



Corporations Amendment Regulations 2007 (No. 10)

Select Legislative Instrument 2007 No. 259

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Corporations Act 2001*.

Dated 22 August 2007

P. M. JEFFERY
Governor-General

By His Excellency's Command

CHRISTOPHER JOHN PEARCE
Parliamentary Secretary to the Treasurer

1 Name of Regulations

These Regulations are the *Corporations Amendment Regulations 2007 (No. 10)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Corporations Regulations 2001*

Schedule 1 amends the *Corporations Regulations 2001*.

Schedule 1 Amendments

(regulation 3)

[1] After paragraph 7.6.01 (1) (o)

insert

- (oa) the provision of financial product advice if the advice:
- (i) is provided by an actuary in the ordinary course of providing actuarial services; and
 - (ii) could not reasonably be expected to be included in a document that is to be given to a retail client; and
 - (iii) is provided to:
 - (A) a wholesale client; or
 - (B) the Commonwealth, a State or a Territory; or
 - (C) an exempt public authority.

[2] After regulation 7.7.09

insert

**7.7.09B Statement of Advice from providing entity —
information not included in the Statement**

- (1) For paragraphs 947B (4) (b) and 947C (4) (b) of the Act, a providing entity is not required to include a statement or information mentioned in Part 7.7 of the Act, except a statement or information that is required by sections 945B and 947D of the Act, in a Statement of Advice to the client if the Statement of Advice:
 - (a) refers to the statement or information; and
 - (b) provides sufficient details about the statement or information to enable the client:
 - (i) to identify by a unique identifier the document, or part of the document, that contains the statement or information; and
 - (ii) to decide whether or not to read the statement or information or obtain a copy of the statement or information; and
 - (c) states that a copy of the statement or information may be obtained from the providing entity on request, at no charge.
- (2) Subject to subregulation (3), the providing entity must give the client the document, or part of the document (whichever is applicable), unless the providing entity has already given the document or part of the document to the client.
- (3) If the providing entity is an authorised representative of an Australian financial services licensee, the document, or part of the document (whichever is applicable), may be provided to the client:
 - (a) by another authorised representative appointed by and acting on behalf of the licensee; or
 - (b) by the licensee.

- (4) If the client requests a copy of a statement or information that the providing entity is not required to include in accordance with subregulation (1), the providing entity must provide the copy as soon as practicable, at no charge.
- (5) If a statement or information is not required to be included in a Statement of Advice because of subregulation (1), the statement or information is taken to be included in the Statement of Advice.

7.7.09C Requirement to keep Statement of Advice and other documents

A Statement of Advice and a document, or part of a document, mentioned in the Statement, must be retained, by the providing entity that gave the Statement, for 7 years after the day on which the Statement is provided to the client.

[3] After subregulation 7.9.15C (3)

insert

- (4) For paragraph 1013D(1)(m) of the Act, for a Product Disclosure Statement that is required in relation to a general insurance product, if:
 - (a) information is required to be stated in dollars; and
 - (b) the amount can only be determined:
 - (i) after the responsible person assesses the risk of the insured; or
 - (ii) after the insured has nominated desired levels of insurance cover;

the responsible person may comply with the requirement to state the information by either of the ways mentioned in subregulation (5).
- (5) For subregulation (4), the responsible person may state the information by:
 - (a) stating an amount in dollars in the Product Disclosure Statement; or

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- (b) giving to the insured:
- (i) a document containing the information, as soon as practicable (but in any case, not later than 5 business days after the responsible person issues the general insurance product); and
 - (ii) a statement in the Product Disclosure Statement that sets out the information in at least 1 of the following formats:
 - (A) as a range of amounts in dollars;
 - (B) as a percentage of a matter that is mentioned in the statement;
 - (C) as a description.

