

Western Australia

Friendly Societies Regulations 1999

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Friendly Societies Regulations 1999

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Notes

Western Australia

Friendly Societies (Western Australia) Act 1999

Friendly Societies Regulations 1999

Made by the Governor in Executive Council on the recommendation of the Ministerial Council (within the meaning of section 3 of the *Friendly Societies (Western Australia) Act 1999*) under Part 4 of that Act.

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Friendly Societies Regulations 1999*.

2. Objective

The objective of these regulations is to prescribe matters for the purposes of the Friendly Societies Code set out in the Appendix to the *Friendly Societies (Western Australia) Act 1999*.

3. Commencement

These regulations come into operation on the day on which Part 1 of the Friendly Societies Code set out in the Appendix to the *Friendly Societies (Western Australia) Act 1999* comes into operation.

Part 2 — Functions and powers of SSA

4. Documents for inspection

For the purposes of section 27(2)(a)(ii) of the Code, the following classes of documents may be inspected at the public office of the SSA —

- (a) a document lodged with, created by or otherwise held by the SSA being —
 - (i) a notice given by the SSA under section 30(1), 30(9), 46(1), 361(5), 361(12)(a), 389(3)(a) (notice of approval only) or 389(3)(b) (notice of refusal only) or 395(3)(a) (notice of approval only) or 395(3)(b) (notice of refusal only) of the Code;
 - (ii) a notice given to the SSA under section 46(3), 95(3), 248(7), 321(3), 343(5), 343(12), 433(1), 435(1) or 435(3) of the Code;
 - (iii) an application under section 60(1), 241(5), 341(14), 364(7), 378(3), 379(2), 380(2), 389(1), 395(1), 427(1) or 440(1) of the Code;
 - (iv) a document accompanying an application under section 60(2)(b)(i), (ii), (iv) and (v), 389(1)(a), (b) or (c), 395(1)(a), (b) or (c) or 427(2)(b) or (c) of the Code;
 - (v) a certificate issued by the SSA under section 61, 87(3), 241(6), 365(2), 366(2), 366(3), 370(2), 370(3)(b), 378(6), 379(3), 380(3), 392(1), 398(1), 423(10)(b), 427(3), 441(1) or 482(1) of the Code;
 - (vi) an approval or consent given by the SSA under section 73(3), 75(5), 316(3) or 368(5) of the Code;

- (vii) a disclosure document under section 135(1) of the Code and an application form under section 136(b) of the Code lodged with the SSA;
- (viii) a supplementary disclosure document or a replacement disclosure document lodged with the SSA under section 143(2) or 144(2) of the Code;
- (ix) a return lodged with the SSA under section 239(1), 317(9) or 340(5)(e) of the Code;
- (x) a document accompanying a return under section 239(4) or 239(6) of the Code;
- (xi) a copy of a court order under section 243(8) of the Code;
- (xii) a direction issued by AFIC or the SSA under section 277(1) or 277(2) of the Code;
- (xiii) a special resolution registered by the SSA under section 307(9) of the Code;
- (xiv) a statement lodged with the SSA under section 337(5)(b)(i) of the Code;
- (xv) a report under section 348(4) of the Code;
- (xvi) the rules of an association registered by the SSA under section 440(4) of the Code;
- (b) a document lodged with, created by or otherwise held by the SSA under regulation 21(1), 21(2) or 31(e);
- (c) a document lodged with, created by or otherwise held by the SSA under any of the following provisions of the Corporations Law as modified by these regulations —
 - (i) Part 2K (Charges) — section 263, 264, 265(5), 268(1)(a), 268(2), 269(2), 274 and 277(3) of the Corporations Law;
 - (ii) Part 5.1 (Arrangements and reconstructions) — section 411(9)(a) (applying sections 427(2), 427(4)(a) and 432(1) of the Corporations Law),

411(2), 411(10), 412(6), 413(3) and 415(1) of the Corporations Law;

- (iii) Part 5.2 (Receivers and other controllers of property of corporations) — section 427(1)(a), 427(2), 427(3), 427(4)(a), 429(4), 429(5) and 432(1) of the Corporations Law;
 - (iv) Part 5.4B (Winding up in insolvency or by the Court) — section 465A(a), 470(1), 470(2), 470(3), 474(3), 475(7), 476, 481(5) and 482(5) of the Corporations Law;
 - (v) Part 5.5 (Voluntary winding up) — section 491(2)(a), 494(3)(b), 496(7), 497(2)(c), 497(7), 509(3), 509(4) and 509(7) of the Corporations Law;
 - (vi) Part 5.6 (Winding up generally) — section 537, 539(1) and 568A(1)(a), of the Corporations Law;
- (d) the Register of Charges referred to in regulation 14(1)(a).

