

**EXPLANATORY STATEMENT**  
**Select Legislative Instrument 2010 No. 287**

Subject- *Bankruptcy Act 1966*  
*Bankruptcy Amendment Regulations 2010 (No. 2)*

Section 315 of the *Bankruptcy Act 1966* (the Act) provides in part that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Schedules 1 and 2 to the *Bankruptcy Legislation Amendment Act 2010* (the Amending Act) recently amended the Act to make detailed provision for the making and content of regulations relating to trustee remuneration and infringement notices.

The purpose of the Regulations is to amend the *Bankruptcy Regulations 1996* (the Principal Regulations) to provide for the operation of the new trustee remuneration and infringement notice regimes introduced by the Amending Act. The Regulations were developed, in conjunction with the Amending Act, following an extensive review of the trustee remuneration scheme and existing offences provisions.

In relation to trustee remuneration, the Amending Act provides for new processes for the Inspector-General in Bankruptcy:

- to approve a trustee's remuneration in the absence of creditor approval;
- to review a trustee's remuneration on the application of the bankrupt or a creditor; and
- to review a third party's bill of costs on the application of the trustee.

The Regulations make detailed provision for how these new processes are to be conducted, and introduce associated notification requirements relating to trustee remuneration.

In relation to offences, the Amending Act also provides for the introduction of an infringement notice scheme as an alternative to prosecution for strict liability offences under the Act. Offences which can be dealt with by the issue of an infringement notice appear in the table in subsection 277B(2) of the Act. The Regulations contain detailed provisions for the operation of this scheme.

More detailed information on the Regulations is included in the Attachment.

Amendments to the trustee remuneration regime in the Regulations apply to bankruptcies for which the date of bankruptcy is on or after the day on which the Regulations commence. The Principal Regulations in force prior to the commencement of the amendments will continue to apply to bankruptcies for which the date of bankruptcy is before the day the Regulations commence.

However, the transitional provision does not apply to the infringement notice provisions in the Regulations. The infringement notice regime does not penalise behaviour that did not constitute an offence under the Act prior to the commencement of the Regulations. The infringement notice regime will serve as an administrative means of addressing offences currently within the Act as an alternative to prosecution.

The Regulations will commence immediately after the commencement of Schedule 1 to the *Bankruptcy Legislation Amendment Act 2010* which is due to be on 1 December 2010.

The Act does not specify any conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Authority: Section 315 of the *Bankruptcy Act 1966*

**DETAILS OF THE BANKRUPTCY AMENDMENT REGULATIONS 2010 (No. 2)**

**Regulation 1 – Name of Regulations**

Regulation 1 provides that the title of the Regulations is the *Bankruptcy Amendment Regulations 2010 (No. 2)*.

**Regulation 2 – Commencement**

Regulation 2 provides for the Regulations to commence immediately after the commencement of Schedule 1 to the *Bankruptcy Legislation Amendment Act 2010* (the Amending Act). The enabling provisions for the Regulations are included in Schedules 1 and 2 to the Amending Act, which commence on a single day to be fixed by Proclamation. In the event that no Proclamation is made, these Schedules will commence six months after the Amending Act received the Royal Assent (14 January 2011).

**Regulation 3 – Amendment of *Bankruptcy Regulations 1996***

Regulation 3 provides that the *Bankruptcy Regulations 1996* (the Principal Regulations) are amended as set out in Schedule 1.

**Regulation 4 – Transitional**

Regulation 4 provides that the amendments made by items 2, 7 and 8 of Schedule 1 (relating to trustee remuneration) apply to bankruptcies for which the date of bankruptcy is on or after the day on which the Regulations commence. The Regulations in force before the commencement of the amendments will continue to apply to bankruptcies for which the date of bankruptcy is before the day the Regulations commence. The date of bankruptcy is determined under section 115 of the *Bankruptcy Act 1966* (the Act), and may occur before the date the debtor is declared bankrupt.

