



ASIC

Australian Securities & Investments Commission

## Providing assistance to external administrators: books, records & RATA

**Company officers: to avoid penalties, you must assist the external administrator of the company with which you are associated.**

### Your Corporations Act obligations

As you may know, an external administrator (eg a liquidator, receiver or administrator) has been appointed to the company with which you are associated. In this situation, the Corporations Act 2001 requires:

- certain officers of the company (such as directors) to provide the external administrator:
  - A report as to the affairs of the company (commonly referred to as a RATA). Where external administrators possess the company's books and records, company officers may seek access from the external administrator to enable them to fulfil their obligations to provide a RATA.
  - Books, records, information and assistance.
- other persons who have any books, records and/or assets of the company to disclose their existence to, and provide them at the request of, the external administrator.

Companies under external administration include those companies under receivership, voluntary administration, provisional liquidation or liquidation.

The effect of the Act is: company officers and other people with relevant books and records have a responsibility to the company, to creditors and to the community, and cannot obstruct duly appointed external administrators in the performance of their duties.

### Substantial penalties may apply

Where a company officer fails to comply with their responsibilities, the external administrator may refer the matter to ASIC. Such referrals have frequently resulted in ASIC taking court action to assist the orderly realisation of assets or to force directors to provide RATAs and/or books and records. We regard failure to provide a RATA or to disclose and deliver up books and records as a serious breach of the Act.

Penalties imposed by the Court may include fines of up to \$5,500 or imprisonment for breach of certain obligations by an officer.

If an officer fails to comply with Court orders to fulfil their responsibilities within the required time, they may commit a continuing offence and may be liable to further prosecution. A continuing offence can attract an additional fine of up to \$55 per day until the relevant obligation is complied with.

We publish a list of persons prosecuted for offences of this type on our website. Go to [www.asic.gov.au/summaryprosecutions](http://www.asic.gov.au/summaryprosecutions).

## Key sections of the Corporations Act 2001

Some relevant sections of the Corporations Act for a company in external administration are listed below. For full details of your responsibilities see the Corporations Act itself. You may want to seek your own legal advice on how to comply with these and your other legal obligations.

|                   |  |
|-------------------|--|
| <b>s83(1)</b>     | Officers and other persons in default                        |
| <b>s429</b>       | Officers to report to controller about corporation's affairs |
| <b>s430</b>       | Controller may require reports                               |
| <b>s431</b>       | Controller may inspect books                                 |
| <b>s438B</b>      | Directors to help administrator                              |
| <b>s438C</b>      | Administrator's rights to company's books                    |
| <b>s475</b>       | Report as to company's affairs to be submitted to liquidator |
| <b>s530A</b>      | Officers to help liquidator                                  |
| <b>s530B</b>      | Liquidator's rights to company's books                       |
| <b>s590</b>       | Offences by officers of certain companies                    |
| <b>s1314</b>      | Continuing offences  |
| <b>Schedule 3</b> | Penalties  |

For more information contact **ASIC Infoline** on **1300 300 630**.