5. Acquisition of shares in services corporation

For the purposes of section 30(3) of the Code, the prescribed amount is —

- (a) \$2 000; or
- (b) 1% of the value of the society's assets (as shown in the society's balance sheet as at the end of the financial year last preceding the subscription or acquisition of shares in a services corporation) less the aggregate amount (if any) previously applied in subscribing for or otherwise acquiring shares in a services corporation,

whichever is greater.

6. Payment for attendance and production of documents

The scale of allowances and expenses prescribed for persons required to attend under section 32 of the Code is as follows —

- (a) for persons ordinarily receiving wages, salary, remuneration or fees, for each hour, or part of an hour, of attendance, the amount of wages, salary, remuneration or fees actually lost because of the person's attendance, but not exceeding \$217 for any one day;
- (b) in any other case, the actual expenditure incurred (other than expenses under paragraphs (c) and (d)), but not exceeding \$59 for any one day;
- (c) for travelling expenses to and from a person's usual place of residence or business and the place of attendance —
 - (i) the amount actually paid; or
 - (ii) an amount calculated at 18 cents per km travelled,whichever is lesser;
- (d) for accommodation and meals, if a person is required to be absent over night from the person's usual place of residence —
 - (i) the amount actually paid; or
 - (ii) an amount not exceeding \$150 for any one night,whichever is the lesser.

Part 3 — Societies

7. Registration of society

An application for registration as a society under section 60(1) of the Code —

- (a) must be made in writing to the SSA; and
- (b) must state the name reserved under Part 6A of the AFIC Code for the proposed society; and
- (c) must contain the name and address of a person to whom communications relating to the application may be sent; and
- (d) must be signed by the persons elected at the formation meeting to be the first directors of the society.

Part 4 — Offering and marketing of benefits

8. Register of holders of proper authorities

For the purpose of section 191(3)(e) of the Code, a register of persons who hold a proper authority from the society must contain the date of birth of each person who holds such an authority.

Part 5 — Shares and charges

9. Prohibition on allotment unless minimum subscription received

The prescribed rate of interest for the purposes of section 238(5)(b)(i) of the Code is 8%.

10. Return as to allotments

- (1) A return under section 239 of the Code —
 - (a) must be in writing signed by a director or the secretary of the society; and
 - (b) in addition to the matters required to be stated under section 239(1) of the Code, must state —
 - (i) whether the shares are allotted as fully or partly paid-up shares; and
 - (ii) if the shares are allotted otherwise than in consideration of the payment of money, the nature of the consideration for which the shares have been allotted; and
 - (iii) whether the shares are allotted pursuant to an application made before the registration of the society.
- (2) A statement required to be lodged with a return under section 239(6) of the Code must contain —
 - (a) if the allotment is made under a contract not reduced to writing, particulars of the terms of the contract;
 - (b) if the allotment is made under the society's rules, particulars of the rules under which the allotment was made;
 - (c) if the allotment is made in satisfaction of a dividend declared in favour of, but not payable in cash to, the shareholders, particulars of the amount of the dividend and the date on which it was declared;

- (d) if the allotment is made under the application of money held by the society in an account or reserve in paying up or partly paying up unissued shares to which the shareholders have become entitled, particulars of the amount, source and application of the money.

11. Substantial shareholding and substantial shareholders

- (1) The prescribed modifications for the purposes of section 259(1) of the Code are that Part 6.7 of the Corporations Law applies as if, in that Part —
 - (a) section 707 were omitted;
 - (b) a reference to a prescribed form were a reference to the corresponding form prescribed under the Corporations Law with all necessary modifications;
 - (c) a reference to prescribed particulars were a reference to particulars;
 - (d) a reference to such other particulars as are prescribed were a reference to any other relevant particulars;
 - (e) a reference to prescribed documents were a reference to any relevant documents;
 - (f) the reference to Division 5 of Part 1.2 in section 712 were a reference to section 252 of the Code;
 - (g) the reference to a company's home stock exchange in section 713 were a reference to the SSA.
- (2) The penalty applicable to a contravention of an applied provision is the monetary penalty applicable to the corresponding provision of the Corporations Law or \$5 000, whichever is the lesser.
- (3) In this regulation —
“applied provision” means a provision of the Corporations Law that applies to a society by reason of the Code.

