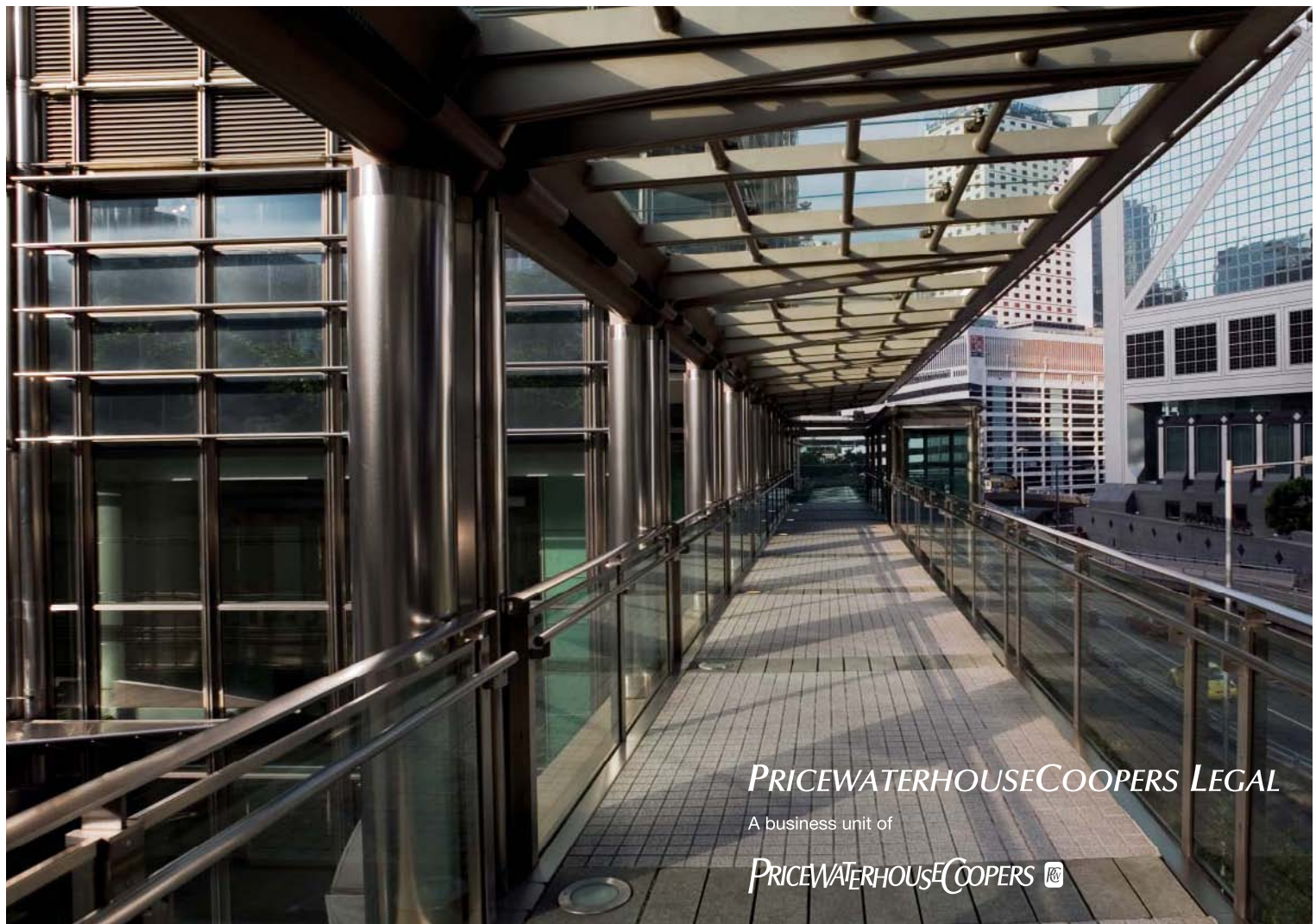


Procedures guide for company secretaries

Listed companies

2008 Edition



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Introduction

The directors of a company bear the ultimate responsibility for compliance with, and discharge of, all matters of administration that relate to a company. These tasks are usually delegated by the board of directors to the company secretary. As the company secretary is the chief administrative officer of a company, the company secretary must have a thorough knowledge of:

- the company;
- its operations;
- its constitution;
- its reporting obligations to the Australian Stock Exchange (ASX) and the Australian Securities and Investments Commission (ASIC);
- the company's members; and
- the laws which regulate the company's operations.

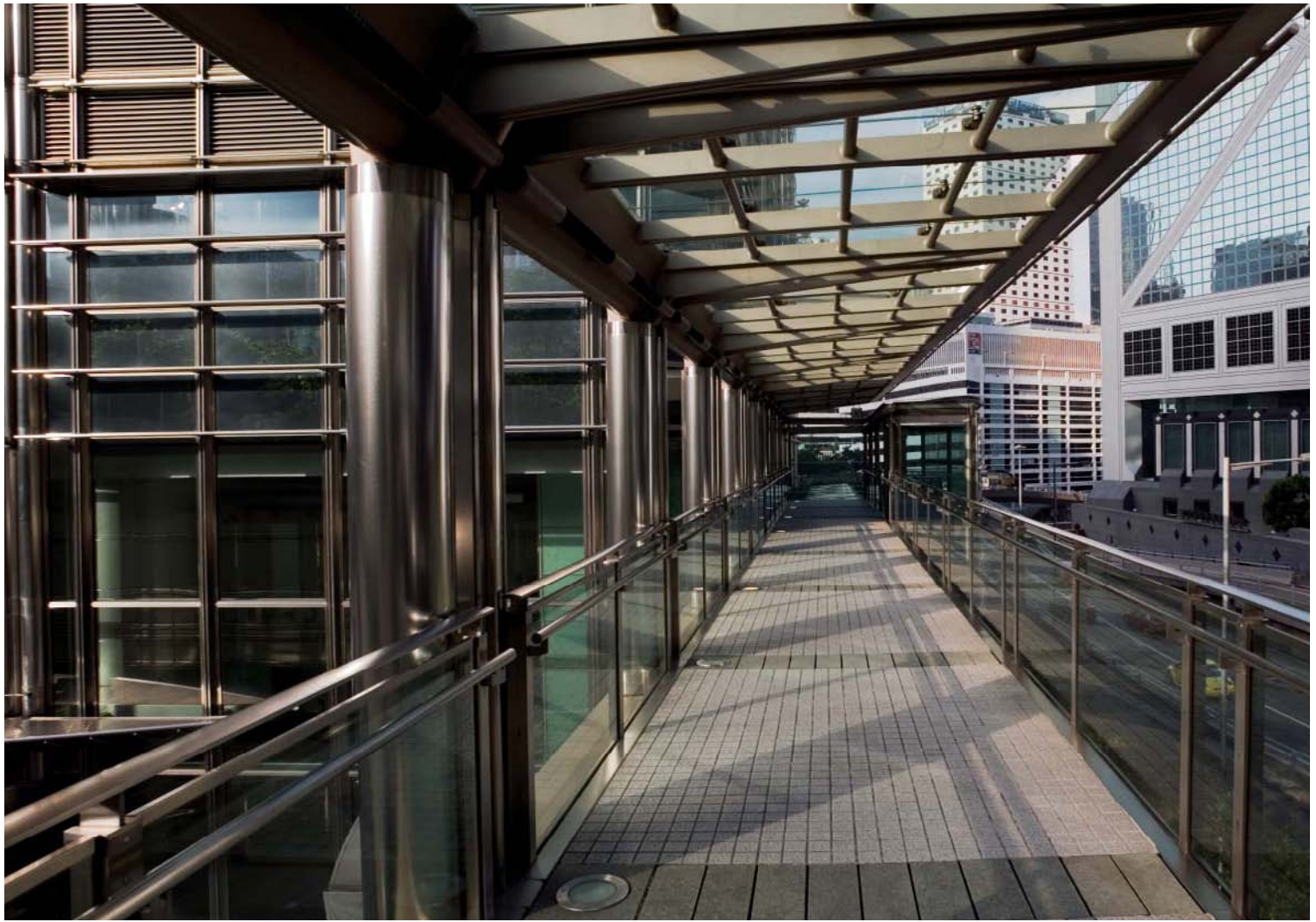
Today, a company secretary has an increasingly important role in the area of corporate governance and must therefore be pro-active in satisfying his/her duties and responsibilities under the *Corporations Act 2001* (Cth) (the Corporations Act).

This "*Procedures guide for company secretaries – Listed companies*" (Guide) has been prepared as a short and practical guide in respect of the appointment, resignation and removal of key officers and the main duties and responsibilities of a company secretary of a listed public company under the ASX Listing Rules and the Corporations Act, that are applicable as at the publication date.

It ought to be noted that this Guide is a general guide only and is not intended to be a substitute for legal advice. Further, the information contained in this Guide will be subject to a company's constitution, the provisions of the Corporations Act that apply to the company as "replaceable rules", or a combination of both. In this regard, it ought to be noted that for a public company, some of the replaceable rules set out in the Corporations Act are mandatory provisions, and therefore cannot be displaced or modified by a company's constitution.

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1. Appointment and resignation, retirement or removal of officers

1.1 Company secretary

Appointment of secretary

In accordance with section 240A(2) of the Corporations Act, a public company must have at least one company secretary and at least one of them must ordinarily reside in Australia.

A secretary of a public company must be:

- a natural person; and
- of at least 18 years of age.

A person who has been disqualified from managing a corporation may only be appointed as a company secretary if the appointment is made with the permission of ASIC or by leave of the court, depending upon which body disqualified the person.

