

The impact of enforceable undertakings on third parties

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An enforceable undertaking is one of the many sanctions that are available to the Australian Securities and Investments Commission (ASIC). An enforceable undertaking is a promise enforceable in court. The alleged offender, known as the promisor, will promise the regulator to do or not to do certain actions. The result achieved through an enforceable undertaking will reflect the compromise that is reached by the parties involved. However, such an enforceable undertaking may affect people who are not part of the undertaking in a number of ways. Accordingly, this paper considers the impact of enforceable undertaking on third parties by looking at the promises (in the undertaking) that affect outsiders. Additionally, certain court cases that dealt with enforceable undertakings and their impact on outsiders will be considered.

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