12. Power to obtain information as to beneficial ownership of shares

- (1) The prescribed modifications for the purposes of section 260(1) of the Code are that Part 6.8 of the Corporations Law applies as if, in that Part —
 - (a) a reference to a voting share were a reference to a share;
 - (b) the definition of “company” in section 717 were omitted;
 - (c) section 719A were omitted;
 - (d) the prescribed fee under section 723A(1) were \$5;
 - (e) section 723A(2)(b) were omitted;
 - (f) the fee referred to in section 723A(2)(e) were the fee in section 723A(1).
- (2) The penalty applicable to a contravention of an applied provision is the monetary penalty applicable to the corresponding provision of the Corporations Law or \$5 000, whichever is the lesser.
- (3) In this regulation —

“applied provision” means a provision of the Corporations Law that applies to a society by reason of the Code.

13. Issue of duplicate document of title to shares

For the purposes of section 268(1)(a) of the Code, the prescribed maximum amount payable for the issue of a document of title to shares is \$10.

14. Registration of charges

- (1) The prescribed modifications for the purposes of section 276(1) of the Code are that Part 2K of the Corporations Law applies as if, in that Part —
 - (a) a reference to Australian Register of Company Charges were a reference to Register of Charges;

- (b) in section 261(1), paragraphs (b) and (c) in the definition of “property” were omitted;
- (c) references to a foreign company were omitted;
- (d) the reference to the Commission (in this jurisdiction or elsewhere) in section 261(4) were a reference to the SSA of this State;
- (e) a reference to a debenture were a reference to a debenture issued by a society before the commencement of the Code;
- (f) a reference to a prescribed law of a State or Territory were a reference to a law of a State or Territory prescribed under the Corporations Law;
- (g) sections 263(3) and 263(4), and references to sections 263(3) and 263(4), were omitted;
- (h) the reference to the *Corporations Law (Fees) Regulations* in section 268A(6) were omitted;
- (i) references to a company under administration or an administrator appointed under section 436A, 436B and 436C were omitted;
- (j) references to a deed of company arrangement or an administrator of a deed of company arrangement were omitted;
- (k) a reference to a shareholder were a reference to a member;
- (l) a reference to a document in the prescribed form were a reference to a document in the corresponding form prescribed under the Corporations Law with all necessary modifications;
- (m) the prescribed amount under section 271(3)(b) were \$5 and under section 271(4)(a) were \$5 for the first page plus 50 cents for each additional page;
- (n) sections 275, 275A, 276, 276AA and 276A were omitted.

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- (2) The penalty applicable to a contravention of an applied provision is the monetary penalty applicable to the corresponding provision of the Corporations Law or \$5 000, whichever is the lesser.
- (3) In this regulation —
“applied provision” means a provision of the Corporations Law that applies to a society by reason of the Code.

Part 6 — Management

15. Registers

The registers to be kept by a society under section 316 of the Code are —

- (a) a register of loans made to officers and employees of the society;
- (b) a register of loans made to members of the society and of securities taken in respect of those loans;
- (c) a register of investments made by the society (except investments in a subsidiary or a body corporate that is an associate of the society) and of securities related to any such investments;
- (d) a register of investments made by the society in subsidiaries and in bodies corporate that are associates of the society and of securities related to any such investments;
- (e) a register of guarantees given by the society;
- (f) a register of loans raised by the society, the securities issued by the society in respect of those loans and the holders of those securities;
- (g) a register of debentures issued but not redeemed by the society at the date of the commencement of the Code and the holders of those debentures;
- (h) a register of bonds, bills of exchange and promissory notes issued by the society;
- (i) a register of letters of credit issued by the society.

16. Register of members

For the purposes of section 318 of the Code, the following information must be entered in a register of members in relation to each member —

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- (a) if the register is a register of members of a society under section 318(1), the number of shares (if any) allotted to the member, the date of allotment, the nominal value of the shares and the amount paid up on the shares;
- (b) if applicable, the date of termination of membership and the circumstances of termination.

17. Register of holders of permanent shares

For the purposes of section 320(1)(d) of the Code, the following information must be entered in a register of holders of permanent shares in a society —

- (a) the nominal value of the shares and the amount paid up on the shares;
- (b) if the shares were allotted otherwise than in consideration of the payment of money, the nature of the consideration for which the shares have been allotted; and
- (c) the number of the certificate issued in respect of the shares.

