



MEMO

To: Board of Directors
From: Company Secretary
Subject: **DIRECTORS' DECLARATION**

Section 295(1) of the Corporations Act details the basic contents of the annual financial report of a company, which consist of:

- (a) The financial statements for the year; and
- (b) Notes to the financial statements; and
- (c) A Directors' Declaration about the financial statements and notes.

Note — similar requirements exist for the half-yearly accounts too - s.303(1)(c).

Form of Directors Declaration

This is a declaration 'by the directors' [as a whole] signed for and on behalf of the directors, which is usually attached as the last page of the annual financial report (before the audit sign-off).

The declaration must be in the form set out in s.295(4) and as required under the Accounting Standards, including:

- (a) 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; and
- (b) if the company has included in the notes to the financial statements, in compliance with the accounting standards, an explicit and unreserved statement of compliance with international financial reporting standards — that this statement has been included in the notes to the financial statements; and
- (c) whether, in the directors' opinion, the financial statement and notes are in accordance with the Act, including:
 - (i) s.296 (compliance with accounting standards); and
 - (ii) s.297 (true and fair view); and
- (d) if the company is stock exchange listed — that the directors have been given the declarations required by s.295A.

Wording of Directors' Declaration

Under s.295(5) a Directors' Declaration must be:

- (a) made in accordance with a resolution of directors; and
- (b) dated; and



(c) signed by at least 1 director.

Note, some company constitutions require that 2 directors sign.

Typical wording may be as follows:

DIRECTORS' DECLARATION

The directors of the company declare that:

1. The financial statements and notes:
 - (a) comply with Australian Accounting Standards (including Australian Accounting Interpretations) and the Corporations Regulations 2001; and
 - (b) give a true and fair view of the financial position as at 30 June 2010 and performance for the year ended on that date of the company,
2. The financial statements also comply with International Financial Reporting Standards as disclosed in note 1.
3. The Remuneration Report as set out in the Directors' Report complies with Section 300A of the Corporations Act 2001.
4. The persons performing the roles of Chief Executive Officer and Chief Financial Officer have declared that:
 - (a) the financial records of the company for the year have been properly maintained in accordance with Section 286 of the Corporations Act 2001;
 - (b) the financial statements and notes for the year comply with the Australian Accounting Standards (including Australian Accounting Interpretations); and
 - (c) the financial statements and notes for the year give a true and fair view.
5. 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.

This declaration is made in accordance with a resolution of the Board of Directors.

Dated this 30th day of September 2010

..... (Director)

Listed Companies

Points 3 and 4 of the typical Directors' Declaration are really only for Australian stock exchange listed companies, but best practice suggests that other companies should impose similar disciplines.



Point 3 — s.300A sets out the requirements covering the Remuneration Report information to be provided.

Point 4 — s.295A requires that each of the persons (or the one person) performing the roles of CEO and CFO of a company declare in writing (signed and dated) to the directors that:

- (a) the financial records have been properly maintained
- (b) the financial statements comply with the accounting standards
- (c) the financial statements give a true and fair view of the company's financial position (as per s.297);

and s.295(4)(e) requires that in the Directors' Declaration [for listed companies] the directors must state [in writing] that they have received the s.295A declarations.

DISCLAIMER

The comments in this memo reflect some commercial aspects and observations on the matter experienced or observed by the writer in practice as he understands them. The information is given as a guide only and does not represent a definitive or legal view of any of the issues raised, covered or referred to and the reader is urged to seek his own professional advice on all aspects of, or pertaining to, this and any related matter.