

### **Statutory duties:**

- Statutory duty:
  - **S182** - Directors, officers AND employees must not improperly use position
  - **S183** - directors, officers and employees must not improperly use information obtained from that position:
    - A) To get an advantage for themselves OR
    - B) To get an advantage for someone else OR
    - C) To cause detriment for the company
    - (**ASIC v Vizard** → an example of these, Vizard was using the information that he had access to as a director of telstra to invest in startups before the market had information to it, Vizard admitted civil liability to avoid a criminal charges for insider trading.. and was fined from being a director → THIS IS an example that shows how insider trading and directors duties actually overlap)
- *Additional statutory duties:*
  - Disclosure of material personal interests
  - Related party transactions
- Disclosure of material personal interests
  - **s191(1)** (applies only to directors) - director with a material personal interest in a matter relating to the affairs of the company (note that under the general law the disclosure is to the shareholders, under the statute its to the board)
    - Material personal interest *definition*: is anything that has the capacity to influence a vote (if the matter became before the board), as set by: **McGellin v Mt King Mining**
    - Affairs of the company *definition*: is defined in **s53** as the company's; business, trading, transactions, dealings, property, liabilities, profits/losses etc (very broad definition)
- HOWEVER there are some things that directors **don't** have to make disclosure of:
  - **s191(2)**: NO notice is required for:
    - As a member of the company in common with other members
    - Remuneration as a director
    - Contract subject to approval of members

- Guarantee/security given by a director for a company debts
- Contract with a RBC (related body corporate) arising just because of directorship of RBC
  - RBC definition:
    - **S50** (Holding company, subsidiary, share common holding company)
    - Pty co and other directors are aware
- **S192** - standing notice possible, → for example if you give notice that you are on the board of another company e.g, the bank that the company does its banking with, THEREfore the only have to give this notice ONCE and not every time the company does a deal with the bank, HOWEVER they have to update this standing notice if the composition of the board changes
- Disclosure of material personal interests:
  - *Effect:*
    - Pty company - **s194**
      - May vote on matter
      - Retain benefits
      - Company cannot avoid transaction
    - Public company **s195**
      - Must not:
        - Be present when the matter they have a conflict with is discussed
        - *Unless:* the other directors resolve that the director can still be unbiased in his decision  
→ therefore they can stay and give their input