18. Inspection of registers

For the purposes of section 323(4) of the Code, a member of a society or a member of a benefit fund is not entitled to a copy of a register, or any part of a register, except —

- (a) a register of members of the society under section 318(1) of the Code;
- (b) a register of members of the benefit fund under section 318(2) of the Code; or
- (c) a register of holders of permanent shares in the society under section 320(1) of the Code.

19. Up to date information in registers

- (1) In this regulation, the following are instruments prepared for the purposes of section 325(5) of the Code —

- (a) an index of —
 - (i) the members of a society;
 - (ii) the members of a benefit fund;
 - (iii) the holders of permanent shares of a society;
 - (b) the written form of a register, or part of a register, of —
 - (i) the members of a society;
 - (ii) the members of a benefit fund;
 - (iii) the holders of permanent shares in a society;
 - (iv) the holders of options granted to persons to take up permanent shares in a society.
- (2) A society must ensure that an instrument is, at any time, not more than 20 business days out of date.
- (3) However, if a person notifies a society that the person wishes to inspect an instrument, and nominates a day for inspection, the society must ensure that the instrument is, on the day nominated for inspection, not more than 5 business days out of date.
- (4) The day nominated for inspection must not be earlier than the first business day after the society receives a notice under subregulation (3).

20. Final audit on merger, etc.

- (1) The prescribed statements and information to be included in an auditor's report under section 348(1) of the Code are the statements and information required to be included in an auditor's report under section 346 of the Code.
- (2) Without limiting subregulation (1), a reference in section 346 of the Code to a financial year is to be construed as if it were a reference to the financial year up to the date of dissolution of the society or the date of the society's conversion to a company or an incorporated association, as the case requires.

21. Returns

- (1) For the purposes of section 360(1) of the Code, a society must lodge a return with the SSA on or before the date of its annual general meeting.
- (2) A return lodged under subregulation (1) must be accompanied by the accounts, reports and statement required under section 338(1) of the Code to be laid before each annual general meeting of the society.

Part 7 — Mergers of societies and transfers of engagements

22. Proposed merger or transfer to be approved by members

If a society conducts a postal ballot under section 364 or 377, it must be conducted in accordance with Schedule 1.

**Part 8 — Conversions to companies and
incorporated associations**

23. Proposal to convert to be approved by members

A postal ballot under section 387(1) of the Code must be conducted in accordance with Schedule 1.

Part 9 — External administration

24. Arrangements and reconstructions

- (1) The prescribed modifications for the purposes of section 399(1) of the Code are that Part 5.1 of the Corporations Law applies as if, in that Part —
 - (a) a reference to a Part 5.1 body were a reference to a society or a related body corporate;
 - (b) references to a company were references to a society;
 - (c) section 411(8A), and references to section 411(8A), were omitted;
 - (d) a reference to a shareholder were a reference to a member;
 - (e) a reference to a debenture were a reference to a debenture issued by a society before the commencement of the Code;
 - (f) a reference to a document in the prescribed form were a reference to a document in the corresponding form prescribed under the Corporations Law with all necessary modifications;
 - (g) the reference to the Commission in section 414(15) were a reference to the Minister, and the reference in that section to Part 9.7 were a reference to the law relating to unclaimed money or property;
 - (h) section 415A(1)(a) and (d) were omitted.
- (2) Part 5.1 of the Corporations Law applies as if it included provisions preventing —
 - (a) avoidance of the requirements of section 387 of the Code;
 - (b) avoidance of any requirement of the friendly societies legislation affecting —
 - (i) shareholding restrictions under Part 5 of the Code; or

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- (ii) mergers or transfers of engagements of societies.
- (3) The penalty applicable to a contravention of an applied provision is the monetary penalty applicable to the corresponding provision of the Corporations Law or \$5 000, whichever is the lesser.
- (4) In this regulation —
“applied provision” means a provision of the Corporations Law that applies to a society by reason of the Code.

