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Corporations (Change of Incorporation) Regulations 2002

Statutory Rules 2002 No. 1

168

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 (Change of Incorporation) Regulations 2002*.

2 Commencement

These Regulations commence on gazettal.

3 Definition

In these Regulations:

Act means the *Corporations Act 2001*.

4 Modification of the Act for Westpac Banking Corporation

For subsection 5H (5) of the Act, the operation of the Act is modified in accordance with Schedule 1 to facilitate the registration of Westpac Banking Corporation.

Schedule 1 Modifications

(regulation 4)

- [1] **Paragraphs 5H (2) (a), (h) and (i)**
omit
- [2] **Section 9, after definition of *deed of company arrangement***
insert
deed of settlement has the meaning given by subsection 3 (1) of the *Westpac Banking Corporation (Transfer of Incorporation) Act 2000* of New South Wales.
- [3] **Section 9, after definition of *registrable body***
insert
registration date has the meaning given by subsection 3 (1) of the *Westpac Banking Corporation (Transfer of Incorporation) Act 2000* of New South Wales.
- [4] **Section 9, after definition of *serious fraud***
insert
share means a share, within the meaning given by the deed of settlement, in the capital of Westpac.
- [5] **Section 9, after definition of *wages***
insert
Westpac means Westpac Banking Corporation.

[6] After subsection 118 (1)

insert

- (1A) ASIC must, on the registration day, issue a certificate of registration in accordance with paragraph (1) (c) to a body that, under section 5H, is taken to be registered.
- (1B) For paragraph (1) (a), the ACN for Westpac is to be 007 457 141.

[7] Section 122

substitute

122 Incorporation and other expenses

Westpac may use any amount standing to the credit of Westpac in the Share Premium Reserve, mentioned in clause 98 (i) of the deed of settlement, immediately before the registration date:

- (a) to provide for the premium payable on the redemption of debentures or redeemable preference shares issued before the registration date; and
- (b) to write off:
 - (i) the preliminary expenses of Westpac incurred before the registration date; and
 - (ii) expenses incurred, payments made or discounts allowed on or before the registration date for the issue of shares in, or debentures of, Westpac.

[8] Subsection 148 (1)

omit

(2) or

[9] Subsection 148 (2)

omit

[10] After subsection 153 (2)

insert

- (2A) However, Westpac may use the expression 'Australian Registered Body Number' followed by its ARBN instead of the expression 'Australian Company Number' followed by its ACN until 2 years after the registration date.

[11] After subsection 200E (1)

insert

- (1A) A benefit given to a director of the company on or after the registration date, under an agreement entered into in accordance with clause 56 (4B) of the deed of settlement before, on or after the registration date, is taken to have been approved under subsection (1).

[12] After section 254B

insert

254BA References in contracts and other documents to par value

- (1) This section applies for the purpose of interpreting and applying the following:
- (a) a contract entered into by Westpac before the registration date;
 - (b) a trust deed or other document executed by or in relation to Westpac before the registration date;
 - (c) the deed of settlement.
- (2) A reference to the par value of a share issued by Westpac is taken to be a reference to:
- (a) if the share is issued before the registration date — the par value before the registration date; or
 - (b) if the share is issued on or after the registration date but is a share in a class of shares issued before the registration date — the par value of a share in the class of shares before the registration date; or

- (c) if the share is issued on or after the registration date and is not a share in a class of shares issued before the registration date — the par value for a share in the class of shares determined by the directors.
- (3) A reference to share premium is taken to be a reference to any residual share capital in relation to the share.
- (4) A reference to a right to a return of capital on a share issued by Westpac is taken to be a reference to a right to a return of capital of a value equal to the amount paid in respect of the share's par value.
- (5) A reference to the aggregate par value of Westpac's issued share capital is taken to be a reference to that aggregate as it existed immediately before the registration date and:
 - (a) increased to take account of the par value of shares issued on or after the registration date; and
 - (b) reduced to take account of the par value of shares cancelled on or after the registration date.

[13] Section 254C

omit

company

insert

company, whether issued before, on or after the registration date,

[14] **After Part 2H.1**

insert

Part 2H.1A Share capital

254HA Share capital of Westpac

On and after the registration day, the share capital of Westpac is taken to include any amounts in:

- (a) the Capital Redemption Reserve mentioned in clause 99 (3) of the deed of settlement; or
- (b) the Share Premium Reserve mentioned in clause 98 (1) of the deed of settlement.

[15] **After subsection 254M (1)**

insert

- (1A) For a share issued by Westpac before the registration date:
 - (a) the amount paid on the share is the sum of all amounts paid to Westpac at any time for the share (but not including any premium); and
 - (b) the amount unpaid on the share is the difference between the issue price of the share (but not including any premium) and the amount paid on the share.
- (1B) The liability of the shareholder for calls on the share is not affected by the removal of the par value of the share by section 254C.

Note

1. Notified in the *Commonwealth of Australia Gazette* on 2002. 3 July