

NORTHERN TERRITORY OF AUSTRALIA

COMPANIES REGULATIONS

As in force at 12 July 2000

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 12 July 2000

COMPANIES REGULATIONS

Regulations under the *Companies Act*

Part I Preliminary

1 Citation

These Regulations may be cited as the *Companies Regulations*.

3 Definitions

In these Regulations, unless the contrary intention appears:

agent means the person named in a memorandum of appointment or power of attorney lodged under paragraph (e) of subsection (1), or under subsection (8), of section 346 of the Ordinance or under any corresponding previous law of the Territory.

the Ordinance means the Companies Ordinance.

4 References to forms

In these Regulations, a reference to a form by number shall be read as a reference to the form so numbered in the Second Schedule.

Part II Forms

5 Forms

Subject to these Regulations, where a provision of the Ordinance or of these Regulations is specified in the first column of the First Schedule, the form set out in the Second Schedule the number of which is specified in the third column of the First Schedule opposite to that provision is prescribed as the form to be used for the purposes of that provision in relation to the matter or thing described in the second column of the First Schedule opposite to that provision.

6 Strict compliance with forms not necessary

Strict compliance with the forms contained in the Second Schedule is not necessary, and substantial compliance is sufficient.

7 Directions in forms

A form prescribed by these Regulations shall be completed in accordance with such directions as are specified in the form as so prescribed.

Part III General provisions relating to forms and other documents**8 General requirements for documents lodged with registrar**

A document to be lodged with the Registrar in pursuance of the Ordinance or these Regulations shall comply with the following requirements:

- (a) the document shall be on paper of medium weight and good quality and:
 - (i) in the case of a document on paper of less than foolscap folio size – not less than 216 millimetres deep by 140 millimetres wide; and
 - (ii) in any other case – of foolscap folio size or a multiple of that size;
- (b) subject to the Ordinance, the document shall be printed or hand-written and shall be clearly legible;
- (c) except with the consent of the Registrar, the document shall not be a carbon copy;
- (d) subject to paragraph (e), the document shall have margins of not less than 26 millimetres on the left-hand side and not less than 13 millimetres on the right-hand side;
- (e) where the document comprises 2 or more sheets:
 - (i) the sheets shall be bound together securely; and
 - (ii) each sheet shall have a margin of not less than 26 millimetres on the side on which it is bound in addition to any space required for binding;

- (f) where the document comprises more than 20 sheets, it shall be bound securely inside a durable and flexible cover;
- (g) the document shall be folded lengthwise and, as so folded, shall have endorsed on the outside:
 - (i) on the upper left-hand corner - the registered number allotted by the Registrar to the corporation to which the document relates;
 - (ii) the name of the corporation to which the document relates;
 - (iii) the title of the document (being, if the document is a form prescribed by these Regulations, the same as the heading to the form);
 - (iv) the name, address and telephone number of the solicitor or other person by, or on whose behalf, the document is lodged; and
 - (v) the following words:

"Lodged in the office of the Registrar of Companies on Registrar of Companies."; and
- (h) where the document is a form relating to a no liability company, the form shall be completed by inserting the words "No Liability" in place of the word "Limited".

9 Clarification and certification of documents

- (1) For the purposes of paragraph (h) of subsection (1) of section 39 of the Ordinance, a copy of a consent shall be verified by a person declaring by statutory declaration that he has compared the copy with the original consent and that it is a true copy of the consent of which it purports to be a copy.
- (2) For the purposes of paragraph (c) of subsection (2) of section 42 of the Ordinance, a copy of a consent or a material contract shall be verified by a person declaring by statutory declaration that he has compared the copy with the original consent or contract and that it is a true copy of the consent or contract of which it purports to be a copy.

- (3) For the purposes of paragraph (c) of subsection (2) of section 42 of the Ordinance, a memorandum giving particulars of a contract not reduced into writing shall be verified by a director, manager or secretary of the corporation concerned declaring by statutory declaration:
 - (a) that he is familiar with the particulars of the contract; and
 - (b) that the memorandum contains full and correct particulars of the contract.
- (4) For the purposes of subsection (3) of section 54 of the Ordinance, a copy of a contract shall be verified by a person declaring by statutory declaration that he has compared the copy with the original contract and that it is a true copy of the contract of which it purports to be a copy.
- (5) For the purposes of subsection (3) of section 78 of the Ordinance, a copy of a deed shall be verified by a person declaring by statutory declaration that he has compared the copy with the original deed and that it is a true copy of the deed of which it purports to be a copy.
- (6) For the purposes of subsection (1) of section 234 of the Ordinance, a statement of affairs of a company shall be verified by statutory declaration in accordance with Form 57 made by the person who submits, or by each of the persons who submit, the statement to the liquidator of the company under subsection (2) of that section.
- (7) For the purposes of paragraph (a) of subsection (1) of section 346 of the Ordinance, a certified copy of a document referred to in that paragraph is a copy that has, within the period of 3 months immediately preceding the day on which it is lodged with the Registrar or within such further period as the Registrar permits, been certified to be a true copy by an official holding or purporting to hold an office corresponding to that of the Registrar in the State, Territory or country in which the foreign company concerned is formed or incorporated.
- (8) For the purposes of paragraph (b) of subsection (1) of section 346 of the Ordinance, a certified copy of a document referred to in that paragraph is a copy that has, within the period of 3 months immediately preceding the day on which it is lodged with the Registrar or within such further period as the Registrar permits, been certified to be a true copy:

- (a) by an official holding or purporting to hold an office corresponding to that of the Registrar in the State, Territory or country in which the foreign company concerned is formed or incorporated;
 - (b) by a notary public; or
 - (c) by statutory declaration made by a director, manager or secretary of the foreign company.
- (9) For the purposes of paragraph (e) of subsection (1) of section 346 of the Ordinance, the manner of verification of a memorandum of appointment or power of attorney is by statutory declaration made by a person declaring that he was present and did see:
 - (a) the seal of the foreign company duly affixed to the memorandum of appointment or power of attorney; or
 - (b) the memorandum of appointment or power of attorney duly executed on behalf of the foreign company in such manner as to be binding on the company.
- (10) For the purposes of subsection (2) of section 346 of the Ordinance, the manner of verification by statutory declaration of a copy of the deed or document referred to in that subsection is by statutory declaration made by a director, manager or secretary, or by the agent, of the foreign company declaring that he has compared the copy with the original deed or document and that it is a true copy of the deed or document of which it purports to be a copy.