25. Receivers and other controllers of property of societies

- (1) The prescribed modifications for the purposes of section 400(1) of the Code are that Part 5.2 of the Corporations Law applies as if, in that Part —
 - (a) in section 416 —
 - (i) paragraphs (b) and (c) in the definition of “property” were omitted; and
 - (ii) the definition of “receiver” were omitted;
 - (b) a reference to a foreign company were omitted;
 - (c) a reference to Part 9.11 were omitted;
 - (d) a reference to a corporation were a reference to a society;
 - (e) a reference to a Division 2 company were omitted;
 - (f) the reference in section 420A(2) to section 232 were a reference to section 298 of the Code;
 - (g) the prescribed fee in section 421A(3)(b) were \$10;
 - (h) a reference to a document in the prescribed form were a reference to a document in the corresponding form prescribed under the Corporations Law with all necessary modifications;
 - (i) references to a company under administration or the administrator of a company under administration were omitted;

- (j) references to a deed of company arrangement or the administrator of a deed of company arrangement were omitted;
 - (k) a reference to a registered Australian corporation were omitted;
 - (l) a reference to a debenture were a reference to a debenture issued by a society before the commencement of the Code;
 - (m) section 433(1) and (4) were omitted;
 - (n) a reference in section 433(3)(b), (6) and (7) to section 329(6) were a reference to section 343(6) of the Code.
- (2) The penalty applicable to a contravention of an applied provision is the monetary penalty applicable to the corresponding provision of the Corporations Law or \$5 000, whichever is the lesser.
- (3) In this regulation —
“applied provision” means a provision of the Corporations Law that applies to a society by reason of the Code.

26. Winding up

- (1) The prescribed modifications for the purposes of section 403(1) of the Code are that Parts 5.4, 5.4A, 5.4B, 5.5, 5.6, 5.7A and 5.7B of the Corporations Law apply as if, in those Parts —
- (a) a reference to a company were a reference to a society;
 - (b) references to a company under administration or the administrator of a company under administration were omitted;
 - (c) references to a deed of company arrangement or the administrator of a deed of company arrangement were omitted;

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- (d) a reference to a document in the prescribed form were a reference to a document in the corresponding form prescribed under the Corporations Law with all necessary modifications;
 - (e) references to Parts 5.3A and 5.7, or any provisions in those Parts, were omitted;
 - (f) a reference to a Division 2 company were omitted;
 - (g) a reference to a related body corporate were a reference to a related body corporate as defined in section 10 of the Code;
 - (h) the reference in section 544 to Part 9.7 were a reference to the law relating to unclaimed money or property;
 - (i) a reference in section 588B to a recognized company were a reference to a society registered under the friendly societies legislation of another State.
- (2) The penalty applicable to a contravention of an applied provision is the monetary penalty applicable to the corresponding provision of the Corporations Law or \$5 000, whichever is the lesser.
- (3) In this regulation —
“applied provision” means a provision of the Corporations Law that applies to a society by reason of the Code.

27. Miscellaneous

- (1) The prescribed modifications for the purposes of section 399(1), 400(1) and 403(1) of the Code are that Part 5.9 of the Corporations Law applies as if, in that Part —
- (a) a reference to a corporation or company were a reference to a society;
 - (b) references to a company under administration or the administrator of a company under administration were omitted;

- (c) references to a deed of company arrangement or the administrator of a deed of company arrangement were omitted;
 - (d) references to Part 5.3A were omitted;
 - (e) the prescribed fee in section 597(14A)(b) were \$10.
- (2) The penalty applicable to a contravention of an applied provision is the monetary penalty applicable to the corresponding provision of the Corporations Law or \$5 000, whichever is the lesser.
- (3) In this regulation —
“applied provision” means a provision of the Corporations Law that applies to a society by reason of the Code.

Part 10 — Special investigations

28. Examination of officers

The allowances and expenses prescribed for persons required to attend under section 414(4) of the Code are as follows —

- (a) for persons ordinarily receiving wages, salary, remuneration or fees, for each hour, or part of an hour, of attendance, the amount of wages, salary, remuneration or fees actually lost because of the person's attendance, but not exceeding \$217 for any one day;
- (b) in any other case, the actual expenditure incurred (other than expenses under paragraphs (c) and (d)), but not exceeding \$59 for any one day;
- (c) for travelling expenses to and from a person's usual place of residence or business and the place of attendance —
 - (i) the amount actually paid; or
 - (ii) an amount calculated at 18 cents per kilometre travelled,whichever is lesser;
- (d) for accommodation and meals, if a person is required to be absent overnight from the person's usual place of residence —
 - (i) the amount actually paid; or
 - (ii) an amount not exceeding \$150 for any one night,whichever is the lesser.

Part 11 — Foreign societies

29. Registration of foreign society

An application for registration as a foreign society under section 427(1) of the Code —

- (a) must be made in writing to the SSA; and
- (b) must state the name reserved under Part 6A of the AFIC Code for use in this State.

