



New South Wales

James Hardie Former Subsidiaries (Special Provisions) (Savings and Transitional) Regulation 2005

under the

James Hardie Former Subsidiaries (Special Provisions) Act 2005

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *James Hardie Former Subsidiaries (Special Provisions) Act 2005*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

The *James Hardie Former Subsidiaries (Special Provisions) Act 2005* provides for the external administration of certain former subsidiaries (liable entities) of the James Hardie corporate group. Under section 19 of the Act the Minister may direct a liable entity to do any thing that the Minister is satisfied is necessary or appropriate for the external administration of the entity in accordance with Part 3 of the Act.

The object of this Regulation is to require liable entities to lodge a financial report for their 2005 financial year with the Minister to enable the Minister to assess the current financial position of the liable entities.

This Regulation is made under the *James Hardie Former Subsidiaries (Special Provisions) Act 2005*, including section 42 and Schedule 1.

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Part 1 Preliminary

James Hardie Former Subsidiaries (Special Provisions) (Savings and Transitional) Regulation 2005

under the

James Hardie Former Subsidiaries (Special Provisions) Act 2005

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *James Hardie Former Subsidiaries (Special Provisions) (Savings and Transitional) Regulation 2005*.

2 Commencement

This Regulation commences on 1 July 2005.

3 Definitions

(1) In this Regulation:

the Act means the *James Hardie Former Subsidiaries (Special Provisions) Act 2005*.

(2) Notes included in this Regulation do not form part of this Regulation.

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Clause 4

James Hardie Former Subsidiaries (Special Provisions) (Savings and Transitional) Regulation 2005

Part 2

Liable entities

Part 2 Liabe entities

4 Financial report for 2005 financial year

- (1) In this clause:
relevant financial year means the following:
 - (a) for ABN 60—the year ending 31 March 2005,
 - (b) for Amaca—the year ending 30 June 2005,
 - (c) for Amaba—the year ending 30 June 2005.
- (2) A liable entity must, within 1 month after 1 July 2005, lodge with the Minister a financial report for its relevant financial year prepared and audited in accordance with this clause.
- (3) The financial report for the relevant financial year for Amaca and Amaba is to consist of:
 - (a) financial statements for the year, and
 - (b) notes to the financial statements, and
 - (c) a directors' declaration about the statements and notes, complying with subclause (4).
- (4) The financial report referred to in subclause (3) is to be prepared:
 - (a) in the case of Amaca—as if it were a large proprietary company that is not a disclosing entity within the meaning of the Corporations Act and the financial report were a financial report it was required to prepare under and in accordance with Part 2M.3 of that Act, and
 - (b) in the case of Amaba—as if ASIC had directed it to comply with the requirements of Division 1 and Divisions 3, 4, 5 and 6 of Part 2M.3 of the Corporations Act for the relevant financial year under section 294 (1) of that Act and the financial report were a financial report it was required to prepare under and in accordance with those Divisions.
- (5) For the purposes of subclause (4), a reference in Part 2M.3 of the Corporations Act to compliance with the accounting standards is to be read as if it were a reference to compliance with accounting standards consistently with the accounting standards that the liable entity applied to the financial year for which it last prepared a financial report under and in accordance with that Part.
- (6) The financial report referred to in subclause (3) is to be audited and an auditor's report obtained in the same way that the financial report would be required under section 301 of the Corporations Act to be audited and reported on if it were a financial report prepared under and in

accordance with the provisions of Part 2M.3 that would be applicable to a large proprietary company that is not a disclosing entity or a company given a direction by ASIC as referred to in subclause (4).

- (7) The financial report for the relevant financial year for ABN 60 is a copy of a financial report prepared by it for that year that has been audited by a registered company auditor.
- (8) The Minister may, by order in writing, exempt a specified liable entity from all or any of the requirements imposed on it by this clause.
- (9) An exemption may be granted unconditionally or subject to conditions. A liable entity that breaches a condition of an exemption is taken not to be exempt from compliance with the relevant requirement.
- (10) Nothing in this clause limits or affects any requirement imposed on a liable entity to lodge any account or statement in accordance with a direction given by the Minister under section 27 of the Act. A financial report lodged in accordance with this clause is to be treated, for the purposes of the Act, as if it had been lodged in accordance with that section.