





# **Corporations and Other Legislation Amendment (Insolvency Law Reform) Regulation 2016**

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 08 December 2016

Peter Cosgrove  
Governor-General

By His Excellency's Command

Kelly O'Dwyer  
Minister for Revenue and Financial Services

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## 1 Name

This is the *Corporations and Other Legislation Amendment (Insolvency Law Reform) Regulation 2016*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	At the same time as Schedule 1 to the <i>Insolvency Law Reform Act 2016</i> commences.	
2. Schedule 1, Part 1	At the same time as Schedule 1 to the <i>Insolvency Law Reform Act 2016</i> commences.	
3. Schedule 1, Part 2	1 September 2017.	1 September 2017
4. Schedule 2	At the same time as Schedule 1 to the <i>Insolvency Law Reform Act 2016</i> commences.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the following:

- (a) the *Agricultural and Veterinary Chemicals (Administration) Act 1992*;
- (b) the *Agricultural and Veterinary Chemicals Code Act 1994*;
- (c) the *A New Tax System (Goods and Services Tax) Act 1999*;
- (d) the *Australian Securities and Investments Commission Act 2001*;
- (e) the *Bankruptcy Act 1966*;
- (f) the *Civil Aviation Act 1988*;
- (g) the *Coal Mining Industry (Long Service Leave) Administration Act 1992*;
- (h) the *Competition and Consumer Act 2010*;
- (i) the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*;
- (j) the *Corporations Act 2001*;
- (k) the *Dairy Produce Act 1986*;
- (l) the *Migration Act 1958*;
- (m) the *National Greenhouse and Energy Reporting Act 2007*;
- (n) the *Product Stewardship Act 2011*;

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(o) the *Renewable Energy (Electricity) Act 2000*.

#### **4 Schedules**

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## **Schedule 1—Amendments relating to the Insolvency Law Reform Act 2016**

### **Part 1—Amendments commencing the same time as Schedule 1 to the Insolvency Law Reform Act 2016**

#### *Agricultural and Veterinary Chemicals (Administration) Regulations 1995*

##### **1 Subparagraph 3.315(1)(c)(ii)**

Omit “an externally administered body corporate”, substitute “a Chapter 5 body corporate”.

#### *Agricultural and Veterinary Chemicals Code Regulations 1995*

##### **2 Subregulation 61(10)**

Omit “an externally-administered body corporate” (wherever occurring), substitute “a Chapter 5 body corporate”.

#### *A New Tax System (Goods and Services Tax) Regulations 1999*

##### **3 Subregulation 33-15.03(2)**

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate (within the meaning of by section 9 of the *Corporations Act 2001*)”.

##### **4 Dictionary (definition of *externally-administered body corporate*)**

Repeal the definition.

#### *Australian Securities and Investments Commission Regulations 2001*

##### **5 Regulation 8AA**

Repeal the regulation, substitute:

##### **8AA Prescribed professional disciplinary and other bodies**

- (1) For the purposes of subparagraph 127(4)(d)(i) of the Act, the following professional disciplinary bodies are prescribed:
  - (a) the Australian Restructuring Insolvency and Turnaround Association;
  - (b) CPA Australia;
  - (c) Chartered Accountants Australia and New Zealand;
  - (d) the Institute of Public Accountants;
  - (e) the New South Wales Bar Association;
  - (f) the Law Society of New South Wales;
  - (g) the Victorian Legal Services Commissioner;
  - (h) the Victorian Legal Services Board;
  - (i) the Bar Association of Queensland;

**Schedule 1** Amendments relating to the Insolvency Law Reform Act 2016

**Part 1** Amendments commencing the same time as Schedule 1 to the Insolvency Law Reform Act 2016

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- (j) the Queensland Law Society;
  - (k) the Legal Practice Board of Western Australia;
  - (l) the Law Society of South Australia;
  - (m) the Legal Profession Conduct Commissioner of South Australia;
  - (n) the Law Society of Tasmania;
  - (o) the Law Society of the Australian Capital Territory;
  - (p) the Law Society Northern Territory.
- (2) For the purposes of subparagraph 127(4)(d)(ii) of the Act, the Australian Restructuring Insolvency and Turnaround Association is prescribed in relation to performing a disciplinary function in relation to a member of the Association.

