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FRIENDLY SOCIETIES (WESTERN AUSTRALIA) ACT 1999

**FRIENDLY SOCIETIES
(SAVINGS AND
TRANSITIONAL)
REGULATIONS 1999**

Friendly Societies (Western Australia) Act 1999

Friendly Societies (Savings and Transitional) 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 section 12 of that Act.

1. Citation

These regulations may be cited as the *Friendly Societies (Savings and Transitional) Regulations 1999*.

2. Commencement

These regulations come into operation on the day on which section 12 of the *Friendly Societies (Western Australia) Act 1999* comes into operation.

3. Interpretation

- (1) In these regulations, unless the contrary intention appears —
 - “**commencement**” means the day on which these regulations come into operation;
 - “**foreign continuing society**” means a society registered or incorporated as a friendly society in another State or Territory of the Commonwealth immediately before the commencement;
 - “**specified name**” means the registered name of the society under the previous law.
- (2) In section 490 (Winding-up) of the Code, the reference to a certificate issued for the winding-up of a continuing society under the previous law is to be read as if it were a reference to an award of the Registrar to terminate or dissolve a society under section 25(1)(c) of the previous law.
- (3) In section 491 (Documents) of the Code, the reference to the SSA under the previous law is to be read as if it were a reference to the Registrar under the previous law.
- (4) For the purposes of the Code —
 - (a) a member of a committee of management; or
 - (b) a trustee,

of a continuing society under the previous law will be taken to be a director of the society.

- (5) For the purposes of the Code —
- (a) a fund maintained by a continuing society under section 8 or 8A of the previous law immediately before the commencement to pay, or provide for the payment of, amounts to which a member of the society or any other person may be, or become, entitled because of contributions, or payments made, to the society (whether by that member or person or by another person) will be taken to be a benefit fund of the society established under Part 4A of the Code;
 - (b) any other fund (including a fund under section 7A) maintained by a continuing society under the previous law immediately before the commencement for any purpose will be taken to be part of the management fund of the society.

4. Non-application of dominant activities test to continuing societies

- (1) A continuing society may continue to carry on activities as a society registered under the Code despite non-compliance with Division 1 of Part 3 of the Code.
- (2) A continuing society that does not, at the commencement, comply with Division 1 of Part 3 of the Code, must not extend the scope of its activities unless, taking the current and new activities into account —
 - (a) the objects of the society will include one or more of the objects referred to in section 56 (Primary Objects) of the Code; and
 - (b) the dominant activities of the society will be within the scope of the primary objects of the society, as required by Division 1 of Part 3 of the Code.

5. Non-application of voting provisions of the Code to certain continuing societies

- (1) If, immediately before the commencement, the rules of a continuing society were inconsistent with section 305 (Voting) of the Code, those rules may, for the period of 12 months from the commencement, continue to govern the voting rights of members despite section 484(2) (Rules) of the Code.
- (2) Section 484(3) of the Code does not apply to any such rule.
- (3) Subject to subregulation (1), if the SSA is satisfied that there is no good reason why an amendment of a continuing society's rules in relation to the voting rights of members should not be registered, the SSA must register the amendment even if the amended rules do not comply with the friendly societies legislation of Western Australia, so long as the amended rules do not fail to comply with the friendly societies legislation to a greater extent than the unamended rules.

6. Registered office

The registered office of a continuing society under section 12 of the previous law, immediately before the commencement, will be taken to be the registered office of the society for the purposes of section 95 (Registered office) of the Code.

7. Funds and separation of assets

- (1) A continuing society that, immediately before the commencement, did not maintain a separate account at a bank for each fund of a kind referred to in regulation 3(5)(a) (ie: a fund that will, for the purposes of the Code, be taken to be a benefit fund) —
 - (a) must as soon as practicable notify the SSA of the existence of each such fund; and
 - (b) must —
 - (i) within 6 months of the commencement; or
 - (ii) within such longer period as the SSA, on application by the society, allows,take all necessary steps to comply with the Code and standards in relation to benefit funds.
- (2) A continuing society that, immediately before the commencement, maintained a fund for which an authorization was in force under section 8 of the previous law —
 - (a) must as soon as practicable notify the SSA of the maintenance of the fund; and
 - (b) must —
 - (i) within 6 months of the commencement; or
 - (ii) within such longer period as the SSA, on application by the society, allows,take all necessary steps to comply with the Code and standards in relation to benefit funds.
- (3) A continuing society that notifies the SSA in accordance with subregulation (1)(a) or (2)(a) (as the case requires) will, for the period of 6 months from the commencement or such longer period as is allowed by the SSA, be taken to be complying with section 99 (Assets of benefit funds) of the Code in relation to the distinction and separation of assets of benefit funds.