**SCHEDULE 1 – Amendments commencing on the day after registration**

**Item [1] – Subregulation 4.05(2)**

Item 1 deletes subregulation 4.05(2), which specifies the time within which, under subsection 52(1A) of the Act, a creditor must give a copy of a sequestration order to the Official Receiver. The Amending Act amends subsection 52(1A) of the Act to include the time within the Act itself, avoiding the need to specify it in the Principal Regulations.

**Item [2] – Part 8, Division 4 — Trustees’ remuneration**

Item 2 replaces Part 8, Division 4 with a new Division including new regulations 8.07 to 8.12O to provide detailed mechanisms for the determination and review of a trustee’s remuneration in the absence of creditor approval, and to update the Principal Regulations in line with current drafting practices.

### Regulations 8.07 to 8.08

Regulations 8.07 and 8.08 replace regulation 8.07 to update the text in line with current drafting practices. Existing regulation 8.07 prescribes rates for additional remuneration where the trustee carries on the bankrupt's business.

### Regulation 8.09

Regulation 8.09 is made for subsection 162(4) of the Act, which establishes a new process for the Inspector-General to decide a trustee's remuneration where the remuneration is not fixed by the creditors or the committee of inspection. The approval process replaces the previous entitlement of a trustee to be paid default remuneration at the rate of 85% of the rate set out in the Insolvency Practitioners Association of Australia (IPA) Guide to Hourly Rates. Those rates have not been updated since 1998, as they were abandoned by the IPA.

Regulation 8.09 allows the trustee to apply to the Inspector-General for approval of remuneration in the following circumstances:

- creditors have failed to vote on, or have rejected, a motion relating to the trustee's remuneration;
- it is not cost effective to seek the approval of creditors; or
- it is not practicable to seek the approval of creditors.

By limiting the circumstances when an application may be made, regulation 8.09 reflects the general principle that a trustee's remuneration should, as a rule, be approved by creditors or the committee of inspection.

There is no mechanism to review the Inspector-General's decision to approve or not to approve the trustee's remuneration. However, it would be open to the trustee to prepare another proposal where the Inspector-General refuses to approve the first one. It would be open to creditors to seek to review the claim using the remuneration review process once the trustee draws up to the amount approved or, if appropriate, to consider replacing the trustee.

### Regulation 8.10

Regulation 8.10 sets out the requirements for an application by a trustee to the Inspector-General under subsection 162(4) to have the Inspector-General determine the trustee's remuneration.

The application is required to include the information normally provided at the first meeting of creditors in relation to the trustee's remuneration under subsections 64U(5) and (5A) of the Act. This information includes the method of calculating remuneration, the expected total amount of remuneration, and any impact the trustee expects the remuneration will have on the dividends available to creditors.

The application is also be required to include any notices which the trustee has provided to creditors under Subdivision 3 (below) about the trustee's remuneration.

### Regulation 8.11

Regulation 8.11 sets out the matters to which the Inspector-General must have regard in approving remuneration. The Inspector-General's role is to determine whether the trustee has followed the correct procedures in relation to approval of remuneration (including giving the required notices to creditors which adequately described the work to be performed and why it is necessary).

### Regulation 8.12

Regulation 8.12 provides that Subdivision 3 is made for subsection 162(6A) of the Act, which requires the trustee, in relation to the trustee's remuneration, to give such notices to the bankrupt and creditors as are required by the regulations.

Existing regulation 16.01, which sets out the approved methods for giving or serving documents under the Principal Regulations, applies to notices given under Subdivision 3. Accordingly, these notices can be given personally, or sent by mail, electronic mail or facsimile.

The notice requirements contained in Subdivision 3 build on existing notification requirements under the Act and Principal Regulations to balance the need for consistency and completeness in the information provided to creditors and the bankrupt with the regulatory burden of compliance. For this reason, the requirement to send each notice and the timeframe for sending the notice vary according to the type of administration and the trustee's basis for remuneration, in order to align with existing notification requirements for each type of administration and remuneration basis.