[4] After regulation 7.9.15D

insert

7.9.15DA Statement or information not included in a Product Disclosure Statement

- (1) For paragraph 1020G (1) (c) of the Act, and subject to subregulation (4), a responsible person is not required to include a statement or information mentioned in Part 7.9 of the Act in a Product Disclosure Statement if:
- (a) the statement or information is in writing and is publicly available in a document other than the Product Disclosure Statement; and
 - (b) the Product Disclosure Statement:
 - (i) refers to the statement or information; and
 - (ii) provides sufficient details about the statement or information to enable a person:
 - (A) to identify by a unique identifier the document, or part of the document, that contains the statement or information; and
 - (B) to locate the statement or information; and
 - (C) to decide whether or not to read the statement or information or obtain a copy of the statement or information; and

- (iii) states that a copy of the statement or information may be obtained from the responsible person on request, at no charge; and
 - (c) the statement or information is not a statement or information that is in a Short-Form Product Disclosure Statement.
- (2) If the client requests a copy of the statement or information that the responsible person is not required to include in accordance with subregulation (1), the responsible person must provide the copy as soon as practicable, at no charge.
- (3) If a statement or information is not included in a Product Disclosure Statement because of subregulation (1), the statement or information is taken to be included in the Product Disclosure Statement.
- (4) Despite subregulation (3), if a responsible person does not include a statement or information in a Product Disclosure Statement in accordance with subregulation (1), the responsible person must include the following information in the Product Disclosure Statement:
 - (a) for information required by paragraph 1013D (1) (b) or (f) of the Act— a description, in summary, of the purpose and key features of the product;
 - (b) for information required by paragraph 1013D (1) (c) of the Act— a description, in summary, of the key risks of the product;
 - (c) the information required by:
 - (i) paragraphs 1013D (1) (a), (g) and (i) of the Act; and
 - (ii) Divisions 1 and 2 of Part 2 of Schedule 10; and
 - (iii) paragraphs 209 (e) and (h) of Division 4 of Part 2 of Schedule 10; and
 - (iv) Divisions 5 and 6 of Part 2 of Schedule 10;
 - (d) the Consumer Advisory Warning in Division 7 of Part 2 of Schedule 10.

7.9.15DB Requirement to keep record of Product Disclosure Statement and other documents

If section 1015B of the Act does not require a copy of a Product Disclosure Statement to be lodged with ASIC, the Statement and a document, or part of a document, mentioned in the Statement must be retained by the responsible person for that Statement for 7 years after the date of the Statement.

Note **Responsible person** has the same meaning as in section 1011B of the Act.

7.9.15DC Requirement to lodge documents mentioned in a Product Disclosure Statement with ASIC

A document, or part of a document, mentioned in a Product Disclosure Statement that was required to be lodged with ASIC under section 1015B of the Act must be lodged with ASIC as if the document, or part of the document, were a Statement within the meaning of section 1015B of the Act.

[5] After regulation 7.9.15F

insert

7.9.15FA Transitional arrangements for regulations 7.9.15D, 7.9.15E and 7.9.15F

- (1) If, at any time during the transition period, a Product Disclosure Statement for a general insurance product complies with the requirements of old sections 1013C and 1013D, the Product Disclosure Statement is taken to comply with the requirements of:
 - (a) sections 1013C and 1013D of the Act; and
 - (b) the provisions of any regulations made for the purposes of, or modifying, sections 1013C and 1013D of the Act; as in force at that time.
- (2) In this regulation:

commencing day means the day on which this regulation commences.

old sections 1013C and 1013D means:

- (a) sections 1013C and 1013D of the Act; and
- (b) the provisions of any regulations made for the purposes of, or modifying, those sections;

as in force immediately before the commencing day.

transition period means the period starting on the commencing day and ending at the end of 30 June 2008.

Note Before the commencement of this regulation, transitional arrangements in similar terms were provided for regulations 7.9.15D, 7.9.15E and 7.9.15F by item 2 of Schedule 5 to the *Corporations Amendment Regulations 2005 (No. 5)* (SLI 2005 No. 324).