



New South Wales

Proclamation

under the

James Hardie Former Subsidiaries (Winding up and Administration) Act 2005 No 105

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 (1) of the *James Hardie Former Subsidiaries (Winding up and Administration) Act 2005*, do, by this my Proclamation, appoint 3 March 2006 as the day on which the following provisions of that Act commence:

- (a) Part 1,
- (b) Part 3 (other than Divisions 2, 3 and 5 of that Part),
- (c) sections 61–69,
- (d) section 71 and Part 1 of Schedule 1.

Signed and sealed at Sydney, this 1st day of March 2006.

By Her Excellency's Command,

BOB DEBUS, M.P.,
Attorney General

GOD SAVE THE QUEEN!

(L.S.)

Explanatory note

The object of this Proclamation is to commence the following provisions of the *James Hardie Former Subsidiaries (Winding up and Administration) Act 2005*:

- (a) Part 1 (which contains general interpretative provisions for the Act),

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- (b) Divisions 1, 4 and 6 of Part 3 (which, when read together, enable the Minister to remove from office directors of relevant companies within the meaning of that Part and to replace them with new directors),
- (c) section 61 (which enables an officer of the Public Service to be appointed as an officer of the corporate trustee of the special purpose fund contemplated by the Act (the *SPF*)),
- (d) section 62 (which makes it clear that the Act does not create liability for personal asbestos claims),
- (e) section 63 (which exempts certain transactions, including the establishment of the SPF, from State tax),
- (f) section 64 (which requires the tabling in Parliament of copies of the Final Funding Agreement and Related Agreements after shareholder approval documentation is sent to the shareholders of James Hardie Industries NV),
- (g) section 65 (which enables the Minister to delegate the exercise of the Minister's functions under the Act or the regulations to certain persons),
- (h) section 66 (which makes provision for the service of documents under the Act),
- (i) sections 67 and 68 (which make provision for the prosecution of offences under the Act),
- (j) section 69 (which enables the Governor to make regulations for the purposes of the Act),
- (k) section 71 and Part 1 of Schedule 1 (which, when read together, enable the Governor to make regulations dealing with savings and transitional matters).

However, the proclamation does not commence the following provisions of the Act:

- (a) provisions of the Act that have already commenced (see section 2 (2) and (3), Part 2 and clause 3 of Schedule 1),
- (b) Divisions 2, 3 and 5 of Part 3 (which deal with matters relating to the restructuring of relevant companies within the meaning of Part 3 and the expiry of that Part),
- (c) Part 4 (which deals with the winding up of the liable entities),
- (d) section 70 (which repeals the *James Hardie Former Subsidiaries (Special Provisions) Act 2005*),
- (e) section 72 and Schedule 2 (which, when read together, amend the *Subordinate Legislation Act 1989* to exclude from the operation of that Act regulations made under the *James Hardie Former Subsidiaries (Winding up and Administration) Act 2005*, the *James Hardie (Civil Liability) Act 2005* and the *James Hardie (Civil Penalty Compensation Release) Act 2005*),
- (f) the uncommenced provisions of Part 2 of Schedule 1 (which contains savings and transitional provisions consequent on the repeal of the *James Hardie Former Subsidiaries (Special Provisions) Act 2005*).

BY AUTHORITY