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Corporations Amendment Regulations 2002 (No. 6)¹

Statutory Rules 2002 No. 6²

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I, PETER JOHN HOLLINGWORTH, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Corporations Act 2001*.

Dated 26 JUN 2002 2002

PETER HOLLINGWORTH
Governor-General

By His Excellency's Command

IAN CAMPBELL
Parliamentary Secretary to the Treasurer

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1 Name of Regulations

These Regulations are the *Corporations Amendment Regulations 2002 (No. 1)*.

6

2 Commencement

These Regulations commence as follows:

- (a) on gazettal — regulations 1 to 3 and Schedule 1;
- (b) on 1 July 2002 — Schedule 2.

3 Amendment of *Corporations Regulations 2001*

Schedules 1 and 2 amend the *Corporations Regulations 2001*.

Schedule 1 Amendments commencing on gazettal

(regulation 3)

[1] **Regulation 7.5.88, heading**
substitute

**7.5.88 Minister's arrangements for use of excess money
from compensation funds**

[2] **Subregulation 7.5.88 (1)**
omit
paid.
insert
used by a market licensee.

[3] **Subregulation 7.5.88 (3)**
omit
payment
insert
use

[4] **Paragraph 7.5.90 (1) (a)**
omit
for the approved purpose (if any) for which it was paid,
insert
for a purpose approved under subregulation 7.5.88 (1),

[5] Paragraph 7.5.90 (1) (a)

omit

payment

insert

use

[6] Paragraph 7.5.92 (1) (a)

omit

payment

insert

use of the money

[7] Regulations 9.12.02, 9.12.03 and 9.12.04

omit

[8] Part 10.2, Division 8, heading

substitute

Division 8 National Guarantee Fund

[9] After regulation 10.2.27

insert

10.2.27A Expenditure of excess funds from National Guarantee Fund

- (1) For section 1444 of the Act, this regulation applies to a purpose in relation to a payment to be made out of a development account if:
- (a) the purpose was approved under subsection 945 (3) of the old Corporations Act; and
 - (b) the approval was in force immediately before the FSR commencement.

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- (2) The purpose is taken to be an approved purpose for subregulation 7.5.88 (1).
 - (3) If the purpose approved under subsection 945 (3) of the old Corporations Act included conditions relating to the payment to which the approval related, the conditions are taken to be conditions determined under subregulation 7.5.88 (3).

Schedule 2 Amendments commencing on 1 July 2002

(regulation 3)

[1] Subregulation 7.9.01 (1), after definition of *charge*

insert

child account means a superannuation product or an RSA product issued as a result of accepting child contributions.

child contributions:

- (a) for a superannuation product — has the same meaning as in the SIS Regulations; and
- (b) for an RSA product — has the same meaning as in the RSA Regulations.

**[2] Subregulation 7.9.01 (1), after definition of
*investment management charge***

insert

legal personal representative has the meaning given by section 10 of the SIS Act.

[3] Paragraph 7.9.04 (1) (a)

omit

an interest

insert

an interest (other than the opening of a child account)

[4] Part 7.9, after Subdivision 2.5

insert

Subdivision 2.6 Product disclosure requirements for child accounts

7.9.07AA Child accounts — product disclosure statements

For paragraph 1020G (2) (a) of the Act, section 1012I of the Act is modified in relation to child accounts by inserting after subsection 1012I (2B):

- ‘(2D) If a person (the *applicant*) applies for the issue of a financial product that is a child account the person who is to issue the child account (the *issuer*) must at or before the time when the child account is opened on behalf of the child give the applicant a Product Disclosure Statement in accordance with this Division.’.

[5] After regulation 7.9.12

insert

7.9.12A Child accounts — applications and eligible applications

- (1) For paragraph 1016A (2) (f) of the Act, the situation is that the following conditions are satisfied:
- (a) paragraphs 1016A (2) (a) to (e) do not apply to the issue;
 - (b) the relevant financial product is a child account;
 - (c) if the applicant has been given a Product Disclosure Statement — the product is issued pursuant to an eligible application made to the issuer by a person on behalf of the child;
 - (d) subject to subregulation (3), if the applicant has not been given a Product Disclosure Statement, and the Act or these Regulations do not require the applicant to be given a Product Disclosure Statement — the product is issued as a result of an application made to the issuer by a person on behalf of the child.

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- (2) For paragraph (1) (d), an application must include:
- (a) evidence that:
 - (i) the child's legal personal representative has consented to the opening of the child account; or
 - (ii) if the child does not have a legal personal representative, a parent of the child, or the child's guardian, has consented to the opening of the child account; and
 - (b) the name and address of the legal personal representative, parent or guardian; and
 - (c) the name, address and date of birth of the child.
- (3) For paragraphs (1) (c) and (d), an eligible application or an application that meets the requirements mentioned in subregulation (2) is not required for the issue of a child account by a self managed superannuation fund if the applicant is the child's legal personal representative, a parent of the child or the child's guardian.

[6] After regulation 7.9.68

insert

7.9.68A Modification of section 1019B of the Act: child accounts

- (1) Subregulation (2) applies if the applicant in relation to the issue of a financial product that is a child account, in accordance with subparagraph 1016A (2) (f) of the Act and regulation 7.9.12A, is not a parent or guardian of the child or is not the child's legal personal representative.
- (2) For paragraph 1020G (1) (c) of the Act, subsection 1019A (1) and paragraph 1019A (3) (a) of the Act are modified so that a reference in those provisions to a client:
 - (a) includes a person who is an applicant; and
 - (b) does not include the person who is the product-holder.

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- (3) For paragraph 1020G (1) (c) of the Act, subsection 1019B (1) of the Act is modified in its application to the issue of a financial product that is a child account as if a reference in subsection 1019B (1) to money paid to acquire a financial product that is a child account were a reference to all monies paid in relation to the financial product.
 - (4) For subsection 1019B (2) of the Act, it is a requirement of the exercise of the right to return a financial product that is a child account that the applicant must nominate a superannuation fund, approved deposit fund or RSA into which monies are to be repaid.
 - (5) The right of return is taken to have been exercised only on receipt by the responsible person of the nomination.
 - (6) The applicant must make the nomination not later than 1 month after notifying the responsible person of the right to exercise the right of return.
 - (7) The applicant must notify the responsible person in writing or by electronic means.
 - (8) For subsection 1019B (7) of the Act, if the right of return is exercised by an applicant under this regulation, the responsible person must return the money as directed.
 - (9) For subsection 1019B (7) of the Act, if:
 - (a) a financial product mentioned in this regulation is subject to the nomination of a further superannuation fund, approved deposit fund or RSA; and
 - (b) the application in relation to the issue of a financial product is not accepted by the nominated superannuation fund, approved deposit fund or RSA;the responsible person may rollover or transfer the benefits held in the child account to an eligible rollover fund.

[7] After subregulation 7.9.74 (2)*insert*

- (3) For paragraph (c) of the definition of *eligible application* in subsection 1016A (1) of the Act, an application for a financial product that is a child account must include:
- (a) evidence that:
 - (i) the child's legal personal representative has consented to the opening of the child account; or
 - (ii) if the child does not have a legal personal representative, a parent of the child, or the child's guardian, has consented to the opening of the child account; and
 - (b) the name and address of the legal personal representative, parent or guardian; and
 - (c) the name, address and date of birth of the child.

Notes

- 1. These Regulations amend Statutory Rules 2001 No. 193, as amended by 2001 Nos. 208, 318 and 319; 2002 Nos. 15, 16, 41, 53 and 126.
- 2. Notified in the *Commonwealth of Australia Gazette* on / 2002.

27 June