10 Security by official liquidator (Form 62A)

- (1) For the purposes of section 231 of the Ordinance, the security for the due fulfilment of the duties of an official liquidator is:
 - (a) a bond in the amount of 10,000 dollars to the Territory with an approved surety in the amount of 10,000 dollars, in accordance with Form 62A; or
 - (b) a deposit with the Treasurer of 10,000 dollars in cash or of approved securities to that amount.
- (2) For the purposes of subregulation (1):
 - (a) an approved surety is any corporation approved for that purpose by the Companies Auditors Board; and
 - (b) an approved security is any security in which trustees are authorized by law to invest.

- (3) An approved security deposited with the Treasurer under this regulation shall be transferred to the Treasurer.
- (4) While any cash or approved security is deposited with the Treasurer under this regulation, the depositor shall be entitled to any interest accruing from the cash or security.
- (5) If the Treasurer is satisfied that an official liquidator who has deposited cash or approved securities with him under this regulation has not duly fulfilled his duties as an official liquidator, the Treasurer may appropriate the cash or sell the securities and shall apply the cash or the proceeds arising from the sale in the following order:
 - (a) in repaying the costs and expenses occasioned by and arising out of the failure of the official liquidator to fulfil his duties as such;
 - (b) in compensating any person who, in the opinion of the Companies Auditors Board, has suffered loss as a result of the failure of the official liquidator to fulfil his duties as such; and
 - (c) in refunding to the official liquidator or his successor in title or nominee any balance remaining after the payment of the costs, expenses and compensation referred to in paragraphs (a) and (b).
- (6) On application being made to the Treasurer to transfer any cash or approved securities deposited with the Treasurer under this regulation to the person who deposited them or to his successor in title or nominee, the Treasurer shall transfer the cash or securities accordingly if the application is accompanied by a certificate by the Companies Auditors Board that it is satisfied that the person has ceased to be an official liquidator and has, while he was an official liquidator, to the best of the knowledge and belief of the Board duly fulfilled his duties as an official liquidator.

11 Agents' authorities to be lodged

- (1) Where a copy of a prospectus lodged with the Registrar under paragraph (a) of subsection (2) of section 42 of the Ordinance is signed by an agent of a director or proposed director authorized in writing, the authority or a verified copy of the authority shall be annexed to the copy of the prospectus lodged with the Registrar.
- (2) Where a statement in lieu of prospectus lodged with the Registrar for registration under subsection (1) of section 50 of the Ordinance is, under paragraph (a) of subsection (2) of section 51 of the Ordinance, signed by an agent of a director or proposed director

authorized in writing, the authority or a verified copy of the authority shall be annexed to the statement in lieu of prospectus lodged with the Registrar.

- (3) Where a statement of the amount or rate of commission and brokerage lodged with the Registrar under paragraph (c) of subsection (1) of section 58 of the Ordinance or under subsection (3) of that section is signed by an agent of a director or proposed director authorized in writing, the authority or a verified copy of the authority shall be annexed to the statement lodged with the Registrar.
- (4) Where a consent of a person to act as a director lodged with the Registrar under subsection (1) of section 115 of the Ordinance is signed by an agent of that person authorized in writing for the purpose, the authority or a verified copy of the authority shall be annexed to the consent lodged with the Registrar.

12 Matters and things to be included in deeds

- (1) For the purposes of paragraph (b) of subsection (2) of section 78 of the Ordinance, the following are the matters and things required to be included in a deed:
 - (a) such particulars as are sufficient to disclose the nature of the undertaking, scheme, enterprise or investment contract, and the nature of the interests, to which the deed relates;
 - (b) a provision expressly appointing a company (being a company that has been approved by the Minister) as trustee for or representative of the holders of the interests to which the deed relates;
 - (c) except where no property is to be vested in the trustee or representative, a provision creating a trust, or containing a declaration of trust, and setting out full particulars of the trust, including precise information as to the circumstances in which the money, marketable securities, investments and other property subject to the trust are or will be vested in the trustee or representative, and the duties and obligations of the trustee or representative towards the holders of those interests in regard to that property;
 - (d) a provision for, and full particulars with respect to:
 - (i) the retirement, removal and replacement of the trustee or representative;

- (ii) the retirement, removal and replacement of the management company or, if the management company is not liable to be removed by the trustee or representative or by the interest holders, a statement of that fact;
 - (iii) the appointment, retirement, removal and replacement of the auditor of the accounts relating to interests under the deed;
 - (iv) the duration, if ascertainable, of the undertaking, scheme, enterprise or investment contract or, if the duration is not ascertainable, a statement of that fact; and
 - (v) the termination or winding up of the undertaking, scheme, enterprise or investment contract;
- (da) provisions binding the management company and the trustee or representative, respectively, that the management company or the trustee or representative, as the case may be, will not:
 - (i) invest any moneys available for investment under the deed in any interest unless a deed approved for the purposes of Division 5 of Part IV of the Ordinance, or of a corresponding law of a proclaimed State, relates to that interest; or
 - (ii) vest any property comprising an interest, or part of an interest, to which the deed relates in a trustee or representative other than a trustee or representative appointed by a deed approved for the purposes of Division 5 of Part IV of the Ordinance or of a corresponding law of a proclaimed State;
- (e) where the interests to which the deed relates consist of rights or interests in or arising out of an investment relating to property that tends to depreciate in value through use or effluxion of time, particulars of the provision made or to be made for the replacement of that property and the source or sources from which the replacement is to be made or from which the cost of the replacement is to be met or, if no provision is made, a statement of that fact;
- (f) full particulars of:
 - (i) the method of calculation of the highest price at which an interest to which the deed relates may be sold by the management company;