The ASX Listing Rules provide that a company must appoint a *communications officer* being person or persons responsible for the company's communications with the ASX. The communications officer ought to be readily contactable and have a high degree of familiarity with the company's operations, or have ready access to senior management responsible for the company's day-to-day management. While it is not a requirement, the company secretary may be the most appropriate person to be responsible for communications with the ASX.

On registration of a company, a person who is specified in the application with their consent as a proposed company secretary, will become company secretary without further appointment.

The procedures for the appointment of a secretary (other than a person who acts as secretary upon incorporation of the company) are as set out below.

Action/notice	Comments
1. New secretary to provide signed consent to act as secretary	<p>A consent to act as secretary of a company must be:</p> <ul style="list-style-type: none">• signed and dated by the new secretary;• delivered to the company prior to the secretary's appointment by the directors; and• kept with the company's records. <p>A person may be both a director and secretary of a company.</p>
2. Appointment by the directors and information to be provided	<p>Having received the signed consent to act as secretary of the company, the director(s) resolve to appoint a person as company secretary.</p> <p>The resolution appointing the company secretary must be signed and placed in the company's minute books within one month after the resolution is passed.</p> <p>A newly appointed secretary must give the company the following information within seven days of their appointment:</p> <ul style="list-style-type: none">• given and family names;• all former names;• date and place of birth; and• residential address.
3. ASIC notification	<p>An ASIC Form 484 "<i>Change to Company Details</i>" must be lodged with ASIC within 28 days of the appointment.</p>

Action/notice	Comments
4. ASX notification	<p>The ASX must be immediately notified of the appointment of a company secretary in accordance with Listing Rule 3.16.</p> <p>If relevant, the ASX must be notified if the company secretary is a person nominated to be responsible for communications with the ASX.</p>
5. Notify relevant bank if the secretary is to be appointed as a signatory or co-signatory of company bank accounts	<p>If the company secretary is appointed as a signatory or co-signatory in respect of the company's bank accounts, the relevant bank must be notified and the bank's procedures in respect of such appointment must be complied with.</p>

Resignation or retirement of secretary

If the procedure for the resignation or retirement of the company secretary is set out in the company's constitution, such procedure must be followed. If the company's constitution does not set out the procedure to be followed, then the procedure for the resignation or retirement of the secretary is as set out below.

Action/notice	Comments
1. Written notice of the secretary to the company	<p>A secretary may resign by written notice to the company. Often, the notice given includes a statement that the resigning or retiring secretary does not have any claims against the company.</p> <p>A secretary who resigns or retires may give ASIC written notice of his/her resignation or retirement by lodging an ASIC Form 370 "<i>Notification by Officeholder of Resignation or Retirement</i>" together with his/her notice of resignation/retirement, although this is not a specific requirement.</p>
2. ASIC notification	<p>An ASIC Form 484 "<i>Change to Company Details</i>" must be lodged by the company with ASIC within 28 days of the resignation or retirement. It ought to be noted that the lodgement of an ASIC Form 370 does not abrogate the company's responsibility to lodge an ASIC Form 484.</p>
3. ASX notification	<p>The ASX must be immediately notified of the resignation or retirement of a company secretary in accordance with Listing Rule 3.16.</p> <p>If the company secretary is also the person responsible for communications with the ASX in relation to Listing Rule matters, the ASX must be immediately notified of the change.</p>
3. Notify relevant bank (if applicable)	<p>If the resigning or retiring company secretary was appointed as a signatory or co-signatory in respect of the company's bank accounts, the relevant bank must be notified and the bank's procedures in respect of the cessation of such appointment must be complied with.</p>

Removal of secretary

If no procedure is set out in the company's constitution for the removal of the secretary, then the procedure to be followed is set out below.

Action/notice	Comments
1. Removal by the director(s)	<p>The director(s) of the company may resolve to remove the company secretary.</p> <p>The resolution of the director(s) removing the company secretary must be signed and placed in the company's minute books within one month after the resolution is passed.</p>
2. ASIC notification	<p>An ASIC Form 484 "<i>Change to Company Details</i>" must be lodged with ASIC within 28 days of the removal of the company secretary.</p>
3. ASX notification	<p>The ASX must be notified immediately of the removal of a company secretary in accordance with Listing Rule 3.16.</p> <p>If the company secretary is also the person responsible for communications with the ASX in relation to Listing Rule matters, the ASX must be immediately notified of the change.</p>
3. Notify relevant bank (if applicable)	<p>If the company secretary removed by the director(s) was appointed as a signatory or co-signatory in respect of the company's bank accounts, the relevant bank must be notified and the bank's procedures in respect of the cessation of such appointment must be complied with.</p>

1.2 Directors

A public company must have at least three directors (not counting alternate directors) and at least two of these directors must ordinarily reside in Australia. The Corporations Act provides that each director must:

- be an individual of at least 18 years of age; and
- not be disqualified from managing corporations unless ASIC or the court, depending upon which body disqualified the person, grant permission.

Set out below are the procedures to be followed for the appointment, resignation, retirement or removal of a director.

Appointment and election of directors

On registration of a company, a person, who, with their consent, is specified in the application as a proposed director will become a director of the company without further appointment.

The procedure for the appointment or election of directors (after the incorporation of the company) is governed by the company's constitution and the ASX Listing Rules and is set out below.

Action/notice	Comments
1. Election of directors	<p>In accordance with ASX Listing Rule 14.5, a company must hold an election for directors each year.</p> <p>ASX Listing Rule 14.4 provides that a director must not hold office without re-election past the third annual general meeting following the directors' appointment or three years, which ever is longer.</p> <p>With respect to general meetings called by the company of its own accord and meetings that members request directors to call under s.249D of the Corporations Act, a company must accept nominations for the election of directors up to 35 business days (in the case of a meeting that members have requested directors to call 30 business days) before the date of the general meeting at which directors may be nominated in accordance with ASX Listing Rule 14.3.</p> <p>ASX Listing Rule 14.3 provides that if the constitution allows, a company may accept nominations closer to the date of the general meeting.</p> <p>With respect to general meetings called by the members themselves (i.e. meetings called under s.249F of the Corporations Act) for the election of directors, there are no legal requirements as to when nominations for the election of directors are to be received and accepted by the company. In such a case, the relevant provisions of the company's constitution will apply.</p> <p>ASX Listing Rule 3.13 provides that a company must advise the ASX of the date of the proposed general meeting at least five business days before the closing date for the receipt of nominations.</p>
2. New director to provide signed consent to act as director	<p>A consent to act as director of the company must be:</p> <ul style="list-style-type: none">• signed and dated by the new director;• delivered to the company; and• kept with the company's records.

Action/notice	Comments
3. Appointment of directors	<p>The procedures for appointment of new directors are subject to the requirements of the company's constitution. The appointment of a new director may be made by the members in a general meeting or by the directors in board meeting.</p> <p>If the replaceable rules in the Corporations Act are not displaced by the constitution, the directors may appoint a person as a director. However, the company must confirm the appointment by resolution at the company's next Annual General Meeting (AGM), otherwise the person ceases to be a director of the company at the end of the AGM.</p> <p>Although s201H of the Corporations Act may be displaced by the Company's constitution, ASX Listing Rule 14.4 requires that "a director appointed to fill a casual vacancy or as an addition to the board must not hold office (without re-election) past the next AGM (with the exclusion of managing director). Accordingly, any person appointed as a director of the company by the directors, or the members at a general meeting, must be re-elected at the next AGM of the company, otherwise the person ceases to be a director of the company at the end of the AGM¹.</p> <p>A resolution passed at a general meeting appointing or confirming the appointment of two or more directors is void unless:</p> <ul style="list-style-type: none"> • the meeting has resolved that the appointments or confirmations may be voted on together; and • no votes were cast against the resolution. <p>However, the above provision does not affect a:</p> <ul style="list-style-type: none"> • resolution to appoint directors by an amendment to the company's constitution (if any); • ballot or poll to elect 2 or more directors if the ballot or poll does not require members voting for 1 candidate to vote for another candidate (s.201E). <p>All resolutions appointing a director or confirming the appointment of a director must be signed and placed in the company's minute book within one month after the resolution is passed.</p>
4. ASX notification	<p>In accordance with ASX Listing Rule 3.16, the company must immediately notify the ASX of a change in director, chairperson or chief executive officer.</p> <p>ASX Listing Rule 3.19A requires that a company must complete and lodge a copy of Appendix 3X to the Listing Rules in respect of the new director which discloses the director's interests not later than five business days after the director's appointment.</p>
5. ASIC notification	<p>An ASIC Form 484 "<i>Change to Company Details</i>" must be lodged with ASIC within 28 days of the appointment.</p>
6. Notify relevant bank (if applicable)	<p>If the director is to also be appointed as a signatory or co-signatory in respect of the company's bank accounts, the relevant bank must be notified and the bank's procedures in respect of such appointment must be complied with.</p>

¹ s.201H of the *Corporations Act*

Resignation or retirement of director

Action/notice	Comments
1. Check procedure in the company's constitution – however, resignation or retirement is usually by written notice by the director to the company	<p>A director may resign by giving written notice to the company at its registered office.</p> <p>Generally, written notice of the director's resignation:</p> <ul style="list-style-type: none"> • is signed and dated by the resigning/retiring director; • is delivered to the company's registered office; and • states that the resigning/retiring director does not have any claims against the company. <p>A director who resigns may give ASIC written notice of his/her resignation or retirement by lodging an ASIC Form 370 "<i>Notification by officeholder of resignation or retirement</i>" together with his/her notice of resignation.</p>
2. ASX notification	<p>In accordance with ASX Listing Rule 3.16, a company must immediately notify the ASX of a change of a director, chairperson or chief executive officer (or equivalent).</p> <p>ASX Listing Rule 3.19A.3 requires that Appendix 3Z must be completed and lodged with the ASX no later than 5 business days after a director ceases to be a director.</p>
3. ASIC notification	<p>An ASIC Form 484 "<i>Change to Company Details</i>" must be lodged by the company with ASIC within 28 days of the resignation or retirement. It ought to be noted that the lodgement of an ASIC Form 370 does not abrogate the company's responsibility to lodge an ASIC Form 484.</p>
4. Notify relevant bank (if applicable)	<p>If the resigning or retiring director was appointed as a signatory or co-signatory in respect of the company's bank accounts, the relevant bank must be notified and the bank's procedures in respect of the cessation of such appointment must be complied with.</p>