There are three main types of administration a trustee may administer under the Act:

- a bankrupt estate, or the estate of a deceased person in bankruptcy (under Part XI of the Act);
- the estate of an insolvent debtor who intends to propose a Personal Insolvency Agreement (under Part X of the Act) and has signed an authority under section 188 to appoint the trustee as a "controlling trustee"; and
- a Personal Insolvency Agreement (under Part X of the Act) — this may be administered by the trustee who was the controlling trustee in relation to the draft agreement (see previous point) or by a new trustee, and different notification requirements will apply in these two cases.

There are three alternative bases upon which a trustee can claim remuneration under the Act:

- remuneration up to the statutory minimum, to which the trustee is entitled under section 161B of the Act;
- remuneration approved by the creditors or the committee of inspection under subsection 162(1) of the Act (the usual basis); or
- remuneration fixed by the Inspector-General under subsection 162(4) of the Act.

### Regulation 8.12A

Regulation 8.12A requires the trustee to give the bankrupt and creditors notice of the method by which the trustee seeks to be remunerated and the rate of remuneration as well as an estimate of the expected amount of the trustee's remuneration. This is already required by regulation 8.12, but the amendments specify a timeframe for the notice, as well as two exceptions from the requirement to send this notice.

Most trustees are required to send the notice at the same time as the notice currently required under existing regulation 4.14 (which advises creditors of the fact and date of the bankruptcy and summarises the debtor's statement of affairs).

A controlling trustee, or a trustee administering a personal insolvency agreement who was the controlling trustee for the draft agreement, is exempt from the requirement. This is because the trustee would already have provided this information in the notice required from controlling trustees under existing regulation 10.04 (which informs creditors about the first meeting called by the controlling trustee).

A trustee administering a personal insolvency agreement who was not the controlling trustee for the draft agreement is required to send the notice at the same time as the notice required under section 218 (which advises creditors that a personal insolvency agreement has been executed).

### Regulation 8.12B

Regulation 8.12B applies to a trustee who sought creditor approval of remuneration. This is the usual basis for claiming trustee remuneration (the alternative bases for claiming remuneration are detailed under regulation 8.12 above).

Regulation 8.12B requires the trustee to give the creditors a notice describing the work undertaken, or likely to be undertaken, details of the number of hours to be charged by the trustee and other staff, and the proposed total remuneration for the work. This notice is required to include a statement that the costs incurred are necessary and reasonable, having regard to the value and complexity of the administration and a report on work completed, in progress and still to be undertaken.

This notice is required to be given each time the trustee sends a proposal to creditors seeking approval of remuneration.

Regulation 8.12B does not apply to a controlling trustee, or to a trustee administering a personal insolvency agreement who was the controlling trustee in relation to the draft agreement, because they would have already provided this information in the notice required from controlling trustees under existing regulation 10.04 (which informs creditors about the first meeting called by the controlling trustee).

### Regulation 8.12C

Regulation 8.12C requires the trustee, when the remuneration claimed by the trustee reaches the total amount of remuneration approved or allowed under the Act, or where the trustee is finalising the estate without the remuneration having reached that amount, to give the

bankrupt and creditors a notice setting out the total remuneration claimed and details of the work performed.

This regulation is designed to apply to all registered trustees, regardless of the basis of remuneration or the type of administration.

The trustee is required to send the notice when the remuneration claimed by the trustee reaches the fixed amount. Due to differences in accounting and work practices between trustees and administrations, this could occur either:

- when the trustee has performed work to the value of the fixed amount (and, on that basis, claims the fixed amount); or
- when the amount drawn from the estate in payment of the trustee's remuneration reaches the fixed amount.

The Inspector-General will provide further guidance on this timing in a practice note.

