



# **Bankruptcy Regulations 1996**

**Statutory Rules No. 263, 1996**

made under the

*Bankruptcy Act 1966*

## **Compilation No. 27**

**Compilation date:** 23 December 2017

**Includes amendments up to:** F2017L01712

**Registered:** 3 January 2018

Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### **This compilation**

This is a compilation of the *Bankruptcy Regulations 1996* that shows the text of the law as amended and in force on 23 December 2017 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### **Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### **Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### **Editorial changes**

For more information about any editorial changes made in this compilation, see the endnotes.

### **Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### **Self-repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# Contents

<b>Part 1—Preliminary</b>	1
1.01	Name of Regulations ..... 1
1.03	Interpretation ..... 1
1.04	Application of <i>Criminal Code</i> ..... 3
<b>Part 2—Administration</b>	4
2.01	Section 20J of the Act—prescribed rate of interest on moneys in Common Fund ..... 4
2.05	Disclosure of information by the Inspector-General ..... 4
<b>Part 3—Courts</b>	5
3.01	Paragraph 29(5)(b) of the Act—prescribed countries ..... 5
<b>Part 4—Proceedings in connexion with bankruptcy</b>	6
<b>Division 1—Bankruptcy notices</b>	6
4.01	Application for bankruptcy notice ..... 6
4.02	Form of bankruptcy notices ..... 6
4.02A	Service of bankruptcy notices ..... 6
4.03	Inspection of bankruptcy notices ..... 7
4.04	Judgment or order in foreign currency ..... 7
<b>Division 2—Petitions</b>	8
4.05	Copy of petition, etc to be given to Official Receiver ..... 8
4.06	Control of debtor’s property before sequestration ..... 8
4.07	Expenses of trustee before sequestration ..... 8
4.08	Application for damages where petition dismissed ..... 9
4.09	Subsection 50(5) of the Act—prescribed modifications of applied provisions ..... 9
4.10	Acceptance of debtor’s declaration ..... 10
4.11	Prescribed information to be supplied by Official Receiver to debtor ..... 10
4.12	Debtor’s petition—filing of trustee’s consent ..... 11
4.13	Notice to partners of referral to Court of petition by other partners against the partnership ..... 11
<b>Part 5—Control over person and property of debtors and bankrupts</b>	12
5.01	Where debtor or bankrupt is arrested ..... 12
5.02	Fee for making request for consent to leave Australia ..... 12
<b>Part 6—Administration of property</b>	13
<b>Division 1—Order of payment of debts</b>	13
6.01	Priority payments under section 109 of the Act— prescribed matters ..... 13
6.02	Maximum amount payable to employee ..... 13
<b>Division 2—Property available for payment of debts</b>	14
6.03	Household property ..... 14

---

6.03A	Personal property .....	15
6.03B	Property divisible among creditors—prescribed amounts.....	15
<b>Division 2A—Rural support schemes</b>		17
6.04A	Prescribed rural support schemes (Act s 116).....	17
6.04B	Prescribed rural support schemes (Act s 116).....	17
<b>Division 4—Undervalued transactions</b>		18
6.09	Transfers exempt from being void against trustee .....	18
<b>Division 5—Realisation of property</b>		19
6.10	Disclaimer of onerous property.....	19
<b>Division 6—Definition of income (Act s 139L)</b>		20
6.11	Interpretation .....	20
6.12	Fringe benefits: modification of the FBTA Act .....	20
6.12A	Restart scheme payments .....	21
6.12B	Superannuation contributions .....	21
6.12C	Family assistance and social security payments.....	22
6.12D	Primary Industry rural support scheme .....	22
<b>Division 7—Contributions by bankrupt</b>		23
6.13	Interpretation .....	23
6.14	Contributions by bankrupt—modes of payment .....	23
6.15	Contributions where bankrupt dies .....	23
6.15A	Contribution assessment—income of dependant .....	23
6.17	Certificate of outstanding contribution .....	24
6.18	Discharged bankrupt to give information if contribution unpaid.....	24
<b>Division 8—Notice under section 139ZL of the Act</b>		25
6.19	Notice under section 139ZL of the Act not to refer to protected money .....	25
6.20	Notice under section 139ZL of the Act (notice of ceasing or commencing employment) .....	25
<b>Division 9—Distribution of property</b>		26
6.21	Minimum amount of dividend .....	26
6.22	Manner of declaring final dividend.....	26
<b>Part 7—Discharge and annulment</b>		27
7.01	Trustee to inform the Official Receiver of return of bankrupt to Australia .....	27
7.01A	Grounds of objection—failure to provide complete and accurate information .....	27
7.02	Trustee to inform the Official Receiver of cancellation of objection.....	27
<b>Part 8—Trustees</b>		29
<b>Division 1—Consent to act, and appointment, as trustee of estate</b>		29
8.01	Consent to act as trustee—subsection 156A(1) of the Act .....	29
8.02	Certificate of appointment under subsection 156A(3) of the Act .....	29