Removal of director by members

Action/notice	Comments
1. Check the provisions of the company's constitution, however the provisions of s203D of the Corporations Act will prevail if there is any inconsistency.	<p>The members of a public company may remove a director by ordinary resolution notwithstanding:</p> <ul style="list-style-type: none"> • the company's constitution; • an agreement between the company and the director; or • an agreement between any or all members of the company and the director. <p>Notice of intention to move a resolution for the removal of a director must be given to the company at least two months before the proposed date of the meeting at which such resolution is to be moved. However, if the company calls a meeting after such notice is given, the meeting may pass the resolution even though the meeting is held less than two months after the notice of intention is given². The notice of intention to move a resolution must be signed by members within at least 5% of the votes that may be cast on the resolution or at least 100 members who are entitled to vote at a general meeting.</p> <p>A company must give the director a copy of the notice as soon as practicable after it is received.</p> <p>The director is entitled to put their case to the members by giving the company a written statement for circulation to members and speaking to the motion at the meeting.</p> <p>The resolution must be signed and placed in the company's minute books within 1 month after the resolution is passed.</p> <p>Only members can remove a director. A resolution, request or notice of any or all of the directors of a public company is void to the extent it purports to remove a director from their office or requires a director to vacate their office.</p>
2. ASX notification	<p>A company must immediately notify the ASX of a change of a director, chairperson or chief executive officer (or equivalent).</p> <p>Appendix 3Z to the Listing Rules must be completed and lodged by the company with the ASX no later than five business days after a director ceases to be a director.</p>
3. ASIC notification	<p>An ASIC Form 484 "<i>Change to Company Details</i>" must be lodged by the company with ASIC within 28 days of the removal.</p>
3. Notify relevant bank (if applicable)	<p>If the removed director was appointed as a signatory or co-signatory in respect of the company's bank accounts, the relevant bank must be notified and the bank's procedures in respect of the cessation of such appointment must be complied with.</p>

² s.203D(2) of the *Corporations Act*.

1.3 Public officer

Every company which carries on business in Australia or derives in Australia income from property, must ensure that it appoints a “public officer” in relation to all the company’s obligations under the *Income Tax Assessment Act (Cth)* and associated regulations. The company secretary must ensure that the company appoints a public officer within three months after the company commences carrying on business.

Action/notice	Comments
1. Appoint public officer	<p>A consent to act as public officer of the company ought to:</p> <ul style="list-style-type: none">• state the name of the new public officer;• state the company name and address for service of notices;• be signed and dated by the public officer; and• be kept with the company’s records. <p>The public officer of the company must be:</p> <ul style="list-style-type: none">• a natural person;• at least 18 years old;• ordinarily reside in Australia; and• capable of understanding the nature of the person’s appointment as the public officer of the company.
2. Notify Commissioner of Taxation of the appointment of, or any change in, the company’s public officer	<p>Notification to the Commissioner of Taxation is made by forwarding a copy of the consent to act as public officer to the Commissioner as soon as possible after the appointment.</p>
3. Public officer to maintain tax records	<p>The public officer must ensure that the company keeps adequate taxation records which record and explain all transactions and other acts of the company for the purposes of the <i>Income Tax Assessment Act (Cth)</i>. Such records must be kept by the company for a period of five years after the records were prepared or obtained, or the completion of the transactions or acts to which those records relate.</p> <p>Under the <i>Taxation Administration Act</i>, a company secretary may be prosecuted for tax offences committed by the company (for example: failing to submit a company tax return or remit tax payable), as if they had committed the offences personally.</p>

1.4 Company auditor

All public companies are required to prepare a financial report in accordance with the requirements of Chapter 2M of the Corporations Act and have those reports audited by a registered auditor. A public company must appoint an auditor within one month of incorporation.

Appointment of auditor

Action/notice	Comments
1. Consent to act	<p>An auditor must satisfy the registration requirements and independence requirements set out in Divisions 1, 2 and 3 of Part 2M.4, Chapter 2M of the Corporations Act.</p> <p>A person/firm/company is not to be appointed as auditor unless the person/firm/company has, prior to the appointment, provided to the directors or the company:</p> <ul style="list-style-type: none">• written consent to act as auditor; and• has not withdrawn the consent before the appointment. <p>A consent to act as auditor given by a firm must be signed by a member of the firm who is a registered company auditor both in their own name and in the name of the firm.</p> <p>A consent to act as auditor given by a company must be signed by a director or senior manager of the company both in their own name and in the company's name.</p>

Action/notice	Comments
2. Nomination/appointment	<p>A company may only appoint an individual, a firm or a company as auditor of the company at its Annual General Meeting (AGM) if a notice in writing of their nomination as auditor was given to the company by a member of the company:</p> <ul style="list-style-type: none"> • before the meeting was convened; or • not less than 21 days before the meeting. <p>The above requirement for 21 days' notice of nomination does not apply where the auditor is appointed to replace an auditor removed at the AGM.³</p> <p>On receipt of the notice of nomination of an individual, a firm or a company for appointment as auditor, the company must send a copy of the notice to each:</p> <ul style="list-style-type: none"> • person entitled to receive notice of general meetings of the company; • existing auditor of the company; and • person, firm or company nominated as auditor, • not less than 7 days before the meeting or at the time notice of the meeting is given. <p>In accordance with Listing Rule 3.1, a copy of the "Notice of Nomination of the Company as Auditor" which is sent to the members must be lodged with the ASX immediately after despatch to members.</p> <p>The directors are required to appoint an auditor for the company in the following cases:</p> <ul style="list-style-type: none"> • if the company has not appointed an auditor in a general meeting within one month after the registration date of the company⁴; or • if the company has not appointed an auditor in a general meeting within one month after a vacancy occurs in the office of the auditor (otherwise than by removal of auditor from office).⁵ <p>The auditor so appointed by the directors or the members at a general meeting holds office until the company's next AGM.</p>
3. Prepare minutes and place in minute book	<p>The resolution of the members in AGMs or the board of directors of the company appointing the auditor must be placed in the company's minute book within one month of the passing of the resolution.</p>
4. ASX notification	<p>ASX Listing Rule 3.16 requires that a company must immediately prepare and lodge with the ASX notification of the appointment of an auditor.</p>

³ s.328B(1) of the *Corporations Act*.

⁴ s.327A(1) of the *Corporations Act*.

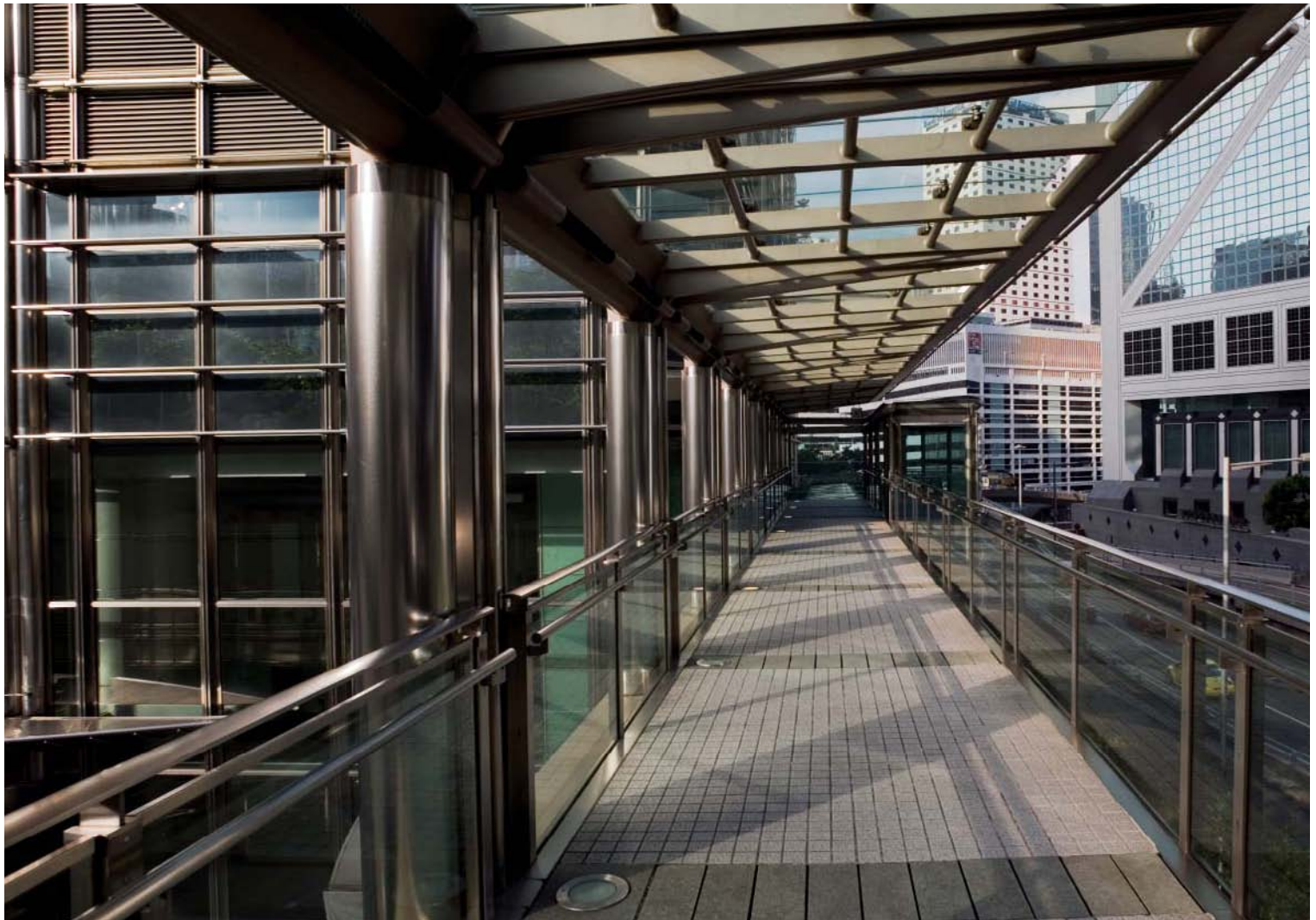
⁵ s.327C(1) of the *Corporations Act*.