**6 Subregulation 8AAA(2) (after table item 4)**

Insert:

4A	Section 30B of the Act	Powers relating to requesting information and books
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**7 Schedule 1 (Form 3)**

Omit “and Liquidators”.

***Bankruptcy Regulations 1996***

**8 Subregulation 1.03(1) (definition of *taxing officer*)**

Repeal the definition.

**9 Subregulation 1.03(1) (definition of *working day*)**

Repeal the definition.

**10 Subregulations 4.05(1) and (3)**

Omit “working days”, substitute “business days”.

**11 Subregulations 10.03(2) and (3)**

Omit “working days”, substitute “business days”.

**12 Subregulations 11.01A(1) and (2)**

Omit “working days”, substitute “business days”.

**13 Item 2 of Schedule 8**

Omit “working days”, substitute “business days”.

**14 Items 16, 17, 18 and 19 of Schedule 8**

Repeal the items.

**15 Item 22 of Schedule 8**

Omit “working days” (wherever occurring), substitute “business days”.

**16 Item 24 of Schedule 8**

Omit “working days”, substitute “business days”.

***Civil Aviation Safety Regulations 1998***

**17 Sub-subparagraph 11.072(1)(g)(i)(A)**

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

***Coal Mining Industry (Long Service Leave) Administration Regulations 1993***

**18 Paragraph 3(3)(a)**

Omit “an externally administered body corporate”, substitute “a Chapter 5 body corporate”.

***Competition and Consumer (Industry Codes—Franchising) Regulation 2014***

**19 Subclause 4(2) of Schedule 1**

Insert:

Chapter 5 body corporate

**20 Subclause 4(2) of Schedule 1**

Omit:

externally-administered body corporate

**21 Paragraph 17(3)(g) of Schedule 1**

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

**22 Paragraph 29(1)(b) of Schedule 1**

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

**23 Paragraph 4.2(c) of Annexure 1 of Schedule 1**

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

***Competition and Consumer (Industry Codes—Oilcode) Regulation 2006***

**24 Subsection 4(2) of Schedule 1**

Insert:

Chapter 5 body corporate

**25 Subsection 4(2) of Schedule 1**

Omit:

externally-administered body corporate

**26 Paragraphs 29(2)(j) and 36(1)(b) of Schedule 1**

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

**27 Paragraph 4.2(c) of Annexure 1 of Schedule 1**

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

**28 Paragraph 3.2(c) of Annexure 2 of Schedule 1**

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

***Corporations (Aboriginal and Torres Strait Islander) Regulations 2007***

**29 Part 4 of Schedule 2 (table item 19, column headed “Information or document”)**

Omit “Deed of corporation arrangement”, substitute “Notice of execution of the deed of company arrangement”.

***Corporations Regulations 2001***

**30 Subregulation 1.0.02(1) (paragraph (c) of the definition of *registration number*)**

Repeal the paragraph, substitute:

(c) for an auditor—the number allotted to a person on registration of that person as an auditor.

**31 Regulation 1.0.03A (table item 16)**

Repeal the item.

**32 Regulation 1.0.12**

Omit “491(2),”.

**33 Regulation 5.2.01 (second occurring)**

Renumber regulation as 5.2.02.

**34 Regulation 5.3A.04**

Repeal the regulation.

**35 Regulation 5.3A.07**

Repeal the regulation.

**36 Subparagraph 5C.11.01(1)(c)(i)**

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

**37 Paragraphs 9.1.01(k) and (l)**

Repeal the paragraphs.

**38 Paragraphs 9.1.02(k) and (l)**

Repeal the paragraphs.

**39 Part 9.2 (heading)**

Repeal the heading, substitute:

**Part 9.2—Registration of auditors**

**40 Regulation 9.2.02 (heading)**

Repeal the heading, substitute:

**9.2.02 Prescribed universities and institutions (Act ss 1280(2A))**

**41 Regulation 9.2.02**

Omit “and subparagraph 1282(2)(a)(ii)”.

**42 Subparagraph 9.2A.01(c)(v)**

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

**43 Regulation 10.2.36**

Omit “Schedule 10D”, substitute “Schedule 11”.

