



Corporations Amendment (No. 1) Act 2009

No. 9, 2009

**An Act to amend the law relating to corporations,
and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

| | | |
|------------------------------|------------------------------|----------|
| 1 | Short title | 1 |
| 2 | Commencement | 2 |
| 3 | Schedule(s) | 2 |
| Schedule 1—Amendments | | 3 |
| | <i>Corporations Act 2001</i> | 3 |



Corporations Amendment (No. 1) Act 2009

No. 9, 2009

An Act to amend the law relating to corporations, and for related purposes

[Assented to 25 February 2009]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Corporations Amendment (No. 1) Act 2009*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Corporations Act 2001

1 Subsection 199A(3) (note 1)

Omit “or 206E”, substitute “, 206E or 206EAA”.

2 At the end of section 206B

Add:

Foreign court orders

- (6) A person is disqualified from managing corporations if the person is disqualified, under an order made by a court of a foreign jurisdiction that is in force, from:
- (a) being a director of a foreign company; or
 - (b) being concerned in the management of a foreign company.

Definitions

- (7) In this section:

foreign jurisdiction means a foreign country, or part of a foreign country, prescribed by the regulations as a foreign jurisdiction for the purposes of this section.

3 After section 206E

Insert:

206EAA Court power of disqualification—disqualification under a law of a foreign jurisdiction

- (1) On application by ASIC, the Court may disqualify a person from managing corporations for the period that the Court considers appropriate if:
- (a) the person is disqualified under the law of a foreign jurisdiction from:
 - (i) being a director of, or being concerned in the management of, a foreign company; or

- (ii) carrying on activities that the Court is satisfied are substantially similar to being a director of, or being concerned in the management of, a foreign company; and
 - (b) the Court is satisfied that the disqualification under this subsection is justified.
- (2) In determining what is an appropriate period for which to disqualify the person, the Court may have regard to the period for which the person is disqualified under the law of the foreign jurisdiction.
- (3) In determining whether the disqualification is justified, the Court may have regard to:
 - (a) the person's conduct in relation to the management, business or property of a foreign company; and
 - (b) any other matters that the Court considers appropriate.
- (4) In this section:

foreign jurisdiction has the same meaning as in section 206B.

4 Section 206H

After "This Part", insert "(except for subsection 206B(6) and section 206EAA)".

5 Paragraph 1274AA(1)(a)

After "206EA", insert ", 206EAA".

6 After paragraph 1274AA(2)(aa)

Insert:

- (ab) every court order referred to in section 206EAA; and

7 At the end of Chapter 10

Add:

Part 10.11—Transitional provisions relating to the Corporations Amendment (No. 1) Act 2009

1485 Application of new subsection 206B(6)

The amendments made by item 2 of Schedule 1 to the *Corporations Amendment (No. 1) Act 2009* apply to an order made by a court of a foreign jurisdiction on or after the commencement of that item.

1486 Application of new section 206EAA

The amendments made by item 3 of Schedule 1 to the *Corporations Amendment (No. 1) Act 2009* apply to a disqualification under a law of a foreign jurisdiction that arises on or after the commencement of that item.

*[Minister's second reading speech made in—
Senate on 3 December 2008
House of Representatives on 12 February 2009]*

(238/08)