Resignation of auditor

Action/notice	Comments
1. Consent of ASIC	<p>Before an auditor can resign from office they must obtain the prior consent of ASIC by filing an ASIC Form 342 “<i>Application for Consent to Resign as Auditor</i>”.</p> <p>At or about the same time as applying for consent from ASIC, the auditor must notify the company in writing of such application.</p> <p>ASIC is obliged to notify the auditor and the company of whether it consents to the resignation of the auditor as soon as practicable after receiving the application from the auditor.</p> <p>After receiving ASIC’s consent, the auditor may resign as auditor of the company by notice in writing given to the company.</p> <p>If ASIC’s consent to the resignation is granted, the resignation takes effect on the date:</p> <ul style="list-style-type: none"> • on which consent is given; • (if any) specified for the purpose of resignation in the notice of resignation; or • (if any) fixed by ASIC, <p>whichever is later.</p>
2. ASX notification	<p>The company must prepare and lodge with the ASX, a notice of resignation and ASIC’s consent immediately upon the resignation or retirement of the auditor.</p>
3. ASIC notification	<p>ASIC Form 315 “<i>Notification of resignation, removal or cessation of auditor</i>” is to be lodged with ASIC within 14 days of the company receiving the notice of resignation. If ASIC Form 315 is not lodged within 14 days, late penalties will apply on lodgement.</p>

Removal of auditor

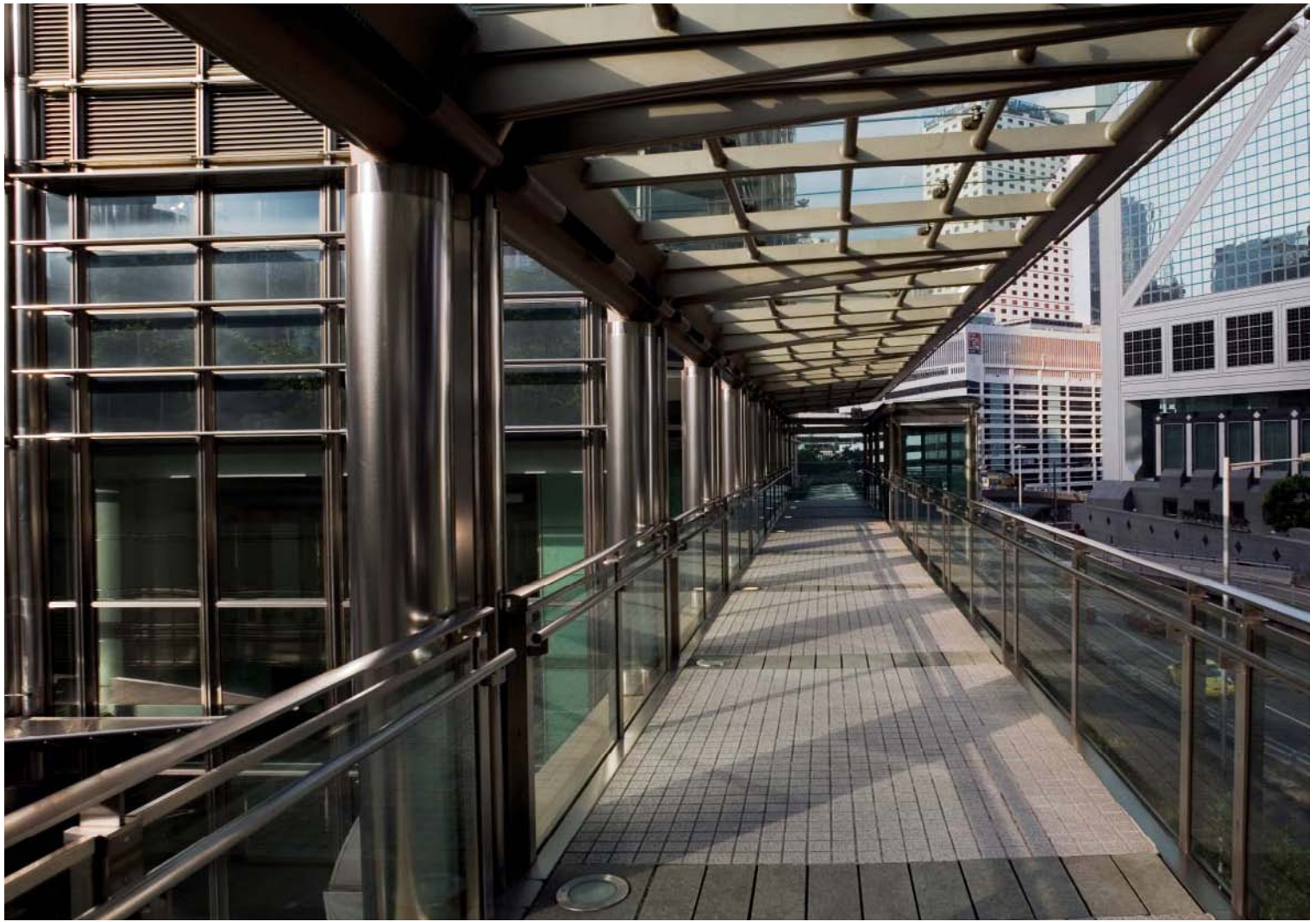
Action/notice	Comments
1. Notice	<p>Notice of intention to remove an auditor must be given to the company at least two months before a general meeting to decide the issue is held.</p> <p>If a company calls a meeting after a notice of intention to remove an auditor is given, the company may pass the resolution even though the meeting is held less than two months after the notice of intention is given.</p>
2. Auditor, ASX and ASIC notification	<p>Where a notice of intention to remove an auditor is received by a company, the company must as soon as possible send a copy of the notice to the auditor, the ASX (in accordance with ASX Listing Rule 3.1) and to ASIC.</p> <p>Within seven days of receiving a copy of the notice of intention to remove the auditor, the auditor may make representations in writing to the company.</p> <p>After receiving the representations, the company must send a copy of such representations to every member of the company if it is requested by the auditor, unless ASIC, on the application of the company, orders otherwise.</p>
3. Members' general meeting held to resolve issue of whether to remove auditor	<p>The company secretary must ensure that 28 days notice of the members' general meeting is given in accordance with s249HA of the Corporations Act.</p>
4. Appointment of new auditor at members' meeting to replace an auditor removed at the meeting	<p>If an auditor is removed from office at a general meeting:</p> <ul style="list-style-type: none"> the company may, at that meeting, by a special resolution, immediately appoint a new auditor provided a copy of the notice of nomination has been sent to the proposed auditor not less than seven days before the meeting or at the time the notice of meeting is given; or if such resolution is not passed or could not be passed merely because a copy of the notice of nomination as auditor has not been sent to the proposed new auditor, the meeting may be adjourned to a day not earlier than 20 days, and not later than 30 days after the day of the original meeting. At the adjourned meeting, an auditor may be appointed by ordinary resolution only if the company has received notice of nomination of that auditor from a member of the company at least 14 days before the date of the adjourned meeting. <p>The newly appointed auditor may only hold an appointment made in accordance with the above until the next AGM.</p>
5. Prepare minutes of members' meeting and place in minute book.	<p>Minutes of the members' meetings held and resolutions passed are to be prepared and placed in the company's minute book within one month after a resolution is passed.</p>
6. ASX notification	<p>Once the resolution to remove the auditor has been passed, the ASX must be notified immediately. This is in addition to the earlier notification of the "proposal to remove an auditor".</p>
7. ASIC notification	<p>An ASIC Form 315 "<i>Notification of resignation, removal or cessation of auditor</i>" must be lodged with ASIC within 14 days of the removal. Failure to lodge an ASIC Form 315 within the requisite period will result in the imposition of late penalties upon lodgement of the form.</p>



2. Duties of directors and secretaries

For the purposes of the Corporations Act, both a director and a company secretary are “officers” of a company and as such, must comply with the statutory duties set out below.

Duty	Relevant section of Corporations Act
1. Exercise their powers and discharge their duties with the degree of care and diligence that a reasonable person would exercise if they: <ul style="list-style-type: none"> • were an officer of a corporation in the corporation’s circumstances; and • occupied the office held by, and had the same responsibilities within the corporation as, the officer. 	section 180(1)
2. Exercise their powers and discharge their duties: <ul style="list-style-type: none"> • in good faith in the best interests of the corporation; and • for a proper purpose. 	section 181(1)
3. Not improperly use their position to: <ul style="list-style-type: none"> • gain an advantage for themselves or someone else; or • cause detriment to the corporation. 	section 182(1)
4. Must not improperly use information obtained in a person’s position as officer to: <ul style="list-style-type: none"> • gain an advantage for themselves or someone else; or • cause detriment to the corporation. 	section 183(1)



3. Responsibilities

3.1 Responsibilities – an introduction

A company secretary has a variety of responsibilities and obligations in fulfilling their role, including but not limited to responsibilities in respect of:

- the company registers;
- the company's registered office and place of business;
- ASIC notifications;
- continuous disclosure to the ASX;
- directors' and members' meetings;
- financial reporting; and
- annual company statements.

