



Corporations Legislation Amendment Regulation 2012 (No.)¹

Select Legislative Instrument 2012 No.

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Corporations Act 2001* and the *Corporations (Fees) Act 2001*.

Dated 2012

Governor-General

By Her Excellency's Command

[DRAFT ONLY – NOT FOR SIGNATURE]

Parliamentary Secretary to the Treasurer

DRAFT ONLY

1 Name of regulation

This regulation is the *Corporations Legislation Amendment Regulation 2012* (No.).

2 Commencement

This regulation commences as follows:

- (a) on the day after it is registered—sections 1 to 4;
- (b) on the commencement of Schedule 1 to the *Corporations Amendment (Phoenixing and Other Measures) Act 2012*—Schedule 1;
- (c) on the later of:
 - (i) 1 July 2012; and
 - (ii) the commencement of Schedule 1 to the *Corporations Amendment (Phoenixing and Other Measures) Act 2012*;
Schedule 2;
- (d) on 1 July 2013—Schedule 3.

3 Amendment of *Corporations Regulations 2001*

Schedule 1 amends the *Corporations Regulations 2001*.

4 Amendment of *Corporations (Fees) Regulations 2001*

Schedule 2 amends the *Corporations (Fees) Regulations 2001*.

5 Amendment of *Corporations (Fees) Regulations 2001*

Schedule 3 amends the *Corporations (Fees) Regulations 2001*.

Schedule 1 **Amendment of Corporations Regulations 2001**

(section 3)

[1] **After regulation 5.3A.03**

insert

5.3A.03A Notice of first meeting of creditors

- (1) This regulation is made for paragraph 436E (3) (b) of the Act.
- (2) The information about a meeting that is to be set out in a notice is as follows:
 - (a) the name of the company;
 - (b) any trading name of the company;
 - (c) the ACN of the company;
 - (d) the section of the Act or, in the case of a combined notice, the sections of the Act under which the notice is being given;
 - (e) the time, date and place for the meeting;
 - (f) the purpose for which the meeting is being convened under that section;
 - (g) the time and date by which a proof of debt, or proxy for the meeting, is to be submitted;
 - (h) the name and contact details of the administrator;
 - (i) the date on which the administrator was appointed;
 - (j) the section of the Act under which the administrator was appointed.

Note For information about telephone conference facilities in the notice of a meeting, see regulation 5.6.13A.

5.3A.03AB Notice of meeting to inform creditors

- (1) This regulation is made for paragraph 439A (3) (b) of the Act.

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- (2) The information about a meeting that is to be set out in a notice is as follows:
- (a) the name of the company;
 - (b) any trading name of the company;
 - (c) the ACN of the company;
 - (d) the section of the Act under which the notice is being given;
 - (e) the time, date and place for the meeting;
 - (f) the purpose for which the meeting is being convened under that section;
 - (g) the time and date by which a proof of debt, or proxy for the meeting, is to be submitted;
 - (h) the name and contact details of the administrator.

[2] After regulation 5.3A.06

insert

5.3A.06A Notice of resolution to wind up voluntarily

- (1) This regulation is made for paragraph 446A (5) (b) of the Act.
- (2) The period within which a notice is to be published is 15 business days after the day on which the company is taken to have passed the special resolution that the company be wound up voluntarily.

5.3A.06AB Notice of meeting of creditors

- (1) This regulation is made for paragraph 449C (5) (b) of the Act.
- (2) The information about a meeting that is to be set out in a notice is as follows:
 - (a) the name of the company;
 - (b) any trading name of the company;
 - (c) the ACN of the company;
 - (d) the section of the Act under which the notice is being given;
 - (e) the time, date and place for the meeting;

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- (f) the purpose for which the meeting is being convened under that section;
 - (g) the time and date by which a proof of debt, or proxy for the meeting, is to be submitted;
 - (h) the name and contact details of the administrator.

[3] Paragraph 5.3A.07 (5) (b)

substitute

- (b) by lodging the notice with ASIC in accordance with subregulation 5.6.75 (4) within 15 business days after that day.

[4] Before Part 5.4

insert

5.3A.07A Notice of appointment of administrator

- (1) This regulation is made for paragraph 450A (1) (b) of the Act.
- (2) The information about an appointment that is to be set out in a notice is as follows:
 - (a) the name of the company;
 - (b) any trading name of the company;
 - (c) the ACN of the company;
 - (d) the section of the Act or, in the case of a combined notice, the sections of the Act under which the notice is being given;
 - (e) the name and contact details of the administrator;
 - (f) the date on which the administrator was appointed;
 - (g) the section of the Act under which the administrator was appointed.

