



Corporations Amendment Regulations 2004 (No. 9)¹

Statutory Rules 2004 No. 399²

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Corporations Act 2001*.

Dated 16 December 2004

P. M. JEFFERY
Governor-General

By His Excellency's Command

CHRIS PEARCE
Parliamentary Secretary to the Treasurer

Contents

1	Name of Regulations	2
2	Commencement	2
3	Amendment of <i>Corporations Regulations 2001</i>	2
Schedule 1	Amendments commencing on gazettal	3
Schedule 2	Amendments commencing on 1 January 2005	9

1 Name of Regulations

These Regulations are the *Corporations Amendment Regulations 2004 (No. 9)*.

2 Commencement

These Regulations commence as follows:

- (a) on the date of their notification in the *Gazette* — regulations 1 to 3 and Schedule 1;
- (b) on 1 January 2005 — Schedule 2.

3 Amendment of *Corporations Regulations 2001*

Schedules 1 and 2 amend the *Corporations Regulations 2001*.

Schedule 1 Amendments commencing on gazetta

(regulation 3)

[1] **Regulation 1.0.03, heading**
substitute

1.0.03 Prescribed forms (Act s 350)

[2] **Subregulation 1.0.03 (1), at the foot**
insert

Note Under section 350 of the Act, a document that the Act requires to be lodged with ASIC in a prescribed form must:

- (a) if a form for the document is prescribed in these Regulations, be in that prescribed form; and
- (b) if a form for the document is not prescribed in these Regulations but ASIC has approved a form for the document, be in that approved form.

[3] **After regulation 1.0.03**
insert

1.0.03A Documents that must be in the prescribed form

A document mentioned in the table under a provision of the Act mentioned in the table must be in the prescribed form.

Item	Document	Provision of the Act
1	Notice of appointment to administer a compromise or arrangement	Subsection 415 (1)
2	Notice that an order for the appointment of a receiver of property has been obtained or of the appointment of a receiver	Paragraph 427 (1) (a)

Item	Document	Provision of the Act
3	Notice of the appointment of a person to enter into possession or take control of the property of a corporation	Paragraph 427 (1A) (a)
4	Notice of entering into possession or taking control	Paragraph 427 (1B) (a)
5	Notice that the person has ceased to be a controller	Paragraph 427 (4) (a)
6	Written notice stating that a company is taken to have passed a resolution to wind up the company	Paragraph 446A (5) (a)
7	Notice of the appointment of an administrator	Paragraph 450A (1) (a)
8	Notice of failure to execute deed of company arrangement	Paragraph 450C (a)
9	Notice of termination of deed of company arrangement	Paragraph 450D (a)
10	Notice of filing of application to wind up a company	Paragraph 470 (1) (a)
11	Notice of making of order to wind up a company	Paragraph 470 (1) (b)
12	Notice of withdrawal or dismissal of application to wind up a company	Paragraph 470 (1) (c)
13	Return of the holding of a meeting with account attached	Subsection 509 (3) or (4)
14	Statement in writing verifying an account or statement	Paragraph 539 (1) (a) or (b)
15	Written notice disclaiming property	Subsection 568A (1)
16	Statement by a liquidator	Subsection 1288 (3) or (5)

Note Under section 350 of the Act, a document that the Act requires to be lodged with ASIC in a prescribed form must:

- (a) if a form for the document is prescribed in these Regulations, be in that prescribed form; and

- (b) if a form for the document is not prescribed in these Regulations but ASIC has approved a form for the document, be in that approved form.

On 23 December 2004, forms for the documents mentioned in the table are not prescribed in these Regulations.

1.0.03B Documents that must be lodged with ASIC

A document mentioned in an item in the table for a provision mentioned in the item must be lodged:

- (a) with ASIC; and
- (b) if the document is mentioned for subsection 430 (1) of the Act — by a controller, within 7 days of the controller receiving a report under that subsection.

Item	Document	Provision of the Act
1	Statement in writing in the prescribed form verifying a report about the affairs of a company	Subsection 430 (1) or 475 (1) or (2)
2	Report about the affairs of a company	Subsection 430 (1)

Note Under section 350 of the Act, a document that the Act requires to be lodged with ASIC in a prescribed form must:

- (a) if a form for the document is prescribed in these Regulations, be in that prescribed form; and
- (b) if a form for the document is not prescribed in these Regulations but ASIC has approved a form for the document, be in that approved form.

On 23 December 2004, forms for the documents mentioned in item 1 of the table are not prescribed in these Regulations.

1.0.03C Documents that must be in a form approved by ASIC

A document mentioned in the table under a provision of the Act mentioned in the table must be in a form approved by ASIC (if a form has been approved).

Item	Document	Provision of the Act
1	Statement about the company's business, property, affairs and financial circumstances	Subsection 438B (2)

Item	Document	Provision of the Act
2	Report about a company's business, property, affairs and financial circumstances	Paragraph 439A (4) (a)
3	Notice of termination of deed of company arrangement	Paragraph 450D (b)

Note The documents mentioned in the table are not required to be lodged with ASIC under the Act, and are not documents to which section 350 of the Act applies.