The notice is designed to be sent once, at the end of the administration. Where a trustee requires approval of additional remuneration in relation to the administration, it is open to the trustee to seek approval of the additional remuneration before reaching the amount initially approved (and triggering the requirement for this notice). However, if the trustee did not seek approval for additional remuneration until after the trustee had drawn up to the fixed amount, the trustee is required to send a notice under this regulation in relation to the initial fixed amount being reached, as well as a second notice in relation to the fixed amount of additional remuneration being reached (or the administration being finalised without the fixed amount of additional remuneration being reached).

This notice will trigger the right of a creditor or the bankrupt to request a review of the trustee's remuneration under regulation 8.12E below.

#### Regulation 8.12D

Regulation 8.12D provides that Subdivision 4 is made for subsection 167(1) of the Act, which establishes a new process for the Inspector-General to review decisions about the trustee's remuneration on application by a bankrupt or creditor. This replaces the old taxation process in regulation 8.09, which was expensive and did not always allow the taxing officer to focus on the real issues in dispute.

The Inspector-General already regulates the conduct of trustees and has extensive investigative powers. It is therefore considered appropriate that resolving disputes about remuneration should be seen as part of that regulatory function.

#### Regulation 8.12E

Regulation 8.12E provides that a bankrupt or creditor may apply to the Inspector-General for a review of the amount of remuneration claimed by the trustee. The application is required to be in writing, and made within 28 days after the applicant receives the remuneration claim notice provided for in regulation 8.12C.

If the trustee claimed remuneration in such a way as to send more than one notice under regulation 8.12C, the review option in regulation 8.12E would apply in relation to each of the notices.

The regulation also provides a mechanism to enable the Inspector-General to extend the timeframe for filing a review application. A decision by the Inspector-General to extend, or not to extend, the application timeframe is reviewable in the Administrative Appeals Tribunal.

#### Regulation 8.12F

Regulation 8.12F sets out mandatory and discretionary grounds for refusal by the Inspector-General to accept an application for review of a trustee's remuneration. The grounds for refusing an application are intended to avoid reviews based on frivolous and vexatious applications.

A decision by the Inspector-General under this Regulation is subject to subsection 167(6) of the Act, which provides for the creditor, bankrupt or trustee to appeal to the Court from a decision of the Inspector-General in relation to the review.

#### Regulation 8.12G

Regulation 8.12G requires the Inspector-General to give written notice to the applicant and the trustee of a decision not to accept an application for review of a trustee's remuneration.

The provisions concerning the Inspector-General's conduct of the review and notification of the outcome, if the Inspector-General accepts an application, are set out in Subdivision 6 below.

#### Regulation 8.12H

Previously, section 167 of the Act provided for a trustee to request taxation of a third party's bill of costs for services provided in relation to the administration of a bankrupt's estate.

Regulation 8.12H provides that Subdivision 6 is made for subsection 167(2) of the Act, which establishes a new process for the Inspector-General to review a bill of costs for services provided by a third party in relation to the administration of a bankrupt's estate.

#### Regulation 8.12I

Regulation 8.12I allows a trustee to apply to the Inspector-General for review of a third party's bill of costs for services in relation to the administration of the bankrupt's estate.

The review may assist the trustee in resolving any dispute between the trustee and the third party or between the trustee and creditors if they raise concerns about the reasonableness of any payments to third parties. It will also be open to a trustee and a third party to include this review in the terms of any agreement or contract for services as a preferred dispute resolution mechanism in the event of a disagreement about costs.

The review is intended to substitute for the taxation process which was provided for in section 167 of the Act, which has been removed.



Section 167 of the Act provided for the trustee to request taxation of a bill either on the trustee's own initiative, or at the request of a bankrupt or creditor. Regulation 8.12I does not provide for a creditor or the bankrupt to request a review. Where a bankrupt or creditor has concerns about a third party cost, the bankrupt or creditor can refer the matter to the Inspector-General for investigation as a disciplinary matter. The Inspector-General has powers under subsection 12(2) of the Act to require a trustee to produce the trustee's records or to answer an inquiry relating to the trustee's administration. The Inspector-General may also commence a "show cause" procedure under section 155H, where the Inspector-General believes that the trustee has failed to exercise powers or carry out duties properly, or has failed to comply with a prescribed standard.