Note See regulation 5.3.07A for the contents of the notice that may be combined with the notice under this regulation, in accordance with subsection 450A (1A) of the Act.

- (3) The period within which the notice is to be published is 3 business days after an administrator is appointed.

[5] After regulation 5.4.01

insert

5.4.01A Notice of application to wind up a company

- (1) This regulation is made for paragraph 465A (c) of the Act.
- (2) The information about an application that is to be set out in a notice is as follows:
 - (a) if the rules require particular information to be published for the application—that information;
 - (b) if paragraph (a) does not apply:
 - (i) the name of the company; and
 - (ii) any trading name of the company; and
 - (iii) the ACN of the company; and
 - (iv) the date on which the application was filed; and
 - (v) the identifying number allocated by the court when the application was filed; and
 - (vi) the name of the applicant; and
 - (vii) the address for service of the applicant; and
 - (viii) the name and address of the court where the application will be heard; and
 - (ix) the time and date of the court hearing; and
 - (x) the way in which documents that are filed in relation to the application may be obtained.

[6] After Part 5.4

insert

Part 5.4C Winding up by ASIC

5.4C.01 Notice of intention to order winding up of a company

- (1) For subparagraph 489EA (6) (b) (ii) of the Act, this regulation prescribes the manner of publishing notice of ASIC's intention to make an order under subsection 489EA (1), (2), (3) or (4) of the Act.

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- (2) Notice is to be published on the publication website, established under subsection 5.6.75 (1), at least 10 business days before ASIC makes the order.

Part 5.5 Voluntary winding up

5.5.01 Notice of resolution to wind up voluntarily

- (1) This regulation is made for paragraph 491 (2) (b) of the Act.
- (2) The information about a resolution that is to be set out in a notice is as follows:
- (a) the name of the company;
 - (b) any trading name of the company;
 - (c) the ACN of the company;
 - (d) the section of the Act under which the notice is being given;
 - (e) the name and contact details of the liquidator;
 - (f) the date on which the resolution was passed.
- (3) The period within which the notice is to be published is 21 days after the special resolution to wind up the company voluntarily is passed.

5.5.02 Notice of meeting of creditors

- (1) This regulation is made for paragraph 497 (2) (d) of the Act.
- (2) The period within which a notice is to be published is not less than 7 days, but no more than 14 days, before the day that is fixed for holding the meeting of the company's creditors.

[7] Subregulation 5.6.14A (1)

substitute

- (1) The convenor of a meeting must lodge, with ASIC, a notice of the meeting in accordance with subregulation 5.6.75 (4).

[8] After subregulation 5.6.14A (2)

insert

- (3) The notice must state the following:
- (a) the name of the company;
 - (b) any trading name of the company;
 - (c) the ACN of the company;
 - (d) the section of the Act under which the notice is being given;
 - (e) the time, date and place for the meeting;
 - (f) the purpose for which the meeting is being convened under that section;
 - (g) the time and date by which a proof of debt, or proxy for the meeting, is to be submitted;
 - (h) the name and contact details of the administrator.

[9] Subregulations 5.6.39 (2) and (3)

substitute

- (2) The notice must be lodged with ASIC in accordance with subregulation 5.6.75 (4).
- (3) The notice must state the following:
- (a) the name of the company;
 - (b) any trading name of the company;
 - (c) the ACN of the company;
 - (d) the day fixed under subregulation (1).

[10] Subregulation 5.6.48 (2)

omit

notice in writing of the day fixed under subregulation (1)

insert

the notice

[11] Paragraph 5.6.48 (2) (a)

substitute

- (a) by lodging the notice with ASIC in accordance with subregulation 5.6.75 (4); and

[12] Subregulation 5.6.48 (3)

substitute

- (3) The notice must state the following:
- (a) the name of the company;
 - (b) any trading name of the company;
 - (c) the ACN of the company;
 - (d) the day fixed under subregulation (1).

[13] Paragraph 5.6.65 (1) (a)

substitute

- (a) by lodging a notice with ASIC in accordance with subregulation 5.6.75 (4); and

[14] Subregulation 5.6.65 (2)

omit

or 536

[15] After subregulation 5.6.65 (2)

insert

- (2A) Also, the notice must state the following:
- (a) the name of the company;
 - (b) any trading name of the company;
 - (c) the ACN of the company.