**44 Schedule 10D (second occurring) (heading)**

Repeal the heading, substitute:

**Schedule 11—Persons who are not covered by  
section 1433 of the Act**

**45 Schedule 10D (second occurring) (table item 2, column headed  
“Person”)**

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

***Dairy Produce Regulations 1986***

**46 Paragraph 2.01(2)(b)**

Omit “an externally administered body corporate”, substitute “a Chapter 5 body corporate”.

***Migration Regulations 1994***

**47 Subparagraph 2.84(3)(k)(iv)**

Omit “an official”, substitute “a registered”.

***National Greenhouse and Energy Reporting Regulations 2008***

**48 Subparagraph 2.28(2)(f)(i)**

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

***Product Stewardship (Televisions and Computers) Regulations 2011***

**49 Paragraph 2.04(g)**

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

**50 Paragraph 5.06(2)(f)**

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

***Renewable Energy (Electricity) Regulations 2001***

**51 Subparagraph 3L(1)(f)(ii)**

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

## **Part 2—Amendments commencing 1 September 2017**

### ***Bankruptcy Regulations 1996***

#### **52 At the end of Part 2**

Add:

#### **2.05 Disclosure of information by the Inspector-General**

For the purposes of paragraph 12(4)(b) of the Act, the following professional disciplinary bodies are prescribed:

- (a) the Australian Restructuring Insolvency and Turnaround Association;
- (b) CPA Australia;
- (c) Chartered Accountants Australia and New Zealand;
- (d) the Institute of Public Accountants;
- (e) the New South Wales Bar Association;
- (f) the Law Society of New South Wales;
- (g) the Victorian Legal Services Commissioner;
- (h) the Victorian Legal Services Board;
- (i) the Bar Association of Queensland;
- (j) the Queensland Law Society;
- (k) the Legal Practice Board of Western Australia;
- (l) the Law Society of South Australia;
- (m) the Legal Profession Conduct Commissioner of South Australia;
- (n) the Law Society of Tasmania;
- (o) the Law Society of the Australian Capital Territory;
- (p) the Law Society Northern Territory.

#### **53 Division 3 of Part 4**

Repeal the Division.

#### **54 Part 8**

Repeal the Part, substitute:

## **Part 8—Trustees**

### **Division 1—Consent to act, and appointment, as trustee of estate**

#### **8.01 Consent to act as trustee—subsection 156A(1) of the Act**

A trustee who signs an instrument under subsection 156A(1) of the Act in relation to a debtor must file the instrument with the Official Receiver:

- (a) if the Court makes a sequestration order against the debtor's estate—not later than 2 business days after the day on which the order is made; or
- (b) otherwise—as soon as practicable after signing it.

## 8.02 Certificate of appointment under subsection 156A(3) of the Act

Where a registered trustee becomes, under subsection 156A(3) of the Act, the trustee of an estate or of joint and separate estates, the Official Receiver may give the registered trustee a certificate to that effect.

## Division 2—Controlling trustees other than Official Trustee or registered trustees

### 8.35 Eligibility of controlling trustees, other than Official Trustee or registered trustees

- (1) For the purposes of subsection 188(2A) of the Act, a person (other than the Official Trustee or a registered trustee) is not eligible to act as a controlling trustee if the person:
  - (a) is convicted of a criminal offence involving fraud or dishonesty, or was so convicted within the 10 years before the proposed authorisation; or
  - (b) is not insured against the liabilities the person may become subject to as a controlling trustee; or
  - (c) is a solicitor who no longer holds a practising certificate; or
  - (d) is an undischarged bankrupt or insolvent under administration, or became a party (as debtor) to a debt agreement or a Part X administration within the 10 years before the proposed authorisation; or
  - (e) is a person who the Inspector-General decides under subregulation (3) has failed to properly exercise powers or carry out duties or to cooperate with an inquiry or investigation, or in relation to whom such a decision was made within the 3 years before the proposed authorisation; or
  - (f) either:
    - (i) is not a full member of the Australian Restructuring Insolvency and Turnaround Association; or
    - (ii) has not satisfactorily completed a course in insolvency approved by the Inspector-General.
- (2) The Inspector-General may approve a course in insolvency by notice published on the Australian Financial Security Authority's website.
- (3) In addition to subregulation (1), a person who is, or has been, a controlling trustee is not eligible to act as a controlling trustee if the Inspector-General determines that the person:
  - (a) has failed to properly exercise the powers, or carry out the duties, of a controlling trustee; or
  - (b) has refused, or failed to cooperate with the Inspector-General in an inquiry or investigation under paragraph 12(1)(b) of the Act.
- (4) If the Inspector-General forms an opinion of the kind mentioned in paragraph (3)(a) or (b), the Inspector-General must:
  - (a) by written notice, tell the person; and
  - (b) invite the person to respond within 28 days or such longer time as is specified in the notice.

