

**[9.1325] Other orders — Annotations to section 1325*****Key principles***

This section allows the court to make ancillary orders in respect of contraventions of particular chapters of the CA, s 798H(1) (obligation to comply with market integrity rules) and Pt 7.10, including altering or cancelling contracts or requiring payment of damages. An order can only be made under this section in proceedings brought under another section of the CA: *Sent v Jet Corp of Australia* (1986) 160 CLR 540; 66 ALR 73; 60 ALJR 503; BC8601439. The court has a discretion whether to make an order under this section, and may take account of whether the relevant conduct was blameworthy in exercising that discretion: *Australian Securities Commission v Sackley* (1991) 4 ACSR 739; 9 ACLC 874. If ASIC seeks compensation on behalf of third parties under s 1325(3), those third parties must be identified in the application and ASIC must have the written consent of each person on whose behalf the application is made: *Australian Securities and Investments Commission v Aboriginal Community Benefit Fund Pty Ltd* (2004) 50 ACSR 9; 22 ACLC 1060; [2004] FCA 963; BC200404598 at [10].

***History and explanatory materials***

This section is based on Trade Practices Act 1974 s 87. This section was amended by the Corporations Amendment (Financial Markets Supervision) Act 2010 to extend its operation to contraventions of s 798H(1) (obligation to comply with the market integrity rules): see EM to the Corporations Amendment (Financial Markets Supervision) Act 2010 [2.32].

***Texts and literature***

*Ford* [3.430], [9.700], [10.320]; *ACLPP* [15.2.0060].

**[9.1325A] Orders if contravention of Chapter 6, 6A, 6B or 6C — Annotations to section 1325A*****Key principles******Scope of section***

This section allows the court to make any order that it considers appropriate, including a remedial order, in respect of contraventions of Chs 6, 6A, 6B or 6C. The purposes of a remedial order under this section includes, in an appropriate case, facilitating intended market behaviour by remedying a technical breach; and an application for relief under this section may be made in the course of a takeover bid, despite the restriction on commencing court proceedings in relation to a takeover bid during the takeover bid period under s 659B: *Re Venturex Resources Ltd* (2009) 177 FCR 391; 72 ACSR 358; [2009] FCA 677; BC200905319 at [17]–[25]. An order under this section may be more appropriate than an order under s 1322 or s 1325D to grant relief in respect of a failure to obtain quotation within the time periods specified in s 1325A(2): *Cabcharge Australia Ltd* [2007] FCA 421; BC200701892; *Re MacMahon Holdings Ltd* [2008] FCA 1079; BC200806702 at [17]–[18].

***Vesting orders***

This section also allows the court to make vesting or other orders in respect of a contravention of the specified chapters in an appropriate case. The court's power under this section is to be exercised in a way which advances the principal objectives of the