3.2 Registers

The company secretary is usually responsible for the establishment and maintenance of the company's registers. The Corporations Act requires that the following registers (together and severally referred to as "Register") be established:

- Register of members;
- Register of debenture holders (if the company issues debentures);
- Register of option holders and copies of option documents (if the company grants options over un-issued shares or interests); and
- Register of charges (if the assets or property of the company are subject to a charge or security).

Registers may be kept by:

- making entries in a bound book;
- making entries in a looseleaf file; or
- storing entries on a computer, provided the information kept on computer is capable of being reproduced in written form at any time.

A company must maintain a separate file for each Register, although often a consolidated looseleaf file known as a "Company Register" is established.

A Company Register will usually be divided into a Register of members, debenture holders, option holders and charges. A Company Register may also contain sections for the placing of:

- directors' minutes;
- members' minutes;
- information in relation to directors and the secretary (eg. original consents to act as director/secretary, director's shareholdings etc);
- copies of ASIC Forms lodged; and
- copies of ASX Forms lodged.

The company secretary has the responsibilities set out below with respect to the establishment and maintenance of the Registers.

Responsibility	Comments
1. Set up Registers and notify ASIC as to where each Register is kept	<p>The Registers of members, debenture holders and option holders must be kept at one of the following offices which must be located in Australia:</p> <ul style="list-style-type: none">• the company's registered office;• the office of the company's principal place of business;• place where work involved in maintaining the Register is done (for example the company's solicitor or accountant's office); or• another place approved by ASIC. <p>If the Register is not kept at the company's registered office or the principal place of business or the location of the Register is changed (other than between the company's registered office and the principal place of business), an ASIC Form 909 "Notification of office at which register is kept" must be lodged within seven days of establishing or changing the location of Registers.</p> <p>If a Register is established at an office other than the registered office, that place must open to permit the Register to be inspected during the same hours as the registered office.</p> <p>The ASX must be immediately notified of the address of an office at which a Register of securities is kept, and of any change of address.</p>

Responsibility	Comments
<p>2. Establish and update the Register of members</p>	<p>The Register of members must contain the following information in respect of each of the company's members:</p> <ul style="list-style-type: none"> • name and address of the member; • date on which the name of the member was entered in the Register as a member; • date of every allotment of shares and the number of shares in each allotment; • number and class of shares held by the member; • share numbers or share certificate numbers of the shares (if any); • the amount paid on the shares; • whether or not the shares are fully paid; and • the amount unpaid on the shares (if any). <p>The Register of members must show the shares a member does not hold beneficially (that is, the shares held by a member on trust for another person or entity).</p> <p>Transfers of shares must be entered in the Register of members in accordance with the procedures set out in company's constitution or the replaceable rules set out in the Corporations Act, whichever applies, and ASX Listing Rule 8.</p> <p>The Register of Members must also show the:</p> <ul style="list-style-type: none"> • date, name and details of persons or entities who ceased to be members of the company during the previous seven years; and • date on which such persons or entities ceased to be a member. <p>The entries referred to above may be kept separate from the rest of the Register of Members.</p> <p>A company with more than 50 members must keep an index of the names of the members unless the Register is in a form that operates effectively as an index.</p> <p>Clearing House Electronic Sub-register System (CHES) approved securities have issuer sponsored sub-registers and certificated sub-register requirements under Chapter 8 of the ASX Listing Rules (for example, an entity must have its issuer sponsored sub-register and certificated sub-register audited at least once every 12 months by a registered auditor or overseas equivalent).</p>
<p>3. Establish and update Register of debenture holders</p>	<p>The Register of debenture holders must be established as soon as debentures in a company are issued and must contain the:</p> <ul style="list-style-type: none"> • name and address of debenture holders; and • amount of debentures held by the holder.

Responsibility	Comments
<p>4. Establish and update Register of option holders and copies of options documents</p>	<p>The Register of option holders must be updated within 14 days after the grant of an option or when options are exercised or expire.</p> <p>The company must keep with the Register of option holders, a copy of each document granting the option.</p> <p>If the company receives written notice of the transfer of an option, the Register must be updated to reflect the transfer of the option.</p> <p>The Register must contain the following information:</p> <ul style="list-style-type: none"> • name and address of each option holder; • date on which the name of each person or entity was entered in the Register as a holder; • date the option was granted; • number and description of shares over which the option was granted; • the period during which, or the time at which, the option(s) may be exercised; • any event that must happen before the option(s) may be exercised; • any consideration for the grant of an option; and • any consideration for the exercise of the option(s) (or method by which consideration is determined). <p>Options must also be disclosed in the annual directors' report.</p> <p>CHES approved options have issuer sponsored sub-register and certificated sub-register requirements under Chapter 8 of the ASX Listing Rules (for example, an entity must have its issuer sponsored sub-register and certificated sub-register audited at least once every 12 months by a registered auditor or overseas auditor).</p>
<p>5. Establish and update Register of charges⁶</p>	<p>The Register of charges must contain details of:</p> <ul style="list-style-type: none"> • the creation of a charge on the assets or property of the company; or • an acquisition by the company of assets or property already subject to a charge; or • the discharge of a charge. <p>The Register of charges must also contain the following information:</p> <ul style="list-style-type: none"> • the date the charge was created by the company (or the date the assets or property subject to the charge was acquired); • a short description of the liability secured; • a short description of the assets or property charged; • the name of the trustee for debenture holders or the chargee (if any); and • the name of the person or entity whom the company believes to be the holder of the charge. <p>The company (through the company secretary) must also ascertain whether ASIC Forms 309, 311, 350 or 312 are required to be lodged.⁷</p>

⁶ The establishment and updating of the Register of charges is only relevant if the company grants a charge over the company's assets or property

⁷ For details, refer to section 3.4 "ASIC notifications".

Responsibility	Comments
6. Register of information about relevant interests	<p>Section 672DA of the Corporations Act provides that listed companies must establish and maintain a register of information about “relevant interests” that it receives on or after 1 January 2005.</p> <p>A person is held to have a relevant interest in securities if they:</p> <ul style="list-style-type: none"> • are the holder of the securities; • have the power to exercise, or control the exercise of, the voting rights attached to the securities; or • have the power to dispose of, or control the exercise of a power to dispose of, the securities (s608). <p>The information in the Register is based on the information given in response to the tracing notices the company issues, which includes details of the:</p> <ul style="list-style-type: none"> • name and address of a person who has a relevant interest in shares in the company; • nature and extent of a person’s relevant interest in the shares of the company; • circumstances giving rise to those relevant interests; • instructions (if any) that a person has given about the acquisition or disposal of shares in the company, or the exercise of any voting or other rights attached to shares in the company, or any other matter relating to shares in the company; and • name and address of a person who has given the above instructions. <p>Any information given to the company must be entered into the Register within two business days of receipt of the information.</p>
7. Make Registers available for inspection	<p>The following may inspect a Register free of charge:</p> <ul style="list-style-type: none"> • an option or debenture holder (in relation to the Registers of members, option holders and debenture holders); or • a creditor of the company (in relation to the Register of Charges); or • any member of the company. <p>Whilst other persons or entities may be entitled to inspect a Register, they may be required to pay a fee.</p> <p>If the person or entity inspecting a Register asks for a copy and pays any fee required by the company, the company must provide a copy of the Register (or part of the Register) within seven days (in relation to the Registers of Members, Option Holders and Debenture Holders) or 21 days (in relation to the Register of Charges).</p> <p>Information about a person obtained from the Register of Members, Option or Debenture Holders may not be used or disclosed for the purposes of contacting or sending information to a person unless the information is relevant to the securities they hold or the use or disclosure is approved by the company.</p>

3.3 Registered office and place of business

Responsibility	Comments
1. Secretary to ensure the registered office of a public company is open to the public	<p>A public company must have a registered office in Australia.</p> <p>Where a company changes the address of its registered office, the company must notify ASIC not later than 28 days after the date on which the change occurs.</p> <p>The registered office of a public company must, on each business day, be open to the public:</p> <ul style="list-style-type: none">• at least three hours between 9am and 5pm; or• from at least 10am to 12 noon and from at least 2pm and 4pm. <p>A company may choose its own opening hours. Where the company chooses its own opening hours it must notify ASIC in the application for registration, or if the company changes its opening hours after its registration, it must lodge with ASIC an ASIC Form 484 prior to the date of the change.</p>
2. Secretary must ensure that the company's name is displayed at its registered office	<p>A public company must display its name and the words "Registered Office" prominently at its registered office.</p> <p>In addition to the above, the company must display its name prominently at every place at which the company carries on business which is open to the public.</p>

3.4 ASIC notifications

The company secretary has a responsibility to ensure that the company notifies ASIC of changes affecting the company within the time period prescribed by ASIC for particular notifications. A failure to notify ASIC within the prescribed period(s) may result in the imposition of late lodgement fees. As at the publication date, ASIC will charge late fees of \$65 where the notification is up to one month late and \$270 where the notification is over one month late.

In making a notification to ASIC, the following documentation may be required for lodgement with ASIC as part of the notification process:

- a completed and signed ASIC Form, the form of which is prescribed by ASIC; and
- such supporting documentation as may be prescribed in the ASIC Form or as may be subsequently requisitioned by ASIC.

Set out below are some of the common changes which ASIC must be notified, and the name and number of the relevant ASIC Form that must be lodged to notify those changes. Details of any supporting documentation that may be required by ASIC are not referred to below and reference ought to be made to the applicable ASIC Form for the details of any such documentation. The list set out below is not exhaustive and a company secretary ought to seek advice as to whether ASIC requires notification of any other changes affecting the company.

