



ASIC

Australian Securities & Investments Commission

REGULATORY GUIDE 18

Serving legal documents on the ASC

Chapter 1 — Introductory and general topics

Issued 20/6/1994

From 5 July 2007, this document may be referred to as Regulatory Guide 18 (RG 18) or Practice Note 52 (PN 52). Paragraphs in this document may be referred to by their regulatory guide number (e.g. RG 18.1) or their practice note number (e.g. PN 52.1).

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Purpose

RG 18.1 This guide guides officers of companies and other business enterprises and their advisers about serving documents on the ASC. This guide supersedes Practice Note 10.

Where to serve legal documents

RG 18.2 If the ASC is a party to litigation or proceedings, legal documents (including subpoenas) should be served at the address for service nominated by the ASC in those proceedings. If the ASC has

not nominated an address, they should be served at the Legal Division of the Regional Office of the State or Territory in which the proceedings were issued (irrespective of the State or Territory in which the parties are incorporated or carry on business).

RG 18.3 If the ASC is not a party to litigation or proceedings, legal documents (including subpoenas) should be served at the Legal Division of the Regional Office of the State or Territory in which the proceedings were issued (irrespective of the State or Territory in which the parties are incorporated or carry on business).

RG 18.4 In litigation or proceedings which do not involve the ASC, a person may wish to use documents stored on the ASCOT or DOCIMAGE systems. In this case, the person should ask the ASC for a certified copy of the documents under s1274 of the Corporations Law, instead of issuing a subpoena (see Regulatory Guide 17).

Reasonable time to produce documents

RG 18.5 If a person fails to produce documents on subpoena, that person may be liable for costs. However, this only applies if the person serving the subpoena gives a reasonable time to produce them.

RG 18.6 In considering what is a “reasonable time to produce” documents under a subpoena served on the ASC, the question of what is a reasonable place to serve the ASC must also be considered.

RG 18.7 Because the ASC is a large organisation, practitioners can help their clients to obtain the documents quickly if they find out the appropriate office or officer to serve, before they serve the documents. This will ensure that the ASC can comply with its obligations as quickly as possible.

RG 18.8 If they do not, and the ASC does not have reasonable time to bring the matter to the officer’s attention, the ASC may dispute liability for costs.

RG 18.9 For example, a subpoena may be served on the Chairman’s Office in Sydney when it should have been served on the Legal Division of the Regional Office in another State. If the ASC is late producing the documents for that reason, it may raise the issue on the question of costs.

RG 18.10 It would also help ASC staff to answer subpoenas quickly if they are served well before the return date.