It is also open to the bankrupt and creditors to refer the matter to a professional association of which the trustee is a member, or to apply to the court for an order under section 178 (control of creditors over trustees) or section 179 (appeal to the court against a trustee's decision or action). A creditor may also apply for an order under section 176 of the Act to require the trustee to make good any loss to the estate caused by a trustee's breach of duty.

The new review mechanism focuses on the arrangements between the trustee and the third party. The Inspector-General will have power only to confirm or disallow the claim, or to substitute a new value. The review does not have scope to inquire into the trustee's actions, or to determine whether the trustee had acted properly in incurring the costs. Nor can the review result in the trustee's registration being discontinued or in conditions being placed on a trustee's registration.

#### Regulation 8.12J

Regulation 8.12J is made for subsection 167(3) of the Act, which provides authority for the regulations to make provision for the new review process relating to trustee remuneration or a third party's bill of costs, including:

- the Inspector-General's powers in relation to the review;
- provision of information or documents to the Inspector-General by the trustee or the third party;
- the decisions that may be made by the Inspector-General in relation to the review; and
- the notification of decisions made by the Inspector-General.

Regulation 8.12J requires the Inspector-General to conduct a review in accordance with Subdivision 6 if the Inspector-General accepts an application to review a trustee's remuneration under regulation 8.12E or an application to review a third party's bill of costs under regulation 8.12I.

The applicant is not required to pay for the review – the costs will be recovered in the same way as other regulatory functions performed by the Insolvency and Trustee Service Australia (ITSA).

Regulation 8.12J also specifies the possible outcomes of the review. The Inspector-General can either:

- (a) affirm the amount claimed by the trustee/third party; or
- (b) disallow all or part of the trustee's claim for remuneration/the third party's bill of costs and substitute another amount for the amount claimed; or dismiss the application.

The review would not have scope to inquire into the trustee's actions, or to determine whether the trustee had acted properly in incurring third party costs. Nor could the review result in the trustee's registration being discontinued or in conditions being placed on a trustee's registration.

#### Regulation 8.12K

Regulation 8.12K sets out how the review is to be conducted. The Inspector-General is required to conduct the review with as little formality and technicality, and as much expedition, as possible. This is to ensure that the process is efficient and cost-effective for both the Inspector-General and the parties.

#### Regulation 8.12L

Regulation 8.12L sets out the Inspector-General's powers in the review. The Regulation allows the process to be tailored to suit the particular circumstances, having regard to the issues in dispute and the complexity of the matter. Specifically, the Inspector-General is able to conduct a review in the manner the Inspector-General sees fit, obtain assistance from third parties (experts), give directions to the trustee or third party about the provision of information or documents, question parties and allow parties to question each other and give directions to the trustee about action to be taken in relation to the administration of the estate, including refunding any remuneration not properly claimed or supported.

#### Regulation 8.12M

Regulation 8.12M allows the Inspector-General to conduct the review on the basis of the information available where a person fails to comply with a direction given under Regulation 8.12L.

This power is intended to ensure that the trustee and third party cooperate with the review and comply with the Inspector-General's directions. Where a trustee's remuneration is the subject of the review and a trustee fails to comply with a direction to provide relevant information, or take action in relation to the administration of the estate, the Inspector-General is able to direct that the trustee is not entitled to the remuneration, or part of the remuneration.

A decision by the Inspector-General under this regulation is subject to subsection 167(6) of the Act, which provides for the creditor, bankrupt, trustee and third party to appeal to the Court from a decision of the Inspector-General in relation to the review.

### Regulation 8.12N

Regulation 8.12N requires the Inspector-General to complete the review within 60 days of accepting the application, and to prepare a written statement setting out the reasons for the decision.