30. Application of Code to foreign societies

For the purposes of section 432 of the Code, the following provisions of the Code apply to a foreign society as if the foreign society were a society —

- (a) section 19 (Corporations Law applying under its own force);
- (b) section 92 (Publication of name);
- (c) section 323 (Inspection of rules and other documents) as if a reference in that section to the registered office of a society were a reference to the office of an agent of a foreign society;
- (d) section 456 (Defaults by societies);
- (e) section 464 (False or misleading information);
- (f) clauses 36 and 37 (Service of documents) in Schedule A to the Code.

Part 12 — Associations

31. Registration of an association

An application for registration as an association under section 440(1) of the Code —

- (a) must be made in writing to the SSA under the common seals of the applicant societies;
- (b) must state the names, addresses and occupations of the persons who are to become the first directors of the association;
- (c) must state the name reserved under Part 6A of the AFIC Code for use by the association;
- (d) must state the objects of the association and the reasons for the applicant societies seeking registration as an association;
- (e) must be accompanied by a statutory declaration by a proposed director of the association to the effect that the formation of the association and its proposed rules have been approved by the members of the applicant associations; and
- (f) must be accompanied by details of share capital (if any) and the numbers of shares to be allotted to the applicant societies.

32. Application of Code to associations

For the purposes of section 446 of the Code, the following provisions of the Code apply to an association as if the association were a society —

- (a) Part 2 (Functions and powers of the SSA), except Subdivisions 7 and 8 of Division 2;
- (b) Sections 67 and 68 (Control of certain arrangements and transactions);

- (c) Part 3, Divisions 3 (Rules), 4 (Standards) and 6 (Name and office);
- (d) Sections 80, 83, 84 and 85 (Membership);
- (e) Part 5, Division 7 (Registration of charges);
- (f) Part 6, Divisions 6 (Accounts) and 7 (Audit);
- (g) Part 7 (Mergers of societies and transfers of engagements);
- (h) Part 9 (External administration), except sections 399 and 400;
- (i) Part 13 (Review of decisions);
- (j) Part 14 (Miscellaneous);
- (k) Part 15 (Transitional).

Part 13 — Miscellaneous

33. Secrecy

- (1) For the purposes of the definition of “financial sector supervisory agency” in section 477(1) of the Code, the following persons and bodies are a financial sector supervisory agency —
 - (a) the Australian Securities and Investments Commission;
 - (b) the Australian Prudential Regulation Authority under the *Australian Prudential Regulation Authority Act 1998* of the Commonwealth;
 - (c) the Private Health Insurance Administration Council under the *National Health Act 1953* of the Commonwealth;
 - (d) the Reserve Bank of Australia.
- (2) For the purposes of the definition of “Government agency” in section 477(1) of the Code, a Commissioner (however named) administering any law of a State about taxation, and any person representing that Commissioner in respect of a matter to which section 477 of the Code relates, is an agency of a State or Territory Government.
- (3) For the purposes of the definition of “law enforcement agency” in section 477(1) of the Code, the following persons and bodies are a law enforcement agency —
 - (a) the Australian Bureau of Criminal Intelligence;
 - (b) the Australian Competition and Consumer Commission;
 - (c) the Australian Federal Police;
 - (d) the Australian Transaction Report Agency;
 - (e) the Commonwealth Law Enforcement Board;
 - (f) the Criminal Justice Commission of Queensland;
 - (g) the Director of Public Prosecutions (however named) of the Commonwealth and of each State;

- (h) the Independent Commission Against Corruption of New South Wales;
- (i) the National Crime Authority;
- (j) the New South Wales Crime Commission;
- (k) a member of the police force (however named) of each State of or above the rank of senior sergeant.

34. Application of money of members who have died

For the purposes of section 478 of the Code, an amount applied under that section must not exceed \$15 000.

35. Fees

The prescribed fees for the purposes of the Code are —

- (a) on lodging an application for registration as —
 - (i) a society under section 60 of the Code, \$3 000;
 - (ii) a foreign society under section 427 of the Code, \$100;
 - (iii) an association under section 440 of the Code, \$2 000;
- (b) for inspection of documents under section 27(2)(a), \$10;
- (c) for a certified copy of, or extract from, a document under section 27(2)(b), \$5 for the first page plus 50 cents for each additional page.

Part 14 — Repeal

36. Repeal

The *Friendly Societies Regulations 1924* are repealed.