Change/notification	Comments
1. Appointment, resignation, retirement or removal of a director or secretary	An ASIC Form 484 “ <i>Change to Company Details</i> ” must be lodged within 28 days of the change.
2. Change in the name or address of a current director or secretary	An ASIC Form 484 “ <i>Change to Company Details</i> ” must be lodged within 28 days of the change.
3. Resignation, removal or cessation of auditor	The company must lodge with ASIC a copy of the notice of intention to remove an auditor. An ASIC Form 315 “ <i>Notification of resignation, removal or cessation of auditor</i> ” must be lodged within 14 days of the resignation, removal or cessation.
4. Change in company name	An ASIC Form 205 “ <i>Notification of Resolution</i> ” must be lodged within 14 days of the resolution.
5. Change in company type	An ASIC Form: <ul style="list-style-type: none">• 205 “<i>Notification of resolution</i>”; and• 206 “<i>Application for change of company type</i>”, must be lodged within 14 days of the resolution.
6. Location of Register	An ASIC Form 909 “ <i>Notification of office at which register is kept</i> ” must be lodged within 7 days of establishing or changing the location of a Register if a Register is kept somewhere other than the company’s registered office or principal place of business.
7. Change in registered office or principal place of business	An ASIC Form 484 “ <i>Change to Company Details</i> ” must be lodged within 28 days of the date of change.

Change/notification	Comments
8. Share transfer, issue, division, conversion, cancellation or buyback ⁹	<p>The ASIC form to be lodged varies depending on the action taken in respect of the company's shares. The forms that apply are as follows:</p> <ul style="list-style-type: none"> • <i>share issue, cancellation and transfer</i>: an ASIC Form 484 "Change to Company Details" must be lodged within 28 days of the share issue, cancellation of shares, any changes to the share structure, any transfer of shares or any changes to the Register of Members. • <i>division or conversion</i>: an ASIC Form 211 "Notification of division or conversion of a class of shares" must be lodged within 14 days of the change occurring. An ASIC Form 2205B "Notification of conversion of shares into larger or small numbers" must also be lodged within 1 month after the relevant resolution was passed. • <i>share buy-back</i>: an ASIC Form 281 "Notification of intention to carry out a share buyback" must be lodged at least 14 days before: <ul style="list-style-type: none"> (a) if the buy-back is conditional on the passing of a resolution, the resolution is passed; or (b) if the buy-back is not conditional on the passing of a resolution, the agreement to buy-back the shares is entered into. An ASIC Form 280 "Notification of share buy-back details" and/or an ASIC Form 281 "Notice of Intention to carry out a share buy-back" may be also be required.
9. A charge over the company's assets or property is created	<p>An ASIC Form 309 "Notification of details of a charge" must be lodged within 45 days after the charge was created or the assets or property the subject of a charge was acquired.</p> <p>Whether the charge is subject to stamp duty must also be ascertained. If stamp duty is payable and an ASIC Form 350 "Certification of compliance with stamp duties law" has not been lodged, the charge will be "provisionally registered" with ASIC. The ASIC Form 350 must be lodged prior to the expiry date of the provisional registration of the charge. If stamp duty has not been paid and the Form 350 not lodged within the requisite time, ASIC will delete particulars of the charge from its register.</p> <p>If stamp duty has been paid, an ASIC Form 350 ought to be lodged as soon as the stamp duty is paid.</p>
10. A charge over the company's assets or property is varied or the assets or property the subject of a charge is released	<p>An ASIC Form 311 "Notification of assignment or change to details of a charge" must be lodged within 45 days from the date of an assignment or variation.</p> <p>An ASIC Form 312 "Notification of discharge or release of property from a charge" ought to be lodged when the:</p> <ul style="list-style-type: none"> • debt or other liability secured by the charge has been paid or discharged in whole or part; or • assets or property charged or part of those assets or property are released from the charge.

⁹ It ought to be noted that the issue, division, conversion or buy-back of shares is subject to the procedures set out in the *Corporations Act* and the company's constitution

3.5 Continuous disclosure to the ASX

In accordance with ASX Listing Rule 3.1, listed companies are required to continuously disclose to the ASX any information that a reasonable person would expect to have a material effect on the price or value of the company's securities as they occur.

ASX Listing Rule 3.1 is designed to ensure that timely disclosure of information:

- which may affect security values; or
- which may influence investment decisions; and
- in which security holders, investors and the ASX have a legitimate interest.

Information for release to the market must be given to the ASX's company announcements office. In this regard, the following chapters of the ASX Listing Rules are relevant:

- Chapter 15 of the ASX Listing Rules which sets out where and how draft and final documents must be lodged;
- Chapter 4 deals with periodic disclosure; and
- Chapter 5 which deals with additional reporting requirements for mining entities and others.

Set out below are some of the principal disclosures which must commonly be notified to the ASX. A company secretary should seek advice as to whether the ASX requires notification of any other changes affecting the company.

Action required	Listing Rule(s)
1. Notice of material information	<p>Listing Rule 3.1 requires that a company must immediately notify the ASX Company Announcements Office of information concerning it that a reasonable person would expect to have a material effect on the price or value of the company's shares.</p> <p>It ought to be noted there are exceptions to this rule.</p>
2. Notice of specific information	<p>A listed company must immediately notify the ASX of information in respect of the following:</p> <ul style="list-style-type: none">• a takeover bid;• a company buy-back;• a reorganisation of capital;• a proposed issue of securities;• details of a call to be made on its securities;• a conversion of securities;• release of restricted securities/securities subject to voluntary escrow;• options and forfeited share in no liability companies and changes to options; and• the lodging of any disclosure document.
3. Change in company details	<p>A company must immediately advise the ASX of a change of the company's:</p> <ul style="list-style-type: none">• address;• telephone or facsimile number;• registered office or principal administrative office;• chairperson, director, chief executive officer or secretary; or• auditor.

Action required	Listing Rule(s)
4. Registers	A listed company must immediately advise the ASX of the change in address of an office at which its Register is kept.
5. Disclosure of directors' interests	<p>An Appendix 3X – “<i>Notifiable interests of a Director</i>” must be lodged with the ASX no later than 5 business days after the date the company is admitted to the official list or the date the director is appointed.</p> <p>An Appendix 3Y – “<i>Change to a notifiable interest of a director</i>” must be lodged with the ASX no later than 5 business days after the change occurs.</p> <p>An Appendix 3Z – “<i>Notifiable interests of a Director as at the date the former director ceases to be a director</i>” must be lodged with ASX no later than 5 business days after a director ceases to be a director.</p>
6. Notification of proposed record date or changes to a proposed record date	An Appendix 3A – “ <i>Notification of proposed record date or changes to a proposed record date</i> ” must be given to the ASX not less than seven business days before a proposed record date or any changes to a proposed record date.
7. Change to the nature or scale of activities	If an entity proposes to make a significant change, either directly or indirectly, to the nature or scale of its activities, it must, as soon as practicable, provide full details to the ASX. It must do so in any event <i>before</i> making the change.

3.6 Directors' and members' meetings

The company secretary has a responsibility to organise directors' and members' meetings and to ensure all procedures for the convening and conduct of such meetings are in accordance with the company's constitution, the Corporations Act and the ASX Listing Rules.

One of the company secretary's most important responsibilities with respect to meeting is to prepare the minutes of the meeting (Minutes) which accurately record the proceedings and resolutions passed at a meeting, or if no meeting is held, preparing and circulating written resolutions for signature by the directors.

The original signed Minutes or resolutions recorded must be placed in the company's minute book within one month of the date the resolutions were passed. The Minutes ought to record:

- the name and ACN of company;
- the date, time and place the meeting was held;
- the names of those present;
- apologies(if any);
- any declarations of interest made by directors;
- details of discussions;
- whether an ordinary or special resolution is proposed at the meeting and the results of such resolution; and
- the signature of the chairperson and date of the minutes (or record of resolution).

Directors' meetings

The secretary has the following responsibilities with respect to a directors' meeting:

Responsibility	Comments
1. Notify all directors of a directors' meeting	Unless the constitution provides otherwise, reasonable notice ought to be given individually to all directors.
2. Prepare agenda and brief directors	The secretary has the responsibility of: <ul style="list-style-type: none">• preparing the meeting agenda stating the resolutions to be considered at the directors' meeting;• briefing directors on important matters concerning the company; and• providing directors with any relevant information they require prior to the meeting.

