchange from disclosing any information to the Minister under this Part or to a similar authority in another Member State of the European Communities pursuant to *section 96*.

[GA] (3) Any person who contravenes *subsection (1)* shall be guilty of an offence.

Companies Act, 1990

[\[GA\]](#) Immunity from suit. **95.**—A relevant authority of the Exchange shall not be liable in damages in respect of anything done or omitted to be done by the authority in connection with the exercise by it of its functions under *sections 91 to 96* unless the act or omission complained of was done or omitted to be done in bad faith.

Companies Act, 1990

[\[GA\]](#) Co-operation
between authorities
Member States.

96.—A relevant authority of the Exchange in exercising its functions under *sections 91 to 94* shall comply with Article 12 (co-operation in between competent authorities in Member States) of the 1988 Directive.