A decision by the Inspector-General under this Regulation is subject to subsection 167(6) of the Act, which provides for the creditor, bankrupt, trustee and third party to appeal to the Court from a decision of the Inspector-General in relation to the review.

### Regulation 8.12O

Regulation 8.12O is made for section 167(4) of the Act, and provides that the Inspector-General may require a trustee to repay any excess remuneration to the estate, if the Inspector-General is satisfied that a withdrawal by the trustee of funds from the estate of the bankrupt for payment of the trustee's remuneration exceeds the amount of remuneration the trustee is entitled to under Division 2 of Part VIII of the Act.

A decision by the Inspector-General under this regulation is subject to subsection 167(6) of the Act, which provides for the creditor, bankrupt, trustee and third party to appeal to the Court from a decision of the Inspector-General in relation to the review.

### **Items [3] – [6]**

Items 3-6 omit references to bankruptcy districts. Schedule 3 to the *Bankruptcy Legislation Amendment Act 2010* abolished the bankruptcy districts.

### **Item [7] – Subparagraph 10.04(e)(iv)**

Item 7 amends subparagraph 10.04(e)(iv) to reflect the deletion of paragraph 10.04(f) by item 8 below.

### **Item [8] – Paragraph 10.04(f)**

Item 8 omits paragraph 10.04(f) which required a controlling trustee to include in the notice of a creditor's meeting called under section 188 of the Act a notice informing the debtor and each creditor of their right to request taxation of a controlling trustee's claim for remuneration. This notice is no longer required, as the taxation process has been replaced by the new review process in Subdivision 6, and the notification to the bankrupt and creditors of their right to request a review is now dealt with under regulation 8.12C.

### **Item [9] – Before regulation 14.01 in Part 14**

Item 9 inserts a new heading before regulation 14.01 in Part 14, to create a new Division 1 for this part, relating to offences. This heading will separate the offences division from the new Division 2 relating to infringement notices, which is inserted by item 10 below.

### **Item [10] – After regulation 14.02 (Infringement Notices)**

Item 10 inserts a new Division 2, including new regulations 14.03 to 14.15, which establishes an infringement notice scheme under section 277B of the Act as an alternative to prosecution for specified strict liability offences.

### Regulation 14.03

Regulation 14.03 establishes an infringement notice scheme, as an alternative to prosecution, for the infringement notice offences specified in subsection 277B(2) of the Act.

### Regulation 14.04

Regulation 14.04 defines essential terms used for the infringement notice regime.

### Regulation 14.05

Regulation 14.05 provides that the Inspector-General may issue an infringement notice where the Inspector-General has reasonable grounds to believe that a person has committed an offence. The notice is required to be issued within 12 months of the date of the commission of the offence.

### Regulation 14.06

Regulation 14.06 sets out the minimum amount of content which must be included on the infringement notice form that is served on the recipient. The mandatory content is intended to ensure that the recipient has sufficient information to understand the nature of the notice, the provision within the Act that they have allegedly breached, and what the person must do in relation to the notice.

### Regulation 14.07

Regulation 14.07 provides for a method of serving an infringement notice on an individual and a corporation.

Regulation 14.07 also provides that an infringement notice may be served electronically in limited circumstances. Electronic service is only permitted for service on a trustee or a registered debt agreement administrator. Furthermore, electronic service is only permitted where the Inspector-General believes, on reasonable grounds, that the registered trustee or registered debt agreement administrator will access the email account to which the notice is sent.

The restrictions on the use of electronic service will ensure that it is only used in appropriate circumstances, where the alleged offender will be aware of the electronic service regime, and will be in a position to receive infringement notices by way of electronic service.

Regulation 14.07 constitutes a contrary intention to the default service requirements set out in existing regulation 16.01. Accordingly, the manner of service of documents and the presumptions about the time of receipt which are set out in regulation 16.01 do not apply to the service of infringement notices.

