
JUSTICE

JU301*

Trustee Companies Act 1987

**Trustee Companies Amendment
Regulations 2012**

Made by the Lieutenant-Governor and deputy of the Governor in Executive Council.

1. Citation

These regulations are the *Trustee Companies Amendment Regulations 2012*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

These regulations amend the *Trustee Companies Regulations 1988*.

4. Part 1 heading inserted

Before regulation 1 insert:

Part 1 — Preliminary**5. Part 2 heading inserted**

After regulation 2 insert:

Part 2 — Administrative matters

6. Part 3 inserted

After regulation 8 insert:

Part 3 — Voluntary transfers of estate assets and liabilities

9. Purpose of this Part

The purpose of this Part is to facilitate voluntary transfers of estate assets and liabilities under the Corporations Act Part 5D.6.

10. Transfer of estate assets and liabilities

- (1) This regulation applies if —
 - (a) ASIC makes a voluntary transfer determination under the Corporations Act section 601WBA that there is to be a transfer of estate assets and liabilities from a transferring company to a receiving company; and
 - (b) ASIC issues a certificate of transfer under the Corporations Act section 601WBG for the transfer; and
 - (c) either or both of the transferring company or the receiving company are registered in Western Australia.
- (2) When the certificate of transfer comes into force, the receiving company is taken to be the successor in law of the transferring company, to the extent of the transfer.
- (3) In particular —
 - (a) all the estate assets and liabilities of the transferring company become respectively the assets and liabilities of the receiving company without any transfer, conveyance or assignment; and
 - (b) to the extent of the transfer — the duties, obligations, immunities, rights and privileges applying to the transferring company apply to the receiving company.
- (4) If the certificate of transfer includes provisions of a kind referred to in the Corporations Act section 601WBG(3) —
 - (a) specifying that particular things are to happen or are taken to be the case — those things are taken to happen, or to be the case, in accordance with those provisions; or

- (b) specifying a mechanism for determining things that are to happen or are taken to be the case — things determined in accordance with that mechanism are taken to happen, or to be the case, as determined in accordance with that mechanism.

11. Certificates evidencing operation of this Part

- (1) An authorised ASIC officer may, by a certificate in writing signed by the officer, certify that a specific asset or liability has become an asset or liability of the receiving company under this Part.
- (2) For all purposes and in all proceedings, a certificate purporting to be issued under subregulation (1) is evidence of the matters certified.
- (3) ASIC is empowered to authorise, in writing, a person who is a member of ASIC, or of its staff, to issue certificates under this regulation.

12. Registration or record of transfer

The Registrar of Titles, the Registrar of Deeds and Transfers and any other person or authority required or authorised under a law of the State to register or record transactions affecting assets or liabilities, or documents relating to such transactions, must, on application under this regulation accompanied by a certificate issued under regulation 11, register or record in an appropriate manner the transfer or transfers to which the certificate relates.

13. Exemption from State tax

State tax is not payable in respect of a transfer of estate assets or liabilities facilitated under this Part.

By Command of the Lieutenant-Governor and deputy of the Governor,

N. HAGLEY, Clerk of the Executive Council.
