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Common Issues & Answers

DUTIES OF COMPANY DIRECTORS

1. The Corporations Law (the Law) sets out responsibilities of directors.
2. The Australian Securities Commission (ASC) administers the law.
3. The welfare of the company is to be held uppermost. A director acts on behalf of the Shareholder owners of the company. Directors must exercise a duty of care.
4. If a director is dishonest or careless with company property, creditors may sue Directors for their personal assets. s.232(2). Courts have sent dishonest directors to prison and imposed heavy fines.
5. A director must act with care and diligence. s.232(4)
 - This involves keeping up-to-date on company activities.
 - Seek outside professional advice when unable to make an informed decision.
 - Question management and staff about how the business is performing.
6. A director must not misuse company information. s.232(5) Personal interests that may give rise to a conflict of interest must be disclosed at a directors meeting. s.231
7. Financial records that explain transactions must be maintained. s.289
8. Each year a Directors Report must declare about the company's solvency. s.301-304 A Company must not continue trading if it is unable to meet its existing debts. s.588G
9. Each year an Annual Return must provide accurate information about the shareholders and directors. s.1309
10. Shares or company securities must not be offered to the general public. s.116
11. If a company finds itself in financial difficulties an external administrator may be appointed to control the company affairs. Directors must supply a report as to the affairs.