[4] Regulation 5.3A.03

after

of the appointment

insert

in the prescribed form

[5] Regulation 5.3A.03, at the foot

insert

Note Under section 350 of the Act, a document that the Act requires to be lodged with ASIC in a prescribed form must:

- (a) if a form for the document is prescribed in these Regulations, be in that prescribed form; and
- (b) if a form for the document is not prescribed in these Regulations but ASIC has approved a form for the document, be in that approved form.

On 23 December 2004, a form for the document mentioned in this regulation is not prescribed in these Regulations.

[6] Regulation 5.3A.04

after

lodge notice

insert

in the prescribed form

[7] Regulation 5.3A.04, at the foot

insert

Note Under section 350 of the Act, a document that the Act requires to be lodged with ASIC in a prescribed form must:

- (a) if a form for the document is prescribed in these Regulations, be in that prescribed form; and
- (b) if a form for the document is not prescribed in these Regulations but ASIC has approved a form for the document, be in that approved form.

On 23 December 2004, a form for the document mentioned in this regulation is not prescribed in these Regulations.

[8] Paragraph 5.3A.07 (5) (a)

after

a written notice

insert

in the prescribed form

[9] Subregulation 5.3A.07 (5), at the foot

insert

Note Under section 350 of the Act, a document that the Act requires to be lodged with ASIC in a prescribed form must:

- (a) if a form for the document is prescribed in these Regulations, be in that prescribed form; and
- (b) if a form for the document is not prescribed in these Regulations but ASIC has approved a form for the document, be in that approved form.

On 23 December 2004, a form for the document mentioned in paragraph (5) (a) is not prescribed in these Regulations.

[10] Subregulation 5.6.59 (2)

omit

in accordance with Form 540

insert

in the prescribed form

[11] Subregulation 5.6.59 (2), at the foot

insert

Note Under section 350 of the Act, a document that the Act requires to be lodged with ASIC in a prescribed form must:

- (a) if a form for the document is prescribed in these Regulations, be in that prescribed form; and
- (b) if a form for the document is not prescribed in these Regulations but ASIC has approved a form for the document, be in that approved form.

On 23 December 2004, a form for the document mentioned in subregulation (2) is not prescribed in these Regulations.

[12] Subregulation 5.6.62 (5)

omit

in accordance with Form 545

insert

in the prescribed form

[13] Subregulation 5.6.62 (5), at the foot

insert

Note Under section 350 of the Act, a document that the Act requires to be lodged with ASIC in a prescribed form must:

- (a) if a form for the document is prescribed in these Regulations, be in that prescribed form; and
- (b) if a form for the document is not prescribed in these Regulations but ASIC has approved a form for the document, be in that approved form.

On 23 December 2004, a form for the document mentioned in subregulation (5) is not prescribed in these Regulations.

[14] Schedule 1, items 45 to 51, 51D, 51F, 51G, 60, 63 to 66, 82, 87, 151 and 154

omit

[15] Schedule 2, forms 504 to 509, 509D, 509F, 509G, 519, 522 to 525, 540, 545, 905A and 908

omit

Schedule 2 Amendments commencing on 1 January 2005

(regulation 3)

[1] Chapter 2M, Part 2M.3, after Division 1

insert

Division 9 Reference of financial report to the Financial Reporting Panel

2M.3.30 Notice to lodging entity of proposed referral of financial report to Financial Reporting Panel by ASIC (Act s 323ED)

For paragraph 323ED (2) (d) of the Act, Form 2M01 is prescribed.

2M.3.31 Referral of financial report to Financial Reporting Panel by ASIC (Act s 323EF)

For subsection 323EF (2) of the Act, Form 2M02 is prescribed.

2M.3.32 Referral of financial report to Financial Reporting Panel by lodging entity (Act s 323EI)

For subsection 323EI (2) of the Act, Form 2M03 is prescribed.

[2] Paragraph 10.5.01 (1) (c)

omit

15 December 2004.

insert

15 December 2004; and

[3] After paragraph 10.5.01 (1) (c)

insert

- (d) a standard mentioned in Part 3 of the table has effect as if it specified that it applies to a financial reporting period beginning on or after 15 June 2005.

[4] Subregulation 10.5.01 (1), table, item 104

substitute

104 206 Quality Control for Audit Work

Note This standard was issued in July 2002.

[5] Subregulation 10.5.01 (1), table, item 106

substitute

106 210 The Auditor's Responsibility to Consider Fraud and Error in an Audit of a Financial Report

Note This standard was issued in January 2002.

[6] Subregulation 10.5.01 (1), table, after item 201

insert

201A 210 The Auditor's Responsibility to Consider Fraud and Error in an Audit of a Financial Report

Note This standard was issued in June 2004.

[7] Subregulation 10.5.01 (1), table, after Part 2*insert***Part 3**

301	206	Quality Control for Audits of Historical Financial Information
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Note This standard was issued in June 2004.