Responsibility	Comments
3. Convene meeting	<p>The company secretary may be invited to attend a directors' meeting, and may also be requested to brief the directors as to matters concerning the company.</p> <p>The procedures for the conduct of directors' meetings are set out in the company's constitution or, if not in the constitution, the Replaceable Rules set out in the Corporations Act.</p> <p>The company secretary ought to draw the attention of the board of directors to any departure from what is regarded as good governance.</p> <p>A director of a listed company must not vote at, or attend, a board meeting which considers any matter in which he or she has a material personal interest, unless the:</p> <ul style="list-style-type: none"> • interest does not need to be disclosed under s191 of the Corporations Act; or • other directors pass a resolution identifying the director, the nature and extent of the director's interest in the matter and which states that the other directors are satisfied that the interest should not disqualify the director from voting or being present⁵.
4. Prepare Minutes and place minutes in the minute book	<p>Minutes of meetings must be placed in the company's minute book within one month of the meeting.</p>
5. Resolutions without meetings	<p>Subject to a company's constitution, the directors of a company may pass a resolution without a directors' meeting if all the directors entitled to vote on the resolution sign a document known as a "<i>circular resolution</i>" containing a statement that they are in favour of the resolution set out in the document. Separate copies of the circular resolution may be used for signing by the directors if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last director signs the circular resolution.</p> <p>The original signed document recording the resolution must be retained in the Company Register.</p>

¹⁰ s195 of the *Corporations Act*

Members' meetings

The secretary has the following responsibilities with respect to a members' meeting:

General meeting

Responsibility	Comments
1. Convening a general meeting	<p>A general meeting called by the company may be convened in the following ways:</p> <ul style="list-style-type: none">• a director of a listed company may call a general meeting of the members regardless of the provisions of the company's constitution¹¹; or• the directors of a company are required to convene a general meeting if they are requested to by either:<ul style="list-style-type: none">(a) members with at least 5% of the votes that may be cast at a general meeting; or(b) at least 100 members who are entitled to vote at the meeting.¹²
2. Requisitioned meetings	<p>If members request the directors to convene a general meeting under section 249D of the Corporations Act then the request must be given to the company and must:</p> <ul style="list-style-type: none">• be in writing;• state any resolution that is to be proposed at the meeting; and• be signed by the members making the request.¹³ <p>A meeting must be convened within 21 days of receipt by the company of the requisition and must be held within 2 months after the receipt of the requisition.</p>
3. Prepare and send "Notice of members' meeting"	<p>A listed company must provide 28 days notice of a meeting of members.</p> <p>Any information required to be provided to members under the ASX Listing Rules (particularly Listing Rule 14) must be included in the notice of meeting or accompany the notice of meeting.</p> <p>The requirements of the company's constitution regarding member's meetings must also be complied with.</p> <p>The notice of meeting must:</p> <ul style="list-style-type: none">• include a proxy form which satisfies the requirements of ASX Listing Rule 14.2; and• be sent to each member entitled to vote at the meeting, each director, the company's auditor and the ASX. <p>A company must notify the ASX of any announcement (including any prepared address by the chairperson) to be made at the meeting of members. A copy of such an announcement must be given to the ASX no later than the start of the meeting.¹⁴</p>

¹¹ s249CA of the Corporations Act

¹² s249D(1) of the Corporations Act

¹³ s249(D2) of the Corporations Act

¹⁴ ASX Listing Rule 3.13

Responsibility	Comments
4. Attend members' meeting	The secretary must ensure that all procedures for the conduct of the meeting comply with the company's constitution, the Corporations Act and ASX Listing Rules, if required by the ASX, a company must appoint its auditor or another person approved by the ASX as scrutineer to determine the validity of votes cast at a general meeting. ¹⁵
5. Prepare Minutes and place in the minute book	<p>The Minutes of members' meetings must state whether resolutions were passed as "ordinary" or "special" resolutions.</p> <p>An "<i>ordinary resolution</i>" requires a simple majority of those present and voting at a meeting to vote in favour of the resolution.</p> <p>A "<i>special resolution</i>" generally requires that the resolution is passed by a 75% majority of members who are present at the meeting and who are entitled to vote.</p> <p>A company with only one member may pass resolutions without holding a meeting by the member recording and signing a written resolution.</p> <p>Minutes of members' meetings and written resolutions are to be placed in the company's minute book within one month of the passing of a resolution.</p>
6. Check whether ASIC notification is required	<p>Depending on the nature of the resolution, ASIC notification may be required. The more common notifications relate to change of company name, change of company type and any adoption, modification or repeal of the company's constitution.</p> <p>An ASIC Form 205 "<i>Notification of resolution</i>" (in respect of a variety of resolutions) must be lodged within 14 days of the resolution being passed. If the resolution relates to the voluntary winding up of the company it must be lodged within seven days of the resolution being passed.</p> <p>An ASIC Form 2205 "<i>Notification of resolutions regarding shares</i>" must be lodged if the resolution relates to the alteration of rights in respect to shares, alteration or reduction to the share capital of the company or if the resolution relates to the company providing financial assistance to assist a potential shareholder to acquire shares in the company or its holding company. The lodging period for ASIC Form 2205 depends on the type of resolution passed. ASIC Forms 2601 and 2602 are also to be lodged in respect of the giving of financial assistance.</p> <p>In some circumstances, notice of a special resolution must be lodged with ASIC prior to the resolution being passed, for example, where a special resolution is proposed to transfer the jurisdiction in which the company is registered.</p>
7. Check whether member notification is required	If a resolution is passed which varies or cancels the rights attached to shares in a class of shares, written notice of the variation or cancellation must be sent to members within seven days after the variation or cancellation is made.
8. ASX notification	A company must immediately notify the ASX of the outcome of each resolution put to a members' meeting. The company must do so immediately after the meeting has been held. If the meeting is adjourned, the company must immediately notify the ASX of the adjournment and the outcome in respect of each resolution dealt with before the adjournment.

¹⁵ ASX Listing Rule 14.8.

Annual General Meeting (AGM)

All listed companies, with the exception of a public company with only one shareholder, must hold an AGM. Under s250N of the Corporations Act, the first AGM must be held no later than 18 months after the registration of the company. Subsequent AGMs must be held at least once in a calendar year and no later than five months after the end of the company's financial year. ASIC may however grant an extension of time upon application by the company pursuant to s250P of the Corporations Act.

Action/notice	Comments
1. Convening an AGM	The decision to hold an annual general meeting is usually made by the directors at a board meeting.
2. Notice of meeting	<p>A notice of meeting must be sent to:</p> <ul style="list-style-type: none">• all members entitled to attend and vote at the meeting;• all directors;• the auditor; and• the ASX. <p>At least 28 days notice must be given.</p> <p>The company secretary must comply with the provisions of the ASX Listing Rules when drafting the notice of meeting. For example ASX Listing Rule 10 which deals with the:</p> <ul style="list-style-type: none">• acquisition or disposal of a “substantial” asset;¹⁶• issue of securities;¹⁷• acquisition of securities under an employee incentive scheme¹⁸; and• content of a voting exclusion statement and persons to be excluded.¹⁹ <p>The notice of meeting must include a proxy form which satisfies the requirements of ASX Listing Rule 14.2.</p> <p>The notice of a meeting of the company's members must set out the following information:</p> <ul style="list-style-type: none">• the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology facilitating the meeting);• the general nature of the meeting's business;• if a special resolution is to be proposed at the meeting, the notice should set out the proposed resolution; and• if a member is entitled to appoint a proxy, the form of proxy and the relevant address, fax or electronic address for the return of the proxy. <p>For listed companies, a copy of all documents sent to holders of securities must be given to the ASX.</p> <p>If directors are to be elected at the members' meeting, listed companies must provide notice to the ASX at least five business days before the closing date for the director nominations.²⁰</p> <p>The ASX must receive a copy of every announcement to members no later than the start of the meeting.</p> <p>The draft notice of members meeting must be approved by the ASX before the notice is despatched to members if required under ASX Listing Rule 15.</p>

¹⁶ ASX Listing Rule 10.10.

¹⁷ ASX Listing Rule 10.13.

¹⁸ ASX Listing Rule 10.15.

¹⁹ ASX Listing Rule 14.11.

²⁰ ASX Listing Rule 3.13.1.

Action/notice	Comments
3. Matters to be dealt with	<p>The matters that may be dealt with by members at an AGM include the:</p> <ul style="list-style-type: none"> • consideration of the annual financial report, directors' report and auditor's report; • election of directors; • appointment of auditor; • fixing of auditor's remuneration; and • adoption of a remuneration report.
4. Attend members' meeting	<p>The secretary must ensure all procedures for the conduct of the meeting are in compliance with the company's constitution.</p>
5. Prepare Minutes and place in the minute book	<p>Members' Minutes ought to state whether the resolutions passed were "ordinary" or "special" resolutions.</p> <p>A company must record in the Minutes of a meeting, for each resolution, the total number of proxy votes exercisable by all proxies validly appointed and:</p> <ul style="list-style-type: none"> • if the resolution is decided by a show of hands – the total number of proxy votes in respect of which the appointment specified that the proxy: <ul style="list-style-type: none"> (a) is to vote for the resolution; (b) is to vote against the resolution; (c) is to abstain on the resolution; and (d) may vote at the proxy's discretion; and • if the resolution is decided on a poll – the information specified in paragraph (a) above and the total number of votes cast: <ul style="list-style-type: none"> (a) in favour of the resolution; (b) against the resolution; and (c) abstaining on the resolution. <p>Minutes are to be placed in the company's minute book within one month of the passing of the resolutions.</p>

Action/notice	Comments
<p>6. Check whether ASIC notification is required</p> <p>(also refer to the section on ASIC Notifications)</p>	<p>Depending on the nature of the resolution, ASIC notification may be required. The more common notifications relate to change of company name, change of company type and any adoption, modification or repeal of the company's constitution.</p> <p>An ASIC Form 205 "<i>Notification of resolution</i>" (in respect of a variety of resolutions) must be lodged within 14 days of the resolution being passed. If the resolution relates to the voluntary winding up of the company it must be lodged within seven days of the resolution being passed.</p> <p>An ASIC Form 2205 "<i>Notification of resolutions regarding shares</i>" must be lodged if the resolution relates to the alteration of rights in respect to shares, alteration or reduction to the share capital of the company or if the resolution relates to the company providing financial assistance to assist a potential shareholder to acquire shares in the company or its holding company. The lodging period for ASIC Form 2205 depends on the type of resolution passed. ASIC Forms 2601 and 2602 are also to be lodged in respect of the giving of financial assistance.</p> <p>In some circumstances, notice of a special resolution must be lodged with ASIC prior to the resolution being passed, for example, where a special resolution is proposed to transfer the jurisdiction in which the company is registered.</p> <p>If a special resolution is passed approving the transfer of the place of registration of a company to another jurisdiction, a copy of the special resolution must be lodged with ASIC within 14 days of the day the resolution was passed.</p>
<p>7. ASX notification</p>	<p>A company must immediately notify the ASX of the outcome of each resolution put to a members' meeting. The company must do so immediately after the meeting has been held.</p> <p>If the meeting is adjourned, the entity must immediately notify the ASX of the adjournment and the outcome in respect of each resolution dealt with before the adjournment.</p>

3.7 Financial reporting

Directors of public companies and large proprietary companies are required by the Corporations Act to prepare an annual financial report and a directors' report.

