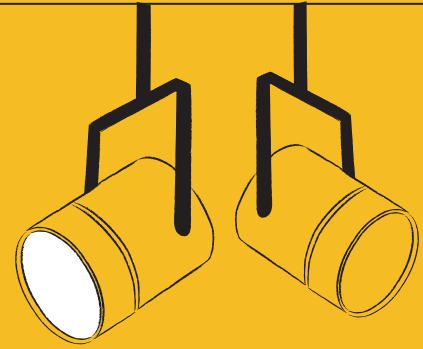


Spotlight

Duties of a director of a Guernsey Company



Guernsey companies are used in a wide variety of ways for international investment and wealth structuring – but whatever the company was formed to do, its directors owe certain duties to it.

The customary law of Guernsey essentially imports the English common law relating to directors' duties as it stood prior to the incorporation of the common law duties into the UK Companies Act 2006.

The Companies Law provides that, if in proceedings for breach of duty it appears that a director is or may be liable but that he acted honestly and reasonably, and having regard to all the circumstances of the case, he ought fairly to be excused, the Court may relieve the director, either wholly or in part, from liability on such terms and conditions as it thinks fit.

DUTIES EFFECTIVELY MIRROR ENGLISH LAW



Act bona fide in the best interests of the company



Act for proper purposes



Exercise independent judgment



Avoid conflicts of interest



Exercise reasonable skill and care

KEY FEATURES OF THE REGIME



Duties are owed to the company, not to its shareholders



Conflicts of interest must be declared to the board, subject to certain exceptions



The reasonably expected level of diligence and skill is informed by a director's role, skills, remuneration and the size and nature of the business



Duties can be owed by individuals not called "directors"



Breaches of duties may lead to damages or compensation orders, injunctions or declarations, and rescissions of contracts

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