- (ii) the circumstances in which the management company or any other person may be required to purchase from the holder of an interest any interest for which the holder has subscribed or which he has acquired, and the method of calculation of the purchase price of the interest;
- (iii) the circumstances in which, and methods by which, all or any of the investments or other property comprising or forming part of an interest to which the deed relates may be varied;
- (iv) the conditions governing the transfer of the interests to which the deed relates;
- (v) the conditions governing the distribution of income to the holders of those interests; and
- (vi) the remuneration of the trustee or representative and of the management company, respectively, and the manner in which that remuneration is provided for, including the charges (if any) that will be made by way of that remuneration upon the subscription for or sale of an interest to which the deed relates and upon the distribution of income and capital or otherwise in connexion with the relevant undertaking, scheme, enterprise or investment contract;
- (g) specific provisions relating to the convening of meetings of interest holders;
- (h) specific provisions whereby the management company undertakes to keep and maintain an up-to-date register of interest holders and to make that register available for inspection, free of charge, to any interest holder at any time when the company's office is required by the Ordinance to be accessible to the public;
- (i) where the deed is capable of modification, provisions governing the modification of the deed;
- (j) a declaration:
 - (i) that no units or sub-units of interests purchased or subscribed for pursuant to the statement issued by the management company under section 82 of the Ordinance shall be allotted later than 6 months after the date of the statements; and

- (ii) unless the conditions of issue of the units or sub-units expressly provide that certificates be not issued – that certificates shall be issued by the trustee or representative to purchasers of or subscribers for units or sub-units of interests purchased or subscribed for pursuant to the statement not more than 2 months after the allotment of the units or sub-units; and
- (k) where the deed requires, or confers a right on, interest holders to enter into an agreement in connexion with the undertaking, scheme, enterprise or investment contract, a provision incorporating, whether by way of annexure or otherwise, the terms and form of that agreement.
- (2) In this regulation, **company**, **interest**, **investment contract**, **management company** and **proclaimed State** have the same respective meanings as in Division 5 of Part IV of the Ordinance.

13 Signed copies of statutory report and auditor's report thereon required for lodgment (Form 45)

For the purposes of subsection (5) of section 135 of the Ordinance:

- (a) the copy of the statutory report of a company to be lodged with the Registrar shall be a copy that is certified by the personal signatures of not less than 2 directors; and
- (b) the copy of the auditor's report to be lodged with the Registrar shall be a copy that is certified by the personal signature of the auditor or, where the auditor is a firm, of one of the partners of that firm.

16 Certified copies of statements of affairs (Form 56)

- (1) A copy of a statement of affairs of a company to be lodged with the Registrar shall be a copy certified in writing to be a true copy of the original statement:
 - (a) in the case of a copy lodged for the purposes of subparagraph (i) of paragraph (c) of subsection (1) of section 193 of the Ordinance – by the receiver or manager of the property of the company;
 - (b) in the case of a copy lodged for the purpose of subsection (18) of section 199 of the Ordinance – by a director or secretary of the company;

- (ba) in the case of a copy lodged for the purpose of subsection (11) of section 206 of the Ordinance – by the person who, immediately before the appointment of the liquidator, was the official manager of the company; and
 - (c) in the case of a copy lodged for the purposes of subsection (3A) of section 234 of the Ordinance – by the liquidator of the company.
- (2) The copy of the report of the person who was the official manager of a company that is required by subsection (5) of section 212 of the Ordinance to be lodged with the Registrar is a copy certified in writing by that person to be a true copy of the original report.
- (3) Where a copy of a statement or report referred to in a preceding provision of this regulation is required to be lodged together with, or have attached to it, a copy of a certificate or other document, that last-mentioned copy shall be a copy certified in writing by the person required to lodge the copy of the statement or report or, in the case of a company, by a director or secretary of the company, to be a true copy of the original certificate or document.

17 Documents to be lodged where change or alteration made in foreign company (Form 82)

For the purposes of subsection (1) of section 347 of the Ordinance, a foreign company is required to lodge documents with the Registrar in accordance with the following provisions:

- (a) where any change or alteration is made in the charter, statute, memorandum, articles or other instrument a copy of which is lodged by the foreign company under paragraph (b) of subsection (1) of section 346 of the Ordinance, the foreign company shall lodge with the Registrar, at the time notice of the change or alteration is lodged with the Registrar or within such further period as the Registrar in special circumstances allows, a copy of the instrument effecting the change or alteration, or a copy of the charter, statute, memorandum, articles or other instrument as changed or altered, in either case being a copy certified to be a true copy in the same manner as a certified copy referred to in paragraph (b) of subsection (1) of section 346 of the Ordinance is certified under subregulation (8) of regulation 9 to be a true copy;
- (b) where any change or alteration is made in the name of the foreign company, the foreign company shall, if the Registrar so requires, lodge with the Registrar, at the time notice of the change or alteration is lodged with the Registrar or within such further period as the Registrar in special circumstances

allows, a copy of the certificate of its incorporation or registration issued in its place of incorporation or origin or a document or similar effect (being a certificate or document evidencing the change or alteration) or, where there is no such certificate or document, a copy of the instrument effecting the change or alteration, in either case being a copy certified to be a true copy in the same manner as a certified copy referred to in paragraph (a) of subsection (1) of section 346 of the Ordinance is certified under subregulation (7) of regulation 9 to be a true copy; and

- (c) where any change or alteration is made in the powers of any directors resident in the Territory who are members of the local board of directors of the foreign company, the foreign company shall lodge with the Registrar, at the time notice of the change or alteration is lodged with the Registrar or within such further period as the Registrar in special circumstances allows, a memorandum duly executed by or on behalf of the foreign company stating the powers of the local directors as changed or altered.

18 Certified translations of documents

- (1) For the purposes of section 371 of the Ordinance, a certified translation is a translation that:

- (a) in the case of a translation made outside the Territory:
 - (i) is certified by an official to whom the custody of the original instrument, certificate, contract or document is committed, being an official holding or purporting to hold an office corresponding to that of the Registrar in the place in which the corporation is formed or incorporated;
 - (ii) is certified by a notary public or a translator public duly admitted and sworn as such in accordance with the law of the place in which the corporation is formed or incorporated; or
 - (iii) is certified by a diplomatic or consular officer of Australia or of the United Kingdom in the place in which the corporation is formed or incorporated; or
- (b) in the case of a translation made within the Territory – is certified by a person approved by the Registrar,

to be a correct translation into the English language.