[8] Schedule 1, after item 4*insert*

Chapter 2M Financial reports and audit

5	Regulation 2M.3.30	Notice to lodging entity of proposed referral of financial report to Financial Reporting Panel by ASIC	2M01
6	Regulation 2M.3.31	Referral of financial report to Financial Reporting Panel by ASIC	2M02
7	Regulation 2M.3.32	Referral of financial report to Financial Reporting Panel by lodging entity	2M03

[9] Schedule 2, after form 2501

insert

Form 2M01 Notice to lodging entity of proposed referral of financial report to Financial Reporting Panel by ASIC

(regulation 2M.3.30)

Corporations Regulations 2001

Australian Securities and Investments Commission

NOTICE TO LODGING ENTITY OF PROPOSED REFERRAL OF A FINANCIAL REPORT TO THE FINANCIAL REPORTING PANEL BY ASIC

Note Under section 323EC of the *Corporations Act 2001* (the Act), ASIC may refer a financial report to the Financial Reporting Panel (the Panel) if ASIC is of the opinion that the financial report does not comply with one or more of the financial reporting requirements. Under subsections 323ED (1) and (2) of the Act, if ASIC proposes to refer a financial report to the Panel, ASIC must give the lodging entity written notice of the proposed referral. The notice must include the information and statement mentioned in paragraphs 323ED (2) (a), (b) and (c) of the Act and must be in the prescribed form.

To (*name of lodging entity*), ASIC is of the opinion that the financial report does not comply with one or more of the financial reporting requirements and proposes to refer the report to the Financial Reporting Panel.

Address of ASIC	Name and contact details of relevant officer at ASIC

Information and statement required by paragraphs 323ED (2) (a), (b) and (c) of the <i>Corporations Act 2001</i>

Form 2M02 Referral of financial report to Financial Reporting Panel by ASIC

(regulation 2M.3.31)

Corporations Regulations 2001

Australian Securities and Investments Commission

REFERRAL OF A FINANCIAL REPORT TO THE FINANCIAL REPORTING PANEL BY ASIC

Note Under subsection 323EF (1) of the *Corporations Act 2001* (the Act), a referral by ASIC of a financial report to the Financial Reporting Panel must include the information, and be accompanied by the documents, mentioned in that subsection. Under subsection 323EF (2) of the Act, a referral must be in the prescribed form.

ASIC is referring a financial report of (*name of lodging entity*) to the Financial Reporting Panel under Subdivision B of Division 9 of Part 2M.3 of the *Corporations Act 2001* (the Act).

<p>The registered address of:</p> <p>(a) if the lodging entity is a registered scheme — the responsible entity; or</p> <p>(b) if the lodging entity is not a registered scheme — the lodging entity.</p>

Address of ASIC	Name and contact details of relevant officer at ASIC

Information required by paragraphs 323EF (1) (a) and (b) of the Act

Form 2M03 Referral of financial report to Financial Reporting Panel by lodging entity

(regulation 2M.3.32)

Corporations Regulations 2001

REFERRAL OF A FINANCIAL REPORT TO THE FINANCIAL REPORTING PANEL BY THE LODGING ENTITY

Note Under subsection 323EI (1) of the *Corporations Act 2001* (the Act), a referral by a lodging entity of a financial report to the Financial Reporting Panel must include the information, and be accompanied by the document, mentioned in that subsection. Under subsection 323EI (2) of the Act, a referral must be in the prescribed form.

(Name of lodging entity) is referring a financial report to the Financial Reporting Panel under Subdivision C of Division 9 of Part 2M.3 of the *Corporations Act 2001* (the Act).

ASIC consents to the referral of the financial report to the Financial Reporting Panel.

The registered address and the names of the directors of: (a) if the lodging entity is a registered scheme — the responsible entity; or (b) if the lodging entity is not a registered scheme — the lodging entity.

The ACN, ARBN or ARSN of the lodging entity

Name and contact details of contact person for the lodging entity

Information required by paragraphs 323EI (1) (a) and (b) of the Act

Notes

1. These Regulations amend Statutory Rules 2001 No. 193, as amended by 2001 Nos. 208, 318 and 319 (rr 7.9.10 and 7.9.11 were disallowed by the Senate on 16 September 2002); 2002 Nos. 15, 16 (rr 7.9.10, 7.9.11 (1), 7.9.11 (1) (a), 7.9.11 (1) (b) and 7.9.11 (2) were disallowed by the Senate on 16 September 2002), 41, 53, 126, 145, 182, 265 and 282; 2003 Nos. 31, 48, 85, 126, 127, 194, 202, 282 (Sch 3, items [1] to [4], [6], [8] and [9] were disallowed by the Senate on 24 March 2004), 367, 368 and 369; 2004 Nos. 10, 25, 26, 36, 145, 149, 208 and 398.
2. Notified in the *Commonwealth of Australia Gazette* on 23 December 2004.