---

<b>Division 2—Controlling trustees other than Official Trustee or registered trustees</b>	30
8.35 Eligibility of controlling trustees, other than Official Trustee or registered trustees .....	30
8.40 Review by Tribunal of determination .....	31
8.45 Official Trustee to perform duties .....	31
<b>Division 3—Registered trustee ceasing to be trustee of an estate</b>	32
8.50 Notice of removal of trustee of estate .....	32
8.55 Notice of finalisation of administration and entry on the Index .....	32
<b>Part 9—Debt agreements</b>	33
9.01 Prescribed information to be supplied to the debtor.....	33
9.02 Qualifications of applicants .....	34
<b>Part 10—Personal insolvency agreements</b>	35
10.01 Modifications of Part X of the Act—joint debtors.....	35
10.02 Information to be given to debtor (Act ss 188(2AA) and (2AB)).....	35
10.03 Documents under section 188 of Act .....	36
10.06 Controlling trustee to give Official Receiver copy of special resolution and certain particulars for the Index .....	36
10.07 Modifications of Part VIII of the Act—controlling trustees and trustees of personal insolvency agreements .....	37
10.08 Modifications of Division 1 of Part V of the Act—debtors whose property is subject to control under Division 2 of Part X of the Act .....	37
10.10 Notification of personal insolvency agreement.....	37
10.11 Sequestration order, or order terminating or setting aside a personal insolvency agreement—notice to Official Receiver (Act s 221, s 222 and s 222C).....	37
10.12 Termination of personal insolvency agreement by trustee (Act s 222A).....	38
10.13 Modifications of Parts V and VI of the Act—personal insolvency agreements.....	38
10.14 Certificate relating to realisation of divisible property and non-availability of dividend.....	38
<b>Part 11—Administration of estates of deceased persons in bankruptcy</b>	39
11.01 Statement of affairs and of administration of estate.....	39
11.01A Copy of petition etc to be given to Official Receiver .....	40
11.01B Proof of statement of affairs .....	40
11.02 Modifications of the Act—administration of estates of deceased persons .....	40
<b>Part 12—Unclaimed dividends or moneys</b>	41
12.01 Statement where moneys are paid to the Commonwealth.....	41