- (2) The Registrar may, before accepting a translation for lodgment, require the person lodging the translation to furnish to the Registrar such evidence as the Registrar thinks sufficient of the ability of the person by whom the translation is made to make the translation.
- (3) In this regulation, ***diplomatic or consular officer*** means a person appointed to hold or act in any of the following offices in a country or place outside Australia:
 - (a) Ambassador;
 - (b) High Commissioner;
 - (c) Minister;
 - (d) Head of a Mission;
 - (e) Commissioner;
 - (f) Charge d'Affaires;
 - (g) Counsellor, Secretary or Attache at an Embassy, High Commissioner's office, Legation or other post;
 - (h) Consul-General;
 - (i) Consul;
 - (j) Vice-Consul;
 - (k) Pro-Consul;
 - (l) Trade Commissioner; and
 - (m) Consular Agent.

19 Time for lodging documents

Where a document is by the Ordinance or these Regulations required to be lodged with the Registrar but a period of time within which the document is to be lodged is not prescribed, the document shall be lodged within one month or, in the case of a document required to be lodged by a foreign company, within such further period as the Registrar in special circumstances allows, after the happening of the event to which the document relates.

20 Statutory declarations

Except as otherwise provided in the Ordinance or in these Regulations (excluding the forms in the Second Schedule) a statutory declaration made for the purposes of the Ordinance or

these Regulations on behalf of a corporation shall be made by a director or by the secretary of the corporation.

21 Signature of documents lodged with registrar

Except as otherwise provided in the Ordinance or in these Regulations (including the forms in the Second Schedule), a document relating to a corporation lodged with the Registrar under the Ordinance or under these Regulations shall be signed or authenticated by a director or by the secretary or manager of the corporation or, in the case of a document relating to a foreign company, by the agent of the foreign company in the Territory or, if the agent is a company, by the secretary of that company.

Part IV Substantial shareholdings and take-overs

22 Prescribed offices for purposes of section 6A(9)(c)

For the purposes of paragraph (c) of subsection (9) of section 6A of the Ordinance, the following offices are prescribed offices:

- (a) Registrar of Companies;
- (b) Curator of Estates of Deceased Persons under the Administration and Probate Ordinance;
- (c) Registrar of the Supreme Court;
- (d) an office in or of a State or another Territory that is, by regulations as in force for the time being under, and for the purposes of, the provisions of the law of that State or other Territory that correspond to the provisions of paragraph (c) of subsection (9) of section 6A of the Ordinance, a prescribed office for the purposes of those corresponding provisions;
- (e) a trustee of the estate of a bankrupt under the *Bankruptcy Act 1966-1970* or a trustee of the estate of a bankrupt under the *Bankruptcy Act 1924-1965* continued in office under the first-mentioned Act; and
- (f) the Controller of Enemy Property appointed under the *National Security (Enemy Property) Regulations*.

23 Prescribed interest in share for purposes of section 6A(9)(d)

For the purposes of paragraph (d) of subsection (9) of section 6A of the Ordinance, an interest of an Official Receiver within the meaning of the *Bankruptcy Act 1966* of the Commonwealth in a share is a prescribed interest in a share.

24 Prescribed stock exchanges for purposes of part via and tenth schedule to ordinance

For the purposes of Part VIA of the Ordinance and of the Tenth Schedule to the Ordinance, the following Stock Exchanges are prescribed Stock Exchanges:

Brisbane Stock Exchange

Hobart Stock Exchange

Stock Exchange of Adelaide

Stock Exchange of Melbourne

Stock Exchange of Perth

Sydney Stock Exchange.

24A Lodging of prescribed documents given under Part VIA

- (1) Expressions that are defined in section 180A of the Ordinance for the purposes of Part VIA of the Ordinance and of the Tenth Schedule to the Ordinance have, in this regulation, the same respective meanings as they have for the purposes of that Part and of that Schedule.
- (2) For the purposes of this regulation, each of the following documents, being a document made or given in pursuance of Part VIA of the Ordinance, is a prescribed document:
 - (a) a Part A statement;
 - (b) a Part B statement;
 - (d) a take-over offer;
 - (d) a notice under subsection (2) of section 180N of the Ordinance; and
 - (e) a notice under subsection (3) of section 180N of the Ordinance.
- (3) An offeror who gives, in accordance with paragraph (b) of subsection (1) of section 180C of the Ordinance, a Part A statement to an offeree company shall lodge a signed copy of the statement with the Registrar and with each of the Stock Exchanges specified in regulation 24 on the official list of which shares in the offeree company are listed for quotation.

- (4) An offeree company which, having received a Part A statement, gives, in accordance with section 180G of the Ordinance, to the offeror, or to each holder of shares to which that statement refers a Part B statement shall lodge, as required by subregulation (8), a signed copy of the Part B statement with each of the Stock Exchanges specified in regulation 24 on the official list of which shares in the offeree company are listed for quotation.
- (5) An offeror who has dispatched a take-over offer shall lodge, as required by subregulation (9), with the Registrar a signed copy of the notice given in pursuance of paragraph (b) of subsection (1) of section 180H of the Ordinance.
- (7) An offeror who has dispatched the first take-over offer under a take-over scheme shall lodge as required by subregulation (8), a copy of that take-over offer with each of the Stock Exchanges specified in regulation 24 on the official list of which shares in the offeree company are listed for quotation.
- (8) An offeror who has caused to be published, in accordance with subsection (2) or (3) of section 180N of the Ordinance, a notice in a newspaper referred to in subsection (5) of that section shall lodge, as required by subregulation (9), with the Registrar, a signed copy of the notice.
- (8) A signed copy of a prescribed document that is required by subregulation (3), (4) or (6) to be lodged with a Stock Exchange shall be so lodged:
 - (a) by delivering the signed copy to the office of the Stock Exchange:
 - (i) on the day on which the prescribed document is given or dispatched; or
 - (ii) if that office is not open for business on the day on which the prescribed document is given or dispatched or has on that day closed for business before the time at which the prescribed document is given or dispatched, on the next day on which that office is open; or
 - (b) by posting, on the day on which the document is given or dispatched, the signed copy as a letter under pre-paid post in an envelope addressed to the Stock Exchange at its address.