Schedule 1 — Postal ballot

[r.22 and 23]

Part 1 — Preliminary

1. Appointment of returning officer

- (1) If a postal ballot is to be conducted —
 - (a) for the purpose of approving a special resolution for a proposed merger of societies or transfer of engagements under section 364 or 377 of the Code; or
 - (b) for the purpose of approving a proposal to convert to a company under section 387 of the Code,

the society must appoint a person with appropriate qualifications, experience or standing as returning officer for the ballot.

- (2) The returning officer may, if necessary, appoint one or more persons with appropriate qualifications, experience or standing to act as assistant returning officers or clerical assistants.
- (3) A member of the society is not eligible to be appointed as a returning officer or assistant returning officer.
- (4) The returning officer may delegate to an assistant returning officer any of the returning officer's powers and functions under this Schedule.

2. Roll

As soon as practicable after the appointment of the returning officer, the society must give the returning officer a roll showing the members of the society and, in the case of a ballot conducted under section 387, the number of shares (if any) held by each member, including, if the shares of the society are divided into different classes, the number of shares of each class held by each member.

Schedule 1

3. Notice of proposed postal ballot

- (1) As soon as practicable after being appointed as returning officer for the postal ballot, the returning officer must cause notice of the proposed ballot to be —
 - (a) given to each member who is entitled to vote under section 364, 377 or 387; or
 - (b) published in a newspaper circulating generally in the area in which the society operates and, if the society operates in another State, in the other State or States.
- (2) The notice must —
 - (a) state that a postal ballot is to be held;
 - (b) state the resolution or proposal that is to be put to voters in the ballot;
 - (c) state the date for the close of the ballot; and
 - (d) contain any other information as the SSA may require.

4. Postponement of closing date

- (1) The returning officer, in consultation with the society's board, may change the date for the close of the postal ballot to a later date than the date previously notified by —
 - (a) giving notice of the change of date to each member who is entitled to vote under section 364, 377 or 387; or
 - (b) publishing a notice of the change of date in a newspaper circulating generally in the area in which the society operates and, if the society operates in another State, in the other State or States.
- (2) The later date must be not more than 7 days later than the date previously notified.
- (3) The power conferred on the returning officer by this clause may be exercised more than once in respect of a ballot.

5. Printing of ballot papers

The returning officer must ensure that enough ballot papers are printed for the purposes of the postal ballot.

6. Distribution of ballot papers

As soon as practicable after the ballot papers have been printed, the returning officer must send to each member on the roll at the address specified in respect of the member in the roll —

- (a) a ballot paper that bears the initials of the returning officer or an assistant returning officer;
- (b) an inner envelope that is marked with the words “Ballot paper only”;
- (c) an outer envelope addressed to the returning officer for the postal ballot and with appropriate provision on the back of the envelope for the member’s name and address;
- (d) a postal vote certificate to be completed by the member certifying the member’s membership and, in the case of a ballot conducted under section 387, the number and class of shares (if any) held by the member;
- (e) in the case of a ballot conducted for the purposes of section 364 or 377, a statement under section 364(3) or 377(3) of the Code; and
- (f) any other information the SSA requires to be sent to members for the postal ballot.

7. Replacement of ballot papers

- (1) If any person to whom a ballot paper has been sent satisfies the returning officer that the ballot paper has been spoiled, lost or destroyed, the returning officer may issue the person with a replacement ballot paper.
- (2) The returning officer must keep a record of all replacement ballot papers so issued.

Schedule 1

Part 2 — Voting

8. Voting

To vote in a postal ballot, a member must —

- (a) record the member's vote on the ballot paper in accordance with the directions shown on the ballot paper;
- (b) place the completed ballot paper in the inner envelope marked "Ballot paper only" and seal the envelope;
- (c) complete the postal vote certificate and place the inner envelope and the completed postal vote certificate in the outer envelope and seal the envelope;
- (d) write the member's full name and address in the appropriate place on the back of the envelope; and
- (e) send the envelope to the returning officer.

9. Eligible votes

A member's vote in the postal ballot may be counted only if —

- (a) the member has voted in the way required by this Part; and
- (b) the outer envelope is received by the returning officer on or before the closing date for the postal ballot.

Part 3 — The scrutiny

10. Appointment of scrutineers

- (1) The society may appoint a scrutineer to monitor the scrutiny and the counting of votes in the postal ballot.
- (2) An interested person may, with the consent of the returning officer, appoint a scrutineer to monitor the scrutiny and counting of the votes.
- (3) A scrutineer is entitled to be present at the scrutiny and counting of the votes.