[16] Regulation 5.6.69

omit

notice published in the *Gazette*, the liquidator must publish a further notice in the *Gazette*, in accordance with Form 546,

insert

notice lodged with ASIC in accordance with subregulation 5.6.75 (4), the liquidator must lodge another notice with ASIC

[17] After regulation 5.6.70A

insert

5.6.70B Notice of disclaimer

- (1) This regulation is made for subsection 568A (2) of the Act.
- (2) The information about a disclaimer that is to be set out in a notice is as follows:
 - (a) the name of the company;
 - (b) any trading name of the company;
 - (c) the ACN of the company;
 - (d) the paragraph of subsection 568 (1) of the Act under which the property is disclaimed;
 - (e) a description of the property;
 - (f) if the property is a contract (other than an unprofitable contract or a lease of land)—the date on which the Court granted leave under subsection 568 (1A) of the Act;
 - (g) the name and contact details of the liquidator.

[18] After regulation 5.6.74

insert

5.6.75 Publication in the prescribed manner

- (1) ASIC must establish and maintain a website (the *publication website*) on which it publishes notices that have been lodged with ASIC under Part 5.3A, 5.4, 5.4C, 5.5 or 5.6 of the Act.
- (2) ASIC is taken to have complied with a requirement to publish a notice, or a copy of a notice, in the prescribed manner if ASIC publishes the notice on the publication website.
- (3) A person (other than ASIC) is taken to have complied with a requirement to publish a notice, or a copy of a notice, in the prescribed manner if the person electronically lodges the notice with ASIC for publication by ASIC.
- (4) A person electronically lodges a notice, or a copy of a notice, with ASIC if the person:
 - (a) pays the fee prescribed under the *Corporations (Fees) Regulations 2001*; and
 - (b) sends the notice in an electronic communication to the portal for ASIC's publication website, in the format required by ASIC; and
 - (c) receives an electronic communication from ASIC that confirms the fee has been paid and the notice has been lodged.
- (5) If a person lodges a notice or a copy of a notice in accordance with subsection (4), ASIC must publish the notice or copy of the notice on the publication website.
- (6) In this regulation:

electronic communication has the meaning given by subsection 5 (1) of the *Electronic Transactions Act 1999*.

Note This regulation is made for section 1367A of the Act.

[19] Schedule 2, forms 533, 534, 536 and 546

omit

Schedule 2 **Amendment of Corporations (Fees) Regulations 2001**

(section 4)

[1] **Schedule 1, after item 42**

insert

- | | | |
|-----|--|-------|
| 42A | On electronically lodging a notice with ASIC for publication on ASIC's publication website, as required by one of the following sections of the Act:
(a) section 412;
(b) section 436E;
(c) section 439A;
(d) section 446A;
(e) section 449C;
(f) section 450A;
(g) section 465A;
(h) section 497;
(i) section 498;
(j) section 568A | \$400 |
| 42B | On electronically lodging a notice with ASIC for publication on ASIC's publication website, as required by one of the following regulations of the <i>Corporations Regulations 2001</i> :
(a) regulation 5.3A.07;
(b) regulation 5.6.14A;
(c) regulation 5.6.39;
(d) regulation 5.6.48 | \$400 |
| 42C | On electronically lodging a notice with ASIC for publication on ASIC's publication website, as required by one of the following sections of the Act:
(a) section 491;
(b) section 509 | \$64 |
| 42D | On electronically lodging a notice with ASIC for publication on ASIC's publication website, as | \$64 |

required by one of the following regulations of the
Corporations Regulations 2001:

- (a) regulation 5.6.65;
- (b) regulation 5.6.69

**Schedule 3 Amendment of Corporations
(Fees) Regulations 2001
commencing on 1 July 2012**
(section 5)

[1] Schedule 1, items 42A and 42B

substitute

- | | | |
|-----|--|-------|
| 42A | On electronically lodging a notice with ASIC for publication on ASIC's publication website, as required by one of the following sections of the Act: <ul style="list-style-type: none">(a) section 412;(b) section 436E;(c) section 439A;(d) section 446A;(e) section 449C;(f) section 450A;(g) section 465A;(h) section 497;(i) section 498;(j) section 568A | \$145 |
| 42B | On electronically lodging a notice with ASIC for publication on ASIC's publication website, as required by one of the following regulations of the <i>Corporations Regulations 2001</i> : <ul style="list-style-type: none">(a) regulation 5.3A.07;(b) regulation 5.6.14A;(c) regulation 5.6.39;(d) regulation 5.6.48 | \$145 |

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.comlaw.gov.au.

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