A proprietary company will be a large proprietary company in a particular financial year if the company satisfies at least two of the following:

- the consolidated gross operating revenue for the financial year of the company (and any controlled entities) is \$10 million or more;
- the value of the consolidated gross assets at the end of the financial year of the company and (and any controlled entities) is \$5 million or more; or
- the company (and any controlled entities) have 50 or more employees at the end of the financial year.

If a proprietary company does not satisfy two of the above criteria, the company will be regarded as a small proprietary company.

Directors of some small proprietary companies will be required to prepare a financial report and directors' report for a particular financial year where requested by shareholders holding at least 5% of the voting shares.²¹

The financial reports of a company consist of the following documents:

- the financial statements (that is, profit and loss statement, balance sheet, statement of cash flows and consolidated profit and loss statement, balance sheet statement of cash flows);
- the notes to the financial statements; and
- the directors' declarations.

Disclosing entities (which are defined by the Corporations Act) are also under an obligation to prepare a half-year financial report.

Financial records must be kept for a period of seven years after the transactions covered by the records are completed.

Set out on the following page is a brief summary of obligations in relation to financial reporting.

²¹ s293 of the *Corporations Act*.

Annual financial report

Action/notice	Comments
1. Prepare an annual financial report	<p>The directors of a public company, a large proprietary company and certain small proprietary companies must prepare annual financial reports consisting of the:</p> <ul style="list-style-type: none">• financial statements for the year;• notes to the financial statements; and• directors' declaration about the statements and notes. <p>The notes to the financial statements consist of certain disclosures required by the Corporations Regulations 2001 and any other information necessary to give a true and fair view of the financial position and performance of the company.</p> <p>The directors' declaration must detail:</p> <ul style="list-style-type: none">• whether, in the directors' opinion, there are reasonable grounds to believe that the company will be able to pay its debts as and when they become due and payable;• whether, in the directors' opinion, the financial statements and notes comply with accounting standards and give a true and fair view of the financial position and performance of the company; and• if the company is a disclosing entity or is listed on the ASX, the directors have given a declaration in accordance with s295A of the Corporations Act.
2. Directors report	<p>A directors' report for each financial year must include:</p> <ul style="list-style-type: none">• the "general information" set out in s299 and s299A of the Corporations Act;• the "specific information" set out in s300 and s300A of the Corporations Act; and• a copy of the auditor's declaration under s307C(1) of the Corporations Act in relation to the audit for the financial year.
3. Audit	<p>A company which is required to prepare financial reports must have the financial report audited in accordance with Division 3 of the Corporations Act and obtain an auditor's report.</p> <p>A small proprietary company that is required by its shareholders to prepare financial reports in accordance with clause 293 is not required to have the financial reports audited where the shareholders of the company did not request that the reports be audited.²²</p>

²² s301 of the *Corporations Act*.

Action/notice	Comments
4. Lodge with the ASX	<p>Listed companies must:</p> <ul style="list-style-type: none"> • lodge with the ASX all annual reports that the company has to lodge with ASIC (including annual financial reports, directors' report, auditor's report and concise report, if any). Such documents must be lodged with the ASX at the same time they are lodged with ASIC and in any event no later than three months after the end of the company's financial year; • lodge with the ASX two copies of the annual report or concise report sent to each member, on the earlier of the following: <ul style="list-style-type: none"> (a) the first day the documents are sent to members; or (b) the date that is the end of 17 weeks after the end of the company's financial year; • notify the ASX of any non-compliance with reporting requirements; • lodge Appendix 4E (preliminary final report) with the ASX within two months after the end of the accounting period and notify the ASX of any circumstances which are likely to materially affect the preliminary final report once the company is or becomes aware of them; and • lodge Appendix 4F with the ASX if the company changes its annual balance date so that the next annual accounts cover a period of more than 12 months.
5. Lodge with ASIC	<p>The annual financial report, auditor's report and directors' report of a listed company must be lodged with ASIC within three months of the end of the company's financial year.</p>
6. Financial reporting to members	<p>A public company must report to members by sending each member either:</p> <ul style="list-style-type: none"> • the annual financial report, directors' report and auditor's report; or • a concise report, by the earlier of: <ul style="list-style-type: none"> (a) 21 days before the next AGM after the end of the financial year; or (b) four months after the end of the financial year. <p>Note: ASX Listing Rule 4.6 stipulates the deadline for submission of an annual report or concise report to members is 17 weeks after the end of financial year. The deadline stipulated in s315 of the Corporations Act is four months after the end of the financial year – if that comes earlier than the 17 week period stipulated by ASX Listing Rule 4.6 then s315 will apply.</p>

Half-year financial reporting

Action/notice	Comments
1. Prepare a half-year financial report	<p>A disclosing entity must prepare a half-year financial report. A half-year financial report consists of:</p> <ul style="list-style-type: none"> • the financial statements for the half-year of the company and, if required by the accounting standards, the consolidated financial statements; • notes to the financial statements; and • directors' declaration about the statements and notes, that must: <ul style="list-style-type: none"> (a) be made in accordance with a resolution of the directors; (b) specify the date on which the declaration is made; and (c) be signed by a director.
2. Audit	The financial report for the half-year must be audited
3. Prepare a half-year directors' report (accompanied by auditor's declaration)	<p>A disclosing entity must prepare a half-year directors' report. The half-year directors' report consists of the:</p> <ul style="list-style-type: none"> • review of operations and results during the half-year (if consolidated financial statements required, the review must cover the consolidated entity); and • name of each director of the disclosing entity at any time during or since the end of the half-year and the period for which they were a director.
4. Lodge with the ASX	The company must lodge with the ASX Appendix 4D and all documents lodged with ASIC, at the same time the documents are lodged at ASIC, but not later than two months after the end of the accounting period.
5. Lodge with ASIC	<p>The company's half-year financial report, auditor's report and directors' report must be lodged with ASIC within 75 days after the end of the half-year.</p> <p>To ensure strict compliance with both s320 of the Corporations Act and ASX Listing Rule 4.2B, the half-year financial report should be lodged with the ASX and ASIC within two months of the end of the half-year.</p>
6. Half-year financial reporting to members	Half-year financial reporting to members is not required by the Corporations Act or the ASX Listing Rules.

3.8 Annual Company Statement

On a company's "Review Date" which is usually the date of or shortly after the anniversary of the company's date of incorporation, ASIC will prepare and forward the Annual Company Statement to the registered office, or, to the registered electronic agent of the company if one has been appointed. Once the Annual Company Statement is received, the obligations set out below will apply.

Action/notice	Comments
1. Check the annual company statement	<p>The contents of the annual company statement include the company's:</p> <ul style="list-style-type: none">• ACN;• name;• address of registered office and principal place of business;• each director's name, residential address and birth details;• each secretary's name, residential address and birth details;• share structure; and• ultimate holding company. <p>The annual company statement must be checked carefully by the secretary. If there are any changes to be made to the statement, an ASIC Form 484 "Change to company details" must be completed and lodged with ASIC within 28 days of the Review Date.</p> <p>Even if there are no changes, the annual review fee must be paid within two months of the Review Date.</p>

About PricewaterhouseCoopers Legal

PricewaterhouseCoopers Legal – an introduction

PricewaterhouseCoopers Legal is a business name of the PricewaterhouseCoopers Australia Partnership, a regulated Multi-Disciplinary Partnership in certain States of Australia.

PricewaterhouseCoopers Legal represents a new approach to the provision of legal services consulting, developed in direct response to the needs of our clients and an increasingly competitive corporate environment. We are dedicated to providing the services that a modern business needs. We are particularly well placed to meet the needs of our international clients, providing assistance on local or cross-border tax and legal issues.

What differentiates us from other professional service providers in Australia is our multi-disciplinary approach to and involvement in the delivery of professional services to clients with practice groups within PricewaterhouseCoopers, including PricewaterhouseCoopers Legal. This context of service delivery gives us a unique perspective into our clients' wider business issues and enables us to deliver legal advice in the context of what works for our clients and their businesses. The PricewaterhouseCoopers Legal team will work in tandem with our colleagues at PricewaterhouseCoopers to provide all encompassing advice and solutions to your business issues – no matter how complex they are.

With offices in Sydney and Melbourne we are strategically placed to provide legal services throughout Australia and the Asia-Pacific region.

We work with you

We believe that best practice legal solutions are developed within a wider business context. Our lawyers speak the language of business, working with you to develop an understanding of your commercial objectives and express advice in commercial terms. We bring together teams of specialists to work alongside clients as trusted business advisers. We structure and project manage transactions from start to finish. Our ultimate aim is to help clients transform their businesses and increase their value.

Our clients come to us from every industry including financial services, information technology, communications, entertainment, energy, mining and consumer and industrial. We offer every client industry-focused legal solutions, tailored to their business requirements.

Managing relationships

Relationships with our clients are managed through a Client Relationship Partner. This partner has sole responsibility for ensuring that high quality, commercial legal solutions are provided to meet client needs on a local and international level. The Client Relationship Partner is supported by a team of lawyers who have an in-depth knowledge of the client and the industry in which the client operates. Our relationships with clients are built on trust, communication and dedicated client service.

Global tax and legal services

Our advice is tailored to meet the needs of our clients' complex business issues.

Legal services are offered in the following areas:

- Corporate & Commercial
- Commercial & Regulatory Litigation
- Employment Law
- Environment and Climate Change Services
- Property
- Tax Controversy

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