

QoN016-01: Use of information gathering powers

How many times in each of the past five years:

- a) have the information-gathering powers to summon witnesses and take evidence in section 192 of the ASIC Act been used?
- b) has a person been subject to a penalty under section 198 of the ASIC Act for failure to comply with a requirement made under section 192?
- c) has the Panel not granted leave for a party to Panel proceedings to be legally represented under section 194 of the ASIC Act?
- d) has a person been subject to a penalty under section 200 of the ASIC Act for contempt of Panel?
- e) has the Panel certified to the Court under subsection 201(2) of the ASIC Act a failure to comply with a requirement made under section 192?
- f) has the Court, under subsection 201(3) of the ASIC Act, inquired into a case certified by the Panel and ordered the person to comply with the requirement made under section 192?

Answer (using the numbering above).

- a) On three occasions – see:
 - *Molopo Energy Limited 01 & 02* [2017] ATP 10 at [59] to [65]
 - *Molopo Energy Limited 09* [2017] ATP 22 at [18] to [24] and
 - *Molopo Energy Limited 10 & 11* [2018] ATP 12 at [46] to [50]

Note that in relation to nearly all matters, parties are willing to provide documentation voluntarily, usually in response to a Panel brief under regulation 22 of the *ASIC Regulations 2001* (Cth) (see answer to QoN016-02).

- b) No
- c) No, not in the last five years. The last time the Panel refused leave for a party to Panel proceedings to be legally represented under section 194 of the ASIC Act was in *Avalon Minerals Limited* [2013] ATP 11 at [130] to [146], which discusses the Panel's discretion under that section.
- d) No
- e) No
- f) No