- (5) After the expiry of the time mentioned in paragraph (4)(b), the Inspector-General may, having regard to the response (if any) of the person, make a determination under subregulation (3).
- (6) If the Inspector-General makes a determination under subregulation (3), the Inspector-General must give the person a written notice of the determination, setting out the reasons.

#### **8.40 Review by Tribunal of determination**

Applications may be made to the Administrative Appeals Tribunal for review of decisions of the Inspector-General under subregulation 8.35(3).

#### **8.45 Official Trustee to perform duties**

- (1) This regulation applies if a controlling trustee becomes ineligible to act as a controlling trustee under regulation 8.35.
- (2) The Official Trustee must perform the duties of the controlling trustee unless and until the debtor appoints a controlling trustee who is eligible to so act.

### **Division 3—Registered trustee ceasing to be trustee of an estate**

#### **8.50 Notice of removal of trustee of estate**

- (1) This regulation applies if the trustee of a regulated debtor's estate is removed from the office of trustee of the estate by the Court or by the creditors.
- (2) Notice must be given in writing to the Official Receiver stating the name of the trustee, the fact and the date of the removal and whether the removal was by the Court or the creditors.
- (3) The notice must be given:
  - (a) in the case of removal by the Court—by the applicant to the Court for the removal, as soon as practicable after the making of the order for removal; or
  - (b) in the case of removal by the creditors—by the new trustee of the regulated debtor's estate appointed by the creditors under section 90-35 of Schedule 2 to the Act, as soon as practicable after the appointment.
- (4) An offence against this regulation is an offence of strict liability.

Penalty: 1 penalty unit.

#### **8.55 Notice of finalisation of administration and entry on the Index**

- (1) The trustee of a regulated debtor's estate must, within 5 working days of finalising the administration of the estate, give notice in writing of the finalisation to the Official Receiver.

Penalty: 1 penalty unit.

- (2) The Official Receiver must promptly enter on the Index the fact that the administration of an estate has been finalised, where:
  - (a) the Official Receiver receives notice under subregulation (1); or

(b) the estate was administered by the Official Trustee.

(3) An offence against subregulation (1) is an offence of strict liability.

Penalty: 1 penalty unit.

**55 Regulations 10.04, 10.05 and 10.09**

Repeal the regulations.

**56 Schedule 2**

Repeal the Schedule.

**57 Item 8 of Schedule 3**

Omit “section 175 of”, substitute “section 70-15 of Schedule 2 to”.

**58 Schedule 4A**

Repeal the Schedule.

**59 Part 2 of Schedule 6**

Repeal the Part.

**60 Items 8 and 10 of Part 3 of Schedule 6**

Repeal the items.

**61 Part 7 of Schedule 6**

Repeal the Part.

**62 Items 3 to 13 of Schedule 7**

Repeal the items.

**63 Subitems 14.3 and 14.4 of Schedule 7**

Repeal the subitems.

**64 Subitem 15.1 of Schedule 7**

Omit “under subsection 73(4)”, substitute “passed in accordance with subsection 74(1)”.

**65 Items 27, 46, 47 and 48 of Schedule 7**

Repeal the items.

***Corporations (Aboriginal and Torres Strait Islander) Regulations 2007***

**66 Part 4 of Schedule 2 (table item 17, column headed “Provision”)**

Omit “432(1)”, substitute “422A”.

**67 Part 4 of Schedule 2 (table item 17, column headed “Information or document”)**

Omit “Accounts of controller of a corporation”, substitute “Annual return by controller”.

**68 Part 4 of Schedule 2 (table item 22, column headed “Provision”)**

Omit “465A(a)”, substitute “465A(1)(a)”.