### Regulation 14.08

Regulation 14.08 provides that an infringement notice must be paid within 28 days after the infringement notice has been served. The time allowed for payment balances the need for a reasonable period of time to pay the penalty with the requirement for prompt enforcement.

#### Regulation 14.09

Regulation 14.09 provides that a person served with an infringement notice may apply in writing to the Inspector-General for an extension of time of up to 28 days in which to pay the penalty specified in the notice. Within 14 days after receiving the application, the Inspector-General is required to grant or refuse an extension of time to pay the penalty; and notify the person.

#### Regulation 14.10

Regulation 14.10 provides a mechanism for the Inspector-General to withdraw a notice at the request of the person who is alleged to have committed an offence. The regulation provides that, before the end of 28 days after receiving an infringement notice, a person may apply in writing to the Inspector-General for the infringement notice to be withdrawn.

In making an application to withdraw an infringement notice, the person should have regard to the matters which the Inspector-General is required to consider in subregulation 14.10(3).

Within 14 days after receiving the application, the Inspector-General is required to withdraw, or refuse to withdraw, the notice, and notify the person.

#### Regulation 14.11

Regulation 14.11 provides that a notice of the withdrawal of an infringement notice may be served on a person in any way in which the infringement notice could have been served on the person. Regulation 14.11 also provides for the minimum content of a notice of withdrawal.

#### Regulation 14.12

Regulation 14.12 provides that, if an infringement notice is withdrawn after the penalty specified in it has been paid, the Inspector-General must refund the amount of the penalty to the person who paid it.

#### Regulation 14.13

Regulation 14.13 provides that where a person served with an infringement notice pays the penalty specified in the notice within the period specified (or any further period of time allowed under regulation 14.09), such payment discharges any liability of the person and that person cannot be prosecuted for the same offence. Additionally, payment of the infringement notice cannot be considered an admission of guilt.

#### Regulation 14.14

Regulation 14.14 provides that where a person pays an infringement penalty by cheque, payment is not taken to have been made until the cheque has been honoured on presentation.

#### Regulation 14.15

Regulation 14.15 provides that the Inspector-General may sign a certificate that states that:

- an infringement notice penalty was not paid in time;

- an extension of time to pay an infringement notice was refused or granted;
- an infringement notice penalty was not paid within the extension period; or
- an infringement notice was withdrawn.

The purpose of a certificate is that it may be used as evidence of the matters specified in the certificate if the Commonwealth prosecutes a person for an offence that is mentioned in an infringement notice. The certificates may not be used as evidence in prosecuting another infringement notice offence.

**Item [11] – regulation 15A.07**

Item 11 amends regulation 15A.07 to omit the reference to a bankruptcy district. Schedule 3 to the *Bankruptcy Legislation Amendment Act 2010* abolished the bankruptcy districts.

**Item [12] – Schedule 4A, subclause 2.14(2)**

Item 12 deletes subclause 2.14(2) of Schedule 4A, which included a reference to subsection 161B(2) of the Act. Subsection 161B(2) was repealed by item 11 of Schedule 1 to the *Bankruptcy Legislation Amendment Act 2010*.

**Item [13] – Schedule 4A, paragraph 2.16(b)**

Item 13 amends paragraph 2.16(b) of Schedule 4A, to reflect the deletion of paragraph 2.16(c) of Schedule 4A by item 14 below.

**Item [14] – Schedule 4A, paragraph 2.16(c)**

Item 14 deletes paragraph 2.16(c) of Schedule 4A, which included a reference to subsection 161B(2) of the Act. Subsection 161B(2) was repealed by item 11 of Schedule 1 to the *Bankruptcy Legislation Amendment Act 2010*.

**Item [15] – Schedule 6, Part 1, item 9**

Item 15 deletes item 9 of Part 1 of Schedule 6 to the Act, which provided for a modification of subsection 188(5) of the Act to apply to joint debtors under section 187A of the Act. Subsection 188(5) of the Act was amended by the *Bankruptcy Legislation Amendment Act 2010*, so the modification is no longer necessary.