- (9) A signed copy of a prescribed document that is required by subregulation (3), (5) or (7) to be lodged with the Registrar shall be so lodged:
- (a) by delivering the signed copy to the office of the Registrar:
 - (i) on the day on which the prescribed document is given, dispatched or published; or
 - (ii) if the office of the Registrar is not open for business on the day on which the prescribed document is dispatched or published or has, on that day, closed for business before the time at which the prescribed document is dispatched or published, on the next day on which the office is open for business; or
 - (b) by posting, on the day on which the document is dispatched or published, the signed copy as a letter under pre-paid post in an envelope addressed to the Registrar at his office.

24B Modification of Forms 51A, 51B, 52 or 53

For the purposes of Form 51A, Form 51B, Form 52 or Form 53, where the shares in the company referred to in that form are not divided into 2 or more classes, the form may be appropriately altered to refer to those shares.

Part V Meetings

Division 1 Meetings of creditors and contributories

25 Application of division

Except where provision to the contrary is made by the Ordinance, this Division applies in relation to:

- (a) meetings of the creditors of a company (being meetings relating to the official management of the company) referred to in section 203C(1), subsection (1)(b) or subsection (4) of section 204, subsection (1)(c) or subsection (4) of section 206, section 212 or section 214(4), of the Ordinance;
- (b) meetings of creditors or of contributories called by a liquidator under section 232(3)(b), section 237(2), section 241(1), section 242(8), or section 259(1), of the Ordinance;
- (c) meetings of creditors or of contributories referred to in section 242(6) of the Ordinance;

- (d) meetings of the creditors of a company summoned by the company under subsection (1) or subsection (8) of section 260 of the Ordinance;
- (e) meetings of the creditors of a company summoned by any 2 of those creditors under section 261(5) of the Ordinance;
- (f) meetings of the creditors of a company referred to in section 269(1)(a) of the Ordinance; and
- (g) meetings of the creditors of a company referred to in section 277A(2)(b) of the Ordinance;
- (h) meetings of the creditors of a company held for the purpose of section 284(3)(c) of the Ordinance.

26 Notices of meetings (Form 64 and 92)

- (1) The person summoning a meeting of creditors or of contributories shall give not less than 7 days notice of the time and place of the meeting by advertisement in a newspaper published in the Territory not less frequently than once a week and shall, not less than 7 days before the day appointed for the meeting, send notice of a meeting by post to every person appearing by the company's books or otherwise to be a creditor of the company or a contributory of the company, as the case may be.
- (2) The notice referred to in subregulation (1) that is to be advertised in a newspaper and sent to a creditor or contributory shall:
 - (a) in the case of a notice given by a liquidator under section 259(1) of the Ordinance – be in accordance with Form 64; or
 - (b) in any other case – be in accordance with Form 92.
- (3) A notice to a creditor shall be sent to the address given in his proof of debt or, if he has not proved, to the address given in the statement of affairs of the company or such other address as may be known to the person summoning the meeting.
- (4) A notice to a contributory shall be sent to the address mentioned in the company's books as the address of the contributory or to each other address as may be known to the person summoning the meeting.

27 Quorum

- (1) A meeting of creditors or contributories shall not act for any purpose except the election of a chairman, the proving of debts and the

adjournment of the meeting, unless there are present or represented at least 2 creditors entitled to vote, or 2 contributories, of all the creditors entitled to vote or all the contributories if the number of creditors entitled to vote or the contributories, as the case may be, does not exceed 2.

- (2) If within half an hour after the time appointed for the meeting, a quorum of creditors or contributories is not present or represented, the meeting shall stand adjourned to the same day in the next week at the same time and place, or to such other day (not being less than 7 or more than 21 days from the day from which the meeting is adjourned) and at such other time and place, or to such other day (not being less than 7 or more than 21 days from the day from which the meeting is adjourned) and at such other time and place as the chairman may appoint.

28 Chairman

- (1) Subject to section 203(2) of the Ordinance and to subregulation (2), the persons present at a meeting of the creditors or contributories of a company shall elect one of their number to be the chairman of the meeting.
- (2) Where a meeting of creditors or contributories of a company is called by the liquidator of the company, the liquidator or a person nominated by him shall be the chairman of the meeting.

29 Adjournment of meeting

The chairman of a meeting of creditors or contributories shall, if so directed by the meeting, or may, with the consent of the meeting, adjourn the meeting from time to time and from place to place, but the adjourned meeting shall be held at the same place as the original place of meeting unless, in the resolution for adjournment, another place is specified or unless the Court otherwise orders.

30 Passing of resolutions

- (1) At a meeting of creditors, a resolution is passed when a majority in number and value of the creditors present, personally or by proxy, have voted in favour of the resolution.
- (2) At a meeting of contributories, a resolution is passed when a majority in number and value of the contributories present, personally or by proxy, have voted in favour of the resolution, the value of the contributories being determined according to the number of votes conferred on each contributory by the articles of the company.

31 Creditors who may vote

- (1) Subject to subregulation (2), a person is not entitled to vote as a creditor at a meeting of creditors unless he has lodged with the liquidator a proof of the debt which he claims to be due to him from the company and the proof has been admitted wholly or in part before the date on which the meeting is held.
- (2) In the case of a meeting of creditors held under subsection (1) or subsection (8) of section 260 of the Ordinance, a person is not entitled to vote as a creditor at the meeting unless he has lodged with the chairman of the meeting a proof of the debt which he claims to be due to him from the company.
- (3) A creditor shall not vote in respect of any liquidated or contingent debt or any debt the value of which is not ascertained, or in respect of any debt on or secured by a current bill of exchange or promissory note held by him, unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the company, and against whom a sequestration order in bankruptcy has not been made, as a security in his hands, and to estimate the value thereof, and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof.

32 Votes of secured creditors

- (1) For the purpose of voting at a meeting, a secured creditor shall, unless he surrenders his security, state in proof of debt the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote only in respect of the balance, if any, due to him after deducting the value of his security.
- (2) If a secured creditor votes in respect of his whole debt, he shall be deemed to have surrendered his security, unless the Court, on application, is satisfied that the omission to value the security has arisen from inadvertence.