**69 Part 4 of Schedule 2 (table item 30)**

Repeal the item.

**70 Part 4 of Schedule 2 (table item 35)**

Repeal the item, substitute:

- 35      497(1)(b)      Copy of notice by liquidator to creditors providing a copy of the documents mentioned in paragraph 497(1)(a) of the Corporations Act.

**71 Part 4 of Schedule 2 (table item 36)**

Repeal the item.

**72 Part 4 of Schedule 2 (table items 40, 41 and 42)**

Repeal the items.

**73 Part 4 of Schedule 2 (table item 43, column headed “Provision”)**

Omit “509(7)”, substitute “509(3)”.

**74 Part 4 of Schedule 2 (table item 47)**

Repeal the item.

**75 Schedule 4 (table item 23)**

Repeal the item.

**76 Schedule 4 (cell at table item 27, column headed “Modification of the Corporations Act”)**

Repeal the cell, substitute:

Subsection 532(1)

*insert*

or is approved in writing by the Registrar as a liquidator of that corporation.

***Corporations Regulations 2001***

**77 Regulation 1.0.03A (table items 13 and 14)**

Repeal the items.

**78 Regulation 1.0.03C (table items 1 and 2)**

Repeal the items.

**79 Regulations 5.3A.01 to 5.3A.03**

Repeal the regulations.

**80 Subregulation 5.3A.03A(2) (note)**

Repeal the note.

**81 Regulation 5.3A.03AB**

Repeal the regulation.

**82 Subregulation 5.3A.06A(2)**

Repeal the subregulation, substitute:

- (2) The notice must be published by the end of the next business day after a liquidator is appointed to administer the winding up of the company.

**83 Regulation 5.3A.06AB**

Repeal the regulation.

**84 Subregulation 5.3A.07A(2) (note)**

Repeal the note.

**85 Subregulation 5.4.01A(1)**

Omit “465A(c)”, substitute “465A(1)(c)”.

**86 After regulation 5.4.01A**

Insert:

**5.4.01B Notice of Court-ordered winding up**

- (1) This regulation is made for the purposes of subsection 465A(2) of the Act.
- (2) The information about an order by the Court that must be set out in a notice is at least the following information:
- (a) the Court that made the order;
  - (b) the date the order was made;
  - (c) the name of the liquidator appointed to administer the winding up;
  - (d) the name of the company;
  - (e) any business name of the company;
  - (f) any ABN of the company;
  - (g) any ACN of the company.

**87 Subregulation 5.5.01(3)**

Repeal the subregulation, substitute:

- (3) The notice must be published by the end of the next business day after a liquidator is appointed to administer the winding up of the company.

**88 Regulation 5.5.02**

Repeal the regulation.

**89 Regulations 5.6.01 to 5.6.10**

Repeal the regulations.

**90 Subregulation 5.6.11(1)**

Omit “(1)”.

**91 Subregulation 5.6.11(1)**

Omit “5.6.12”, substitute “5.6.37”.

**92 Subregulations 5.6.11(2) and (3)**

Repeal the subregulations.

**93 Paragraphs 5.6.11A(1)(a) and (b)**

Repeal the paragraphs.

**94 Regulations 5.6.12 to 5.6.36A**

Repeal the regulations.

**95 Subparagraph 5.6.65(1)(b)(iii)**

Omit “497(2)(b)(ii)”, substitute “497(1)(a)(ii)”.

**96 Regulation 10.2.36**

Omit “Schedule 10D”, substitute “Schedule 11”.

**97 Schedule 1 (table item 51C)**

Repeal the item.

**98 Schedule 1 (table item 62)**

Repeal the item.

**99 Schedule 1 (tables items 71 to 74)**

Repeal the items.

**100 Schedule 2 (Form 509C)**

Repeal the form.

**101 Schedule 2 (Form 521)**

Repeal the form.

**102 Schedule 2 (Forms 529A to 532)**

Repeal the forms.