11. Scrutiny of envelopes

- (1) As soon as practicable after the returning officer receives an outer envelope, the returning officer must —

- (a) examine the name on the back of the envelope; and
 - (b) if satisfied that a person of that name is eligible to vote, open the envelope and extract its contents.
- (2) If the outer envelope contains an inner envelope and a postal vote certificate, and the returning officer is satisfied that the person who purports to have signed the postal vote certificate is a member of the society and eligible to vote, the returning officer must accept the inner envelope for scrutiny.
- (3) The returning officer must, in the case of a ballot conducted under section 387, endorse on the inner envelope, if accepted for scrutiny, the class of shares (if any) held by the member who purports to have signed the accompanying postal vote certificate, together with the number of shares of each class so held by the member.
- (4) The returning officer must draw a line through the member's name on the roll of eligible voters.
- (5) If the returning officer is not satisfied that the signature appearing on the postal vote certificate is the signature of the person whose name and address appear on the back of the outer envelope, the returning officer —
 - (a) may make any inquiries the returning officer considers appropriate; and
 - (b) if satisfied, after making those inquiries, that the signature is not the signature of that person, must reject the inner envelope for scrutiny.

12. Scrutiny of votes

- (1) The scrutiny of votes must be conducted as follows —
 - (a) the returning officer must produce unopened the inner envelopes accepted for scrutiny;

Schedule 1

- (b) the returning officer must then open each inner envelope, extract the ballot paper without unfolding it, copy onto the ballot paper the endorsement (if any) relating to the class and number of shares of the member and place the ballot paper in a locked ballot box or, if the shares in the society are divided into different classes, in a locked ballot box for members holding shares of the class referred to in the endorsement;
 - (c) when all the ballot papers have been placed in a ballot box, the returning officer must unlock each box and remove the ballot papers;
 - (d) the returning officer must then examine each ballot paper and reject those that are informal.
- (2) A ballot paper must be rejected as informal if —
- (a) it is not initialled by the returning officer or by an assistant returning officer;
 - (b) it has on it any mark or writing (other than an endorsement made in accordance with this clause) that, in the returning officer's opinion, could enable the member who completed it to be identified; or
 - (c) it has not been completed in a way that indicates the member's intention for the purposes of the resolution or proposal the subject of the postal ballot.

13. Counting of votes

- (1) The returning officer must then count the votes from each ballot box.
- (2) On completing the count, the returning officer must make out a return to the society certifying —
 - (a) the number and percentage of members of the society who voted in the postal ballot;
 - (b) the number and percentage of members of the society who voted to approve the resolution or proposal the subject of the postal ballot; and

- (c) in the case of a postal ballot conducted under section 387, if the society has issued shares of more than one class, the number of members who hold shares of each class who voted to approve the proposal the subject of the postal ballot, and the percentage of shares of that class held by those members.

Part 4 — Miscellaneous

14. Disputes

- (1) A dispute about a decision made by the returning officer under this Schedule must be referred to the SSA.
- (2) The SSA must determine any dispute referred to it under this clause and its determination is final.

15. Retention of ballot papers etc.

- (1) The returning officer must retain all ballot papers, postal vote certificates and outer envelopes for the postal ballot until the SSA authorizes their destruction.
- (2) The returning officer must deliver the materials referred to in subclause (1) to the SSA if the SSA so requires.

16. Computerised counting of votes

The returning officer may make use of electronic data processing equipment in the counting of votes.

17. Vacation of office of returning officer etc.

- (1) The appointment of a person as a returning officer or assistant returning officer ceases if the person —
 - (a) dies;
 - (b) resigns by notice of resignation delivered to the society; or
 - (c) is removed from office by the society or the SSA.
- (2) The society may terminate the appointment of a person as a returning officer, or assistant returning officer, if the SSA approves the termination.

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18. Offence

A person must not vote in a postal ballot if the person knows that he or she is not entitled to exercise the vote.

Penalty: \$500.

Notes

- ^{1.} This is a compilation of *Friendly Societies Regulations 1999* and includes the amendments referred to in the following Table.

Compilation table

Citation	Gazettal	Commencement
<i>Friendly Societies Regulations 1999</i>	24 May 1999 pp.2027-52	24 May 1999 (see r. 3 and <i>Gazette</i> 21 May 1999 p.1999)