33 Creditor required to give up security

- (1) The liquidator may, within 28 days after a secured debt is proved, in a case where the creditor has stated in his proof of debt the value at which he assesses his security, require the creditor to give up the security for the benefit of the creditors generally on payment of the value at which the creditor assesses it with the addition of 20%.
- (2) Where a creditor has assessed the value of his security, he may at any time before being required to give it up correct the valuation by a new proof and deduct the new value from his debt, but, in that case, the addition of 20%, shall not be made if the security is

required to be given up.

34 Admission and rejection of proof for purpose of voting

- (1) The chairman of a meeting of creditors or contributories may admit or reject a proof of debt for the purpose of voting.
- (2) If the chairman is in doubt whether a proof of debt should be admitted or rejected, he shall mark it as objected to and allow the creditor to vote subject to the vote being declared invalid in the event of the objection being sustained.

35 Record of meeting

The chairman of a meeting of creditors or contributories:

- (a) shall cause minutes of the proceedings at the meeting to be entered in a book kept for the purpose and shall sign the minutes; and
- (b) shall cause a list of the names of the creditors or contributories present at a meeting to be made and kept.

36 Copy of minutes of meeting to be lodged with registrar

Where a meeting of the creditors or contributories of a company is called by the liquidator of the company, the liquidator shall, within a period of 7 days after the meeting, lodge with the Registrar a copy of the minutes of the meeting certified by the chairman of the meeting to be a true copy.

Division 2 Meetings of debenture-holders

37 Application of Division

Except where provision to the contrary is made by the Ordinance or in the covenants contained in the relevant debentures or trust deed, the provisions of this Division apply to and in relation to meetings of holders of debentures summoned in pursuance of a covenant contained, or deemed under subsection (1) of section 74B of the Ordinance to be contained, in the debentures or trust deed.

38 Quorum

- (1) A meeting of debenture-holders shall not act for any purpose except the adjournment of the meeting unless there are present at least 2 debenture-holders.
- (2) If within half-an-hour after the time appointed for the meeting a quorum of debenture-holders is not present, the meeting shall stand

adjourned to the same day in the next week at the same time and place, or to such other day (not being less than 7 or more than 21 days from the day from which the meeting is adjourned) and at such other time and place as the chairman may appoint.

39 Adjournment of meeting

The chairman of a meeting of debenture-holders shall, if so directed by the meeting, or may, with the consent of the meeting, adjourn the meeting from time to time and from place to place, but the adjourned meeting shall be held at the same place as the original place of meeting unless in the resolution for adjournment another place is specified or unless the Court otherwise orders.

40 Passing of resolutions

At a meeting of debenture-holders, a resolution is passed when a majority in number and value of the debenture-holders present have voted in favour of the resolution.

41 Casting vote

In the case of an equality of votes, the chairman of a meeting of debenture-holders shall have a casting vote.

42 Record of meeting

The chairman of a meeting of debenture-holders:

- (a) shall cause minutes of the proceedings at the meeting to be entered in a book kept for the purpose and shall sign the minutes; and
- (b) shall cause a list of the names of the debenture-holders present at the meeting to be made and kept.

Division 3 Joint Meetings of the members and creditors of a company

43 Application of Division

Except where provision to the contrary is made by the Ordinance or in the articles of the company concerned, the provisions of this Division apply to and in relation to a joint meeting of the creditors and members of a company called by the official manager of the company under subsection (1) of section 203A, or subsection (4) of section 214, of the Ordinance.

44 Notices of joint meetings called by official manager (Form 92)

- (1) An official manager of a company who is directed by a committee of management of the company to call a joint meeting of the creditors and members of the company under subsection (4) of section 214 of the Ordinance shall give not less than 7 days' notice of the time and place of the meeting by advertisement in a newspaper published in the Territory not less frequently than once a week and shall cause notices of the meeting to be sent by post to the creditors simultaneously with the sending of notices of the meeting to members of the company.
- (2) The notice referred to in subregulation (1) that is to be advertised in a newspaper and sent to a creditor shall be in accordance with Form 92.
- (3) The notice shall be sent to every person appearing by the company's books or otherwise to be a creditor of the company, and shall be sent to the address mentioned in the company's books as the address of the creditor or to such other address as may be known to the official manager.

45 Quorum

A joint meeting called under subsection (1) of section 203A, or subsection (4) of section 214, of the Ordinance shall not act for any purpose unless there are present or represented at least 2 persons entitled to vote at the meeting.

46 Chairman

The persons present at a joint meeting called under subsection (1) of section 203A, or subsection (4) of section 214, of the Ordinance shall elect one of their number to be the chairman of the meeting.

47 Adjournment of meeting

The Chairman of a joint meeting called under subsection (1) of section 203A, or subsection (4) of section 214, of the Ordinance shall, if so directed by the meeting, or may, with the consent of the meeting, adjourn the meeting from time to time and from place to place, but the adjourned meeting shall be held at the same place as the original place of meeting unless in the resolution for adjournment another place is specified or unless the Court otherwise orders.

48 Passing of resolutions

A resolution put to the vote at a joint meeting to and in relation to which this Division applies shall be decided on a show of hands.

49 Casting vote

In the case of an equality of votes, the chairman of a joint meeting to and in relation to which this Division applies shall have a casting vote.

50 Record of meeting

The chairman of a joint meeting called under subsection (1) of section 203A, or subsection (4) of section 214, of the Ordinance:

- (a) shall cause minutes of the proceedings at the meeting to be entered in a book kept for the purpose and shall sign the minutes; and
- (b) shall cause a list of the names of the persons present and entitled to vote at the meeting to be made and kept.

Division 4 Proxies of creditors and contributories

51 Appointment of proxies

- (1) A creditor entitled to attend and vote at a meeting referred to in regulation 25 or regulation 43 may appoint another person (whether a creditor or not) as his proxy to attend and vote instead of the creditor at the meeting.
- (2) A contributory entitled to attend and vote at a meeting referred to in regulation 25 may appoint another person (whether a contributory or not) as his proxy to attend and vote instead of the contributory at the meeting.
- (3) A proxy appointed under this regulation has the same right to speak at the meeting as the creditor or contributory appointing him.