## **Schedule 2—Transition to Part 3 of the Insolvency Practice Schedule (Corporations)**

### ***Corporations Regulations 2001***

#### **1 In the appropriate position in Chapter 10**

Insert:

### **Part 10.25—Transition to Part 3 of the Insolvency Practice Schedule (Corporations)**

#### **10.25.01 Transition to Part 3 of the Insolvency Practice Schedule (Corporations)**

- (1) For the purposes of subsection 1634(1) of the Act, Part 10.25 of Chapter 10 of the Act applies as if the references in Divisions 3 and 5 of that Part to the commencement day were a reference to 1 September 2017.
- (2) For the purposes of subsection 1634(1) of the Act, Part 10.25 of Chapter 10 of the Act applies as if the definition of *ongoing external administration* in section 1551 of the Act were omitted and the following definition were substituted for the purposes of Divisions 3 and 5 of that Part:

*ongoing external administration* of a company means an external administration of a company that started before 1 September 2017 and ends after that day.

- (3) For the purposes of subsection 1634(2) of the Act, Part 10.25 of Chapter 10 of the Act applies as if Divisions 1, 2 and 3 of that Part were modified as set out in Schedule 13.

#### **10.25.02 Application of certain amendments relating to the enactment of the Insolvency Practice Schedule (Corporations)**

- (1) This section is made for the purposes of subsection 1634(1) of the Act.
- (2) The amendments of sections 546-10 and 546-20 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* made by Part 2 of Schedule 2 to the *Insolvency Law Reform Act 2016* apply in relation to deregistrations that occur on or after 1 September 2017.
- (3) The amendments made by the following items of Part 2 of Schedule 2 to the *Insolvency Law Reform Act 2016* apply in relation to external administrations on and after 1 September 2017:
  - (a) item 65;
  - (b) item 66;
  - (c) item 79;
  - (d) item 80;
  - (e) item 82;
  - (f) item 84;
  - (g) items 91 to 140;

- (h) items 143 to 172;
- (i) items 177 to 208;
- (j) item 213;
- (k) item 245;
- (l) item 246;
- (m) item 251 (to the extent that it inserts paragraphs 1317C(n) and (o) of the Act);
- (n) item 253;
- (o) items 258 to 260;
- (p) items 262 to 264.

- (4) The amendments made by items 89 and 90 of Part 2 of Schedule 2 to the *Insolvency Law Reform Act 2016* apply in relation to Part 5.1 bodies on and after 1 September 2017.

## **2 At the end of the Regulations**

Add:

### **Schedule 13—Transition to Part 3 of the Insolvency Practice Schedule (Corporations)**

Note: See subregulation 10.25.01(3).

#### ***Corporations Act 2001***

##### **1 Section 1550 (paragraph relating to Part 3)**

Omit “that starts on or after the commencement of Part 1 of Schedule 2 to the *Insolvency Law Reform Act 2016*”, substitute “that starts on or after 1 September 2017”.

##### **2 After section 1554**

Insert:

###### **1554A Saving of Register of Official Liquidators**

- (1) This section applies to the Register of Official Liquidators kept in accordance with subsection 1286(2) of the old Act.
- (2) Despite the repeal of sections 1283 and 1286 by Schedule 2 to the *Insolvency Law Reform Act 2016*, the Register of Official Liquidators continues in existence, and may be dealt with, as if those repeals had not happened.

##### **3 Section 1578 (paragraph relating to new external administrations)**

Omit “the commencement of the *Insolvency Law Reform Act 2016* (called new external administrations)”, substitute “1 September 2017”.

##### **4 Section 1579**

Repeal the section, substitute:

**1579 Application of Part 3 of the Insolvency Practice Schedule (Corporations)—  
general rules**

- (1) Part 3 of the Insolvency Practice Schedule (Corporations) applies in relation to an external administration of a company that starts on or after 1 September 2017.
- (2) Part 3 of the Insolvency Practice Schedule (Corporations) applies in relation to an ongoing external administration of a company in accordance with this Division.