8. Annual general meeting

- (1) A continuing society must hold an annual general meeting within 12 months after the society's last annual general meeting held under the previous law.
- (2) The accounts of a continuing society relating to the financial year commencing immediately before the commencement will, if kept and audited in accordance with the previous law, be taken, for the purposes of section 338(1) (Accounts and reports to be laid before annual general meeting) of the Code, to comply with Divisions 6 and 7 of Part 6 of the Code.

- (3) A continuing society that makes available copies of such accounts to members at the registered office and at each other office of the society from 21 days before the first annual general meeting after the commencement is to be held until the holding of the meeting will be taken to be in compliance with section 338(2) of the Code.

9. Amalgamations

- (1) A resolution by 2 or more continuing societies to amalgamate under section 24(3) of the previous law that has not been registered under section 24(6) of the previous law before the commencement will be taken, for the purposes of section 364(2) (Application for registration of merger or transfer) of the Code, to be a special resolution of each of the societies involved approving the proposed merger.
- (2) Compliance by a continuing society with proviso (a) to section 24 of the previous law in relation to such a resolution by the society will be taken to be compliance by the society with section 364(3) and (4) of the Code in relation to a special resolution.
- (3) A copy of a resolution to amalgamate by 2 or more continuing societies that has been forwarded to the Registrar for registration under section 24(6) of the previous law but has not, at the commencement, been registered will be taken to be an application for the registration of a merger under section 364(7) of the Code.

10. Resolutions

- (1) A resolution by a continuing society to change its specified name under section 24(2) of the previous law that has not been registered under section 24(6) of the previous law before the commencement will be taken to be a special resolution to amend the rules of the society under section 72 (Amendment of rules by special resolution) of the Code.
- (2) Compliance by a continuing society with section 24(1) of the previous law in relation to such a resolution will be taken to be compliance by the society with the requirements of section 307 (Special resolutions of societies) of the Code in relation to special resolutions.
- (3) A copy of a resolution of a continuing society that has been forwarded to the Registrar for registration under section 11(2) of the previous law but has not, at the commencement, been registered will be taken to be an application for the registration of an amendment of a rule of the society under section 74 (Registration of amendment of rule) of the Code.

11. Name

- (1) The specified name of a continuing society will, for the purposes of the Code, be taken to be the registered name of the society.

- (2) A continuing society that immediately before the commencement used a name other than its specified name must as soon as practicable notify the SSA of the society's use of that other name.
- (3) The SSA must as soon as practicable after being notified under subregulation (2) notify AFIC of the society's use of a name other than its specified name.
- (4) A society that proposes to continue using a name other than its specified name must —
 - (a) within 6 months of the commencement; or
 - (b) within such longer period as the SSA, on application by the society, allows,apply to AFIC for approval of the use of the name under Part 6A of the AFIC (Western Australia) Code.
- (5) A continuing society that notifies the SSA in accordance with this regulation will be taken to have the approval of AFIC of the use of the name —
 - (a) until application for such approval is made in accordance with this regulation and is determined by AFIC; or
 - (b) if no such application for approval is made, for the period of 6 months from the commencement or such longer period as is allowed by the SSA.

12. Certain words to be included in the name of society

- (1) A continuing society must, within 12 months of the commencement, take the necessary steps under Part 3 (Societies) of the Code to change its name so as to include the words "friendly society" as part of its name and "Limited", or the abbreviation "Ltd.", at the end of its name.
- (2) A continuing society will, for the period of 12 months from the commencement of this regulation, be taken to be complying with Division 6 of Part 3 of the Code.

13. Proceedings under *Friendly Societies Act 1894*

- (1) The SSA may take action or institute proceedings under the previous law in relation to a continuing society.
- (2) For the purposes of subregulation (1), a reference in the previous law to the Minister or the Registrar is to be read as a reference to the SSA.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.