52 Form of proxies (Form 93)

- (1) The appointment of a person as the proxy of a creditor or contributory shall be made by an instrument of appointment in accordance with Form 93.
- (2) Subject to regulation 53, the instrument appointing a proxy shall be signed by the person appointing the proxy in the presence of a person (not being the person nominated as proxy) who shall add to his signature his description and the address of his place of residence.

53 Proxies of disabled persons (Form 93)

The proxy of a creditor or contributory who is blind or incapable of writing is sufficient for the purposes of these Regulations if the creditor or contributory attaches his signature or mark to the instrument appointing the proxy in the presence of a person (not being the person nominated as proxy) who completes the instrument in accordance with regulation 52 and also completes the certificate set out in Form 93.

54 Proxy form to accompany notice of meetings

The person calling a meeting of creditors or contributories or a joint meeting of a company and the creditors of the company shall send a form of proxy to each creditor or contributory with the notice of the meeting and shall ensure that neither the name nor the description of any person is inserted in the body of the form before it is so sent.

55 General proxy

A creditor or a contributory may give a general proxy to a person who is not a minor.

56 Special proxy

A creditor or a contributory may give a special proxy to a person to vote at a specified meeting or adjournment of that meeting:

- (a) for or against the appointment or continuance in office of a specified person as liquidator or member of the committee of inspection; and
- (b) on all or any questions relating to a matter arising at the meeting or an adjournment of the meeting.

57 Liquidator may act as proxy

A creditor or a contributory may appoint the liquidator to act as his general or special proxy.

58 Voting by proxy where financially interested

- (1) Subject to subregulation (2), a person acting either under a general or special proxy shall not vote in favour of a resolution that would directly or indirectly place himself, his partner or his employer in a position to receive a remuneration out of the assets of the company otherwise than as a creditor rateably with the other creditors of the company.

- (2) Where a person holds special proxies to vote for an application to the Court in favour of the appointment of himself as liquidator he may use the proxies and votes accordingly.

59 Liquidator may appoint deputy

Where a liquidator who holds any proxies cannot attend the meeting for which they are given, he may, in writing, depute a person to use the proxies on behalf of the liquidator in such manner as he may direct.

Part VI Proof of debts in voluntary winding up

60 Application of Part

This Part applies to and in relation to the admission to proof of debts and claims under subsection (1) of section 291 of the Ordinance in a winding up under Division 3 of Part X of the Ordinance.

61 Proof of debt

Every creditor shall prove his debt or claim, unless the Court directs that any creditors or class of creditors be admitted without proof.

62 Statutory declaration of proof of debt (Forms 74 and 75)

- (1) A debt or claim may be proved by serving on the liquidator a statutory declaration of proof of debt in accordance with Form 74 or Form 75.
- (2) Where there are claims for wages by employees of a company, one person may make a statutory declaration in accordance with Form 75 proving the claims on behalf of all the employees.
- (3) A statutory declaration made under subregulation (2) has effect as if a separate statutory declaration had been made by each employee.

63 Notice of day by which debts to be proved

- (1) The liquidator may fix a day, which shall be not less than 14 days from the date of publication of the notice referred to in subregulation (2) or the date on which the last such notice is posted in pursuance of that subregulation, whichever date is the later, on or before which the creditors of the company are to prove their debts or claims under subsection (1) of section 291 of the Ordinance.

- (2) The liquidator shall give notice of the day so fixed by advertisement in a newspaper published in the Territory not less frequently than once a week and shall also give by post notice of the day so fixed to every person mentioned in the statement of affairs as a creditor and who has not proved his debt or claim.

64 Time for liquidator to deal with proofs and notice of rejection of proof (Form 76)

- (1) The liquidator, within 21 days after receiving a proof of debt, shall in writing either admit it or reject it wholly or in part or require further evidence in support of it.
- (2) If the liquidator rejects a proof of debt wholly or in part, he shall state to the creditor the ground of his objections by instrument in writing in accordance with Form 76.
- (3) Where the liquidator has given notice of his intention to declare a dividend, he shall, within 14 days after the day mentioned in the notice referred to in subregulation (2) of regulation 64 as the day on or before which debts or claims are to be proved, in writing either admit or reject wholly or in part or require further evidence in support of every proof of debt that he has not already dealt with and shall, if he rejects a proof of debt wholly or in part, state to the creditor the ground of his objections by instrument in writing in accordance with Form 76.
- (4) Where the liquidator has admitted a proof of debt under subregulation (3), the notice of the dividend shall be a sufficient notification of the admission.

65 Persons who may make statutory declarations

- (1) A statutory declaration proving a debt may be made by the creditor himself or by some person authorized by or on behalf of the creditor.
- (2) A person so authorized shall state in the statutory declaration his authority and means of knowledge.

66 Contents of statutory declaration

- (1) A statutory declaration proving a debt or claim shall contain or refer to a statement of accounts showing the particulars of the debt or claim and shall specify the vouchers by which the debt or claim can be substantiated.
- (2) The liquidator may at any time call for the production of the vouchers.

67 Statement of security

A statutory declaration proving a debt or claim shall state whether the creditor is a secured creditor and, if so, the nature of the security.

68 Costs of proof

A creditor shall, unless the Court in a particular case otherwise orders, bear his own costs of proving his debt or claim.

69 Discount

In proving a debt or claim, a creditor shall make an allowance for all discounts for which an allowance would have been made if the company were not being wound up.

70 Periodical payments

- (1) Where a company that is liable to make any periodical payments (including rent) commenced to be wound up on a day other than a day on which such a payment becomes due, the person entitled to the payments may prove for a proportionate part of a payment in respect of the period from the day when the last payment became due to the day on which the winding up commenced, as if the payment accrued due from day to day.
- (2) Where the liquidator remains in occupation of premises demised to a company which is being wound up, these Regulations do not prejudice or affect the right of the landlord of the premises to claim payment by the company or the liquidator of rent during the period of the company's or the liquidator's occupation.

71 Debt payable at future time

A creditor may prove a debt or claim payable subsequently to the date of the commencement of the winding up as if it were payable at that date and may receive dividends equally with the other creditors, deducting out of each dividend a rebate of interest at the rate of 4% per annum computed from the declaration of the dividend to the time when the debt or claim would have become payable according to the terms on which it was contracted.