**5 Sections 1581 and 1582**

Repeal the sections, substitute:

**1581 Old Act continues to apply in relation to remuneration for administrators  
already appointed or appointed during transition period**

- (1) Despite the repeal of sections 449E and 473 and the repeal and substitution of subsections 499(3) to (7) of the old Act by Schedule 2 to the *Insolvency Law Reform Act 2016*, the old Act continues to apply in relation to the remuneration of an external administrator of a company who is appointed:
  - (a) before the start time; or
  - (b) during the transition period.
- (2) Despite subsection (1), if, under Subdivision F of this Division, Division 75 of the Insolvency Practice Schedule (Corporations) rather than the old Act would apply to a meeting that deals with the remuneration of an external administrator of a company who is appointed before the start time or during the transition period, Division 75 of the Insolvency Practice Schedule (Corporations) applies to that meeting.
- (3) In this section:

*start time* means the commencement of Schedule 1 to the *Insolvency Law Reform Act 2016*.

*transition period* means the period:

- (a) starting immediately after the start time; and
- (b) ending at the end of 31 August 2017.

**1582 Duties of administrators relating to remuneration and other benefits**

- (1) Section 60-20 of the Insolvency Practice Schedule (Corporations) applies on and after 1 September 2017 in relation to an external administrator of an ongoing external administration of a company regardless of when the administrator was appointed.
- (2) However, that section does not apply in relation to arrangements made before 1 September 2017.

**6 Subsection 1582(1)**

After “applies”, insert “on and after 1 September 2017”.

**7 Section 1584**

Omit all the words after “applies”, substitute “on and after 1 September 2017 regardless of when the vacancy in the office of the liquidator arose”.

**8 At the end of section 1586**

Add “on and after 1 September 2017”.

**9 Subsection 1588(2) (heading)**

Repeal the heading, substitute:

*Old regulations continue to apply to money received before 1 September 2017*

**10 Subsection 1590(2) (heading)**

Repeal the heading, substitute:

*Old regulations continue to apply to securities received before 1 September 2017*

**11 At the end of section 1591**

Add “on and after 1 September 2017”.

**12 Section 1592**

Repeal the section, substitute:

**1592 Transitional rules for annual administration returns**

- (1) Section 70-5 of the Insolvency Practice Schedule (Corporations) applies in relation to a person if the person first began to be an external administrator of a company on or after 1 September 2017.
- (2) Section 70-5 of the Insolvency Practice Schedule (Corporations) also applies in relation to a person if the person first began to be an external administrator of a company before 1 September 2017 as if the reference in that section to an administration return year for the administrator were a reference to:
  - (a) the first full year starting on or after 1 September 2017 that is an anniversary of when the person first began to be the external administrator of the company; and
  - (b) each subsequent period of 12 months.
- (3) Despite the repeal of the old return provisions by Schedule 2 to the *Insolvency Law Reform Act 2016*, those provisions continue to apply to an external administrator of a company appointed before 1 September 2017:
  - (a) if the end of the 6-month period referred to in the old return provisions occurs before 1 March 2018—in relation to that period; and
  - (b) if the end of that period is not an anniversary of the administrator’s appointment—in relation to the subsequent 6-month period.
- (4) To avoid doubt, despite the repeal of the old return provisions by Schedule 2 to the *Insolvency Law Reform Act 2016*, audits may be continued in relation to accounts lodged under those provisions as if the old Act continued to apply.
- (5) In this section:

*old return provisions* means the following provisions of the old Act:

- (a) subsection 438E(1);
- (b) subsection 445J(1);
- (c) subsection 539(1), other than the extent to which it relates to a liquidator ceasing to act as liquidator.

### **1592A Transitional rules for end of administration returns**

- (1) Section 70-6 of the Insolvency Practice Schedule (Corporations) applies in relation to external administrations that end on or after 1 September 2017.
- (2) Despite the repeal of the old return provisions by Schedule 2 to the *Insolvency Law Reform Act 2016*, those provisions continue to apply, in relation to an external administrator of a company, if the external administrator ceases to act as an external administrator for the company before 1 September 2017.
- (3) To avoid doubt, despite the repeal of the old return provisions by Schedule 2 to the *Insolvency Law Reform Act 2016*, audits may be continued in relation to accounts lodged under those provisions as if the old Act continued to apply.
- (4) In this section:

*old return provisions* means the following provisions of the old Act, as in force before their repeal by Schedule 2 to the *Insolvency Law Reform Act 2016*:

- (a) subsection 438E(2);
- (b) subsection 445J(2);
- (c) subsection 539(1), to the extent to which it relates to a liquidator ceasing to act as liquidator.

### **13 Section 1594**

After “apply”, insert “on and after 1 September 2017”.