72 Production of instrument on which company liable

Where a creditor seeks to prove a debt or claim in respect of a bill of exchange, promissory note or other negotiable instrument or security on which the company is liable, the proof of debt shall not, subject to any order of the Court to the contrary, be admitted, unless the bill, note, instrument or security is produced to the

liquidator.

Part VII Miscellaneous

73 Commission payable for exercise by registrar of powers in respect of defunct company

For the purposes of subsection (3) of section 311 of the Ordinance, commission is prescribed at the rate of 5% of the moneys received by the Registrar in the exercise of the powers conferred upon him by that section.

74 Stock exchanges

(1) For the purposes of paragraph (a) of subsection (4), and paragraph (h) of subsection (6), of section 374 of the Ordinance, the following Stock Exchanges are prescribed Stock Exchanges:

- (a) Hobart Stock Exchange, Tasmania;
- (c) Stock Exchange of Melbourne, Victoria;
- (d) Ballarat Stock Exchange; Victoria;
- (e) Bendigo Stock Exchange, Victoria;
- (f) Sydney Stock Exchange, New South Wales;
- (g) Newcastle Stock Exchange, New South Wales;
- (h) Stock Exchange of Adelaide Limited, South Australia;
- (i) Brisbane Stock Exchange, Queensland; and
- (j) Stock Exchange of Perth, Western Australia.

(2) For the purposes of clause 7(5) of the Ninth Schedule to the Ordinance, the following Stock Exchanges are prescribed Stock Exchanges:

- (a) Stock Exchange of Adelaide Limited, South Australia;
- (b) Brisbane Stock Exchange, Queensland;
- (c) Hobart Stock Exchange, Tasmania;
- (d) Stock Exchange of Melbourne, Victoria;
- (e) Stock Exchange of Perth, Western Australia;

- (f) Sydney Stock Exchange, New South Wales;
- (g) Auckland Stock Exchange, New Zealand;
- (h) Christchurch Stock Exchange, New Zealand;
- (i) Dunedin Stock Exchange, New Zealand;
- (j) Wellington Stock Exchange, New Zealand;
- (k) Stock Exchange, London, England;
- (l) Montreal Stock Exchange, Canada;
- (m) Toronto Stock Exchange, Canada;
- (n) Johannesburg Stock Exchange, South Africa;
- (o) New York Stock Exchange, United States of America;
- (p) American Stock Exchange, United States of America;
- (q) Pacific Coast Stock Exchange, United States of America;
- (r) Mid-West Stock Exchange, United States of America;
- (s) Paris Bourse, France;
- (t) Ballarat Stock Exchange, Victoria;
- (u) Bendigo Stock Exchange, Victoria; and
- (v) Newcastle Stock Exchange, New South Wales.

75 General penalty

A person who contravenes or fails to comply with a provision of these Regulations is guilty of an offence against these Regulations punishable upon conviction by a fine not exceeding 40 dollars.

The Schedules First Schedule

regulation 5

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ENDNOTES

1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION

Companies Regulations (SL No. 11, 1963)

Notified	19 June 1963
Commenced	1 July 1963

Amendments of the Companies Regulations (SL No. 14, 1973)

Notified	16 August 1973
Commenced	16 August 1973

Ordinances Revision Ordinance 1973 (Ord No. 87, 1973)

Notified	20 December 1973
Commenced	11 December 1973

Amendments of the Companies Regulations (SL No. 22, 1974)

Notified	26 September 1974
Commenced	26 September 1974

Amendment of the Companies Regulations (SL No. 21, 1975)

Notified	28 November 1975
Commenced	28 November 1975

Transfer of Powers (Self-Government) Ordinance 1978 (Ord No. 54, 1978)

Notified	1 July 1978
Commenced	1 July 1978

Statute Law Revision Act 2000 (Act No. 19, 2000)

Assent Date	6 June 2000
Commenced	s 6: 4 December 1999; rem: 12 July 2000 (<i>Gaz</i> G27, 12 July 2000, p 2)

3 LIST OF AMENDMENTS

r 2	amd No. 14, 1973, r 1 rep No. 22, 1974, r 1
r 8	amd No. 22, 1974, r 2
r 9	amd No. 22, 1974, r 3
r 10	amd No. 14, 1973, r 17; No. 22, 1974, r 4; Ord No. 54, 1978, s 6
r 12	amd Ord No. 54, 1978, s 6
rr 14 – 15	rep No. 14, 1973, r 2
r 16	amd No. 14, 1973, r 3; No. 22, 1974, r 5
pt IV hdg	sub No. 14, 1973, r 4
r 22	sub No. 14, 1973, r 4
r 23	sub No. 14, 1973, r 4 amd Act No. 19, 2000, s 10
r 24	sub No. 14, 1973, r 4
r 24A	ins No. 14, 1973, r 4 amd No. 22, 1974, r 6
r 24B	ins No. 14, 1973, r 4
pt V	
div 1 hdg	sub No. 14, 1973, r 5; No. 22, 1974, r 7
rr 25 – 31	sub No. 14, 1973, r 5; No. 22, 1974, r 7
rr 32 – 36	rep No. 14, 1973, r 5 ins No. 22, 1974, r 7
r 37	amd No. 14, 1973, r 6
r 43	sub No. 14, 1973, r 7
r 44	amd No. 14, 1973, r 8
r 45	amd No. 14, 1973, r 9
r 46	sub No. 14, 1973, r 10
r 47	amd No. 14, 1973, r 11
r 50	amd No. 14, 1973, r 12
pt V	
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rr 51 – 56	sub No. 14, 1973, r 13; No. 22, 1974, r 8
rr 57 – 59	rep No. 14, 1973, r 13 ins No. 22, 1974, r 8
r 74	amd No. 14, 1973, r 14; No. 22, 1974, r 9
r 75	amd No. 14, 1973, r 17
First sch	amd No. 14, 1973, r 15; No. 22, 1974, r 10
Second sch	amd No. 14, 1973, rr 16 and 17; No. 22, 1974, r 11; No. 21, 1975; Ord No. 54, 1978, s 6