### **14 Subsection 1596(1)**

After “applies”, insert “on and after 1 September 2017”.

### **15 Sections 1597, 1598 and 1599**

After “applies”, insert “on and after 1 September 2017”.

### **16 At the end of section 1601**

Add “on and after 1 September 2017”.

### **17 Section 1604**

Omit “2017”, insert “2018”.

### **18 Section 1606**

After “apply”, insert “on and after 1 September 2017”.

### **19 Section 1606**

Omit “the commencement day”, substitute “that day”.

**20 Section 1612**

After “apply”, insert “on and after 1 September 2017”.

**21 Section 1612**

Omit “the commencement day”, substitute “that day”.

**22 Section 1613**

After “applies”, insert “on and after 1 September 2017”.

**23 Section 1615**

After “applies”, insert “on and after 1 September 2017”.

**24 Section 1615**

Omit “the commencement day”, substitute “that day”.

**25 Subsection 1618(2)**

After “apply”, insert “on and after 1 September 2017”.

**26 Subsection 1618(2)**

Omit “the commencement day”, substitute “that day”.

**27 Subsection 1618(3)**

After “applies”, insert “on and after 1 September 2017”.

**28 Subsection 1618(3)**

Omit “the commencement day”, substitute “that day”.

**29 Subsection 1618(4)**

After “applies”, insert “on and after 1 September 2017”.

**30 Subsection 1618(4)**

Omit “the commencement day”, substitute “that day”.

**31 Subsection 1618(6)**

After “applies”, insert “on and after 1 September 2017”.

**32 Subsection 1618(6)**

Omit “the commencement day”, substitute “that day”.

**33 Subsection 1619(2)**

After “apply”, insert “on and after 1 September 2017”.

**34 Subsection 1619(2)**

Omit “the commencement day”, substitute “that day”.

**35 Subsection 1619(4)**

After “applies”, insert “on and after 1 September 2017”.

**36 Subsection 1619(4)**

Omit “the commencement day”, substitute “that day”.

**37 Section 1620**

After “applies”, insert “on and after 1 September 2017”.

**38 Section 1620**

Omit “the commencement day”, substitute “that day”.

**39 Section 1623**

Repeal the section, substitute:

**1623 Transitional rules for controller returns**

- (1) Section 422A, as inserted by Schedule 2 to the *Insolvency Law Reform Act 2016*, applies in relation to a person if the person first began to be a controller of the property of a corporation on or after 1 September 2017.
- (2) Section 422A, as inserted by Schedule 2 to the *Insolvency Law Reform Act 2016*, also applies in relation to a person if the person first began to be the controller of the property of a corporation before 1 September 2017 as if the reference in that section to a control return year for the controller were a reference to:
  - (a) the first full year starting on or after 1 September 2017 that is an anniversary of when the person first began to be the controller of the property of a corporation; and
  - (b) each subsequent period of 12 months.
- (3) Despite the repeal of subsections 432(1) and (1A) of the old Act by Schedule 2 to the *Insolvency Law Reform Act 2016*, those subsections continue to apply, in relation to a controller of a corporation appointed before 1 September 2017:
  - (a) if the end of the 6-month period referred to in paragraph 432(1)(a) occurs before 1 March 2018—in relation to that period; and
  - (b) if the end of that period is not an anniversary of the administrator’s appointment—in relation to the subsequent 6-month period.
- (4) To avoid doubt, despite the repeal of subsections 432(1) and (1A) of the old Act by Schedule 2 to the *Insolvency Law Reform Act 2016*, audits may be continued in relation to accounts lodged under those provisions as if the old Act continued to apply.

**1623A Transitional rules for end of control returns**

- (1) Section 422B, as inserted by Schedule 2 to the *Insolvency Law Reform Act 2016*, applies in relation to a control of the property of a corporation that ends on or after 1 September 2017.
- (2) Despite the repeal of subsections 432(1) and (1A) of the old Act by Schedule 2 to the *Insolvency Law Reform Act 2016*, those subsections continue to apply, in relation to controllers that cease to be a controller of property of a corporation, if the cessation occurs before 1 September 2017.

**40 Subsection 1627(3)**

After “apply”, insert “on and after 1 September 2017”.