---

<b>Part 13—National Personal Insolvency Index</b>	42
<b>Division 1—Preliminary</b>	42
13.01 Interpretation .....	42
13.02 Establishment and maintenance of the National Personal Insolvency Index .....	42
<b>Division 2—Information to be entered on the Index</b>	43
13.03 What information is to be entered on the Index? .....	43
13.04 Application for certain information not to be on the Index .....	44
13.05 Application to the AAT .....	45
<b>Division 2A—Removal of information from the Index</b>	46
13.05A Removal of information relating to debt agreement from the Index .....	46
13.05B Removal of information relating to debt agreement proposal from the Index .....	46
<b>Division 3—Miscellaneous</b>	47
13.06 Inspection of the Index .....	47
13.07 Extract, etc of the Index to be admissible in evidence .....	47
13.08 Immunity from defamation .....	48
13.09 Access to the Index .....	48
13.10 Information extracted from the Index to be evidence .....	48
<b>Part 14—Offences under the Act</b>	49
<b>Division 1—Offences</b>	49
14.01 Apprehension under a warrant—notification to Registrar in certain cases .....	49
14.02 Registrar to act on notification; direction to person executing warrant .....	49
<b>Division 2—Infringement notices</b>	50
14.03 Purpose and effect of Division .....	50
14.04 Definitions .....	50
14.05 When infringement notices can be issued .....	50
14.06 Contents of infringement notice .....	50
14.07 Method of serving infringement notices .....	51
14.08 Time for payment of infringement penalty .....	52
14.09 Extension of time to pay infringement penalty .....	52
14.10 Withdrawal of infringement notice .....	53
14.11 Notice of withdrawal of infringement notices .....	53
14.12 Refund of infringement penalty .....	53
14.13 Effect of payment of infringement penalty .....	54
14.14 Payment of infringement penalty—cheques .....	54
14.15 Evidentiary certificates .....	54
<b>Part 15A—Provisions relating to the Bankruptcy Charges Acts</b>	55
15A.01 Interpretation .....	55
15A.02 Mode of payment .....	55
15A.03 Overpayments to be refunded or offset .....	55

---

15A.04	Information to accompany payment of interest charge .....	55
15A.05	Information to accompany payment of realisations charge .....	55
15A.07	Lodgment of request for remission .....	56
<b>Part 16—Miscellaneous</b>		<b>57</b>
<b>Division 1—Provisions concerning documents (including inventories)</b>		<b>57</b>
16.01	Service of documents.....	57
16.02	Documents for the Inspector-General, the Official Receiver or the Official Trustee.....	57
16.03	Inventory by trustee taking possession of, or attaching, property .....	58
16.03A	Document filed by Inspector-General or Official Receiver—fee not payable.....	58
<b>Division 2—Matters relevant to fees</b>		<b>59</b>
16.06	Payment of fees.....	59
16.07	Official Trustee’s entitlement to interim remuneration.....	59
16.08	Reimbursement of Official Trustee for expenses.....	60
16.09	Fees—notes and transcript of evidence.....	60
16.11	Waiver or remission of fees by Inspector-General.....	60
16.12	Review by AAT of decision of Inspector-General.....	61
<b>Division 3—Transitional</b>		<b>62</b>
16.13	Application of <i>Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008</i> .....	62
16.14	Transitional provisions relating to the <i>Bankruptcy Amendment (National Personal Insolvency Index) Regulation 2015</i> .....	62
<b>Schedule 1—Forms</b>		<b>63</b>
<b>Schedule 3—Paragraph 109(1)(a) of the Act—order of payment of first priority debts</b>		<b>66</b>
<b>Schedule 4—Modifications of the Fringe Benefits Tax Assessment Act 1986</b>		<b>67</b>
<b>Schedule 6—Modifications in relation to Part X of the Act</b>		<b>75</b>
<b>Part 1—Modifications of Part X of the Act—joint debtors</b>		<b>75</b>
<b>Part 3—Modifications of Part VIII of the Act—controlling trustees and trustees of personal insolvency agreements</b>		<b>79</b>
<b>Part 4—Modifications of Division 1 of Part V of the Act—debtors whose property is subject to control under Division 2 of Part X of the Act</b>		<b>81</b>

---

<b>Part 5—Modification under subsection 231(1) of the Act— personal insolvency agreements</b>	82
<b>Part 6—Modifications under subsection 231(3) of the Act— personal insolvency agreements</b>	83
<b>Schedule 7—Modifications under Part XI of the Act— administration of estates of deceased persons</b>	87
<b>Schedule 8—Information on the National Personal Insolvency Index</b>	102
<b>Endnotes</b>	118
<b>Endnote 1—About the endnotes</b>	118
<b>Endnote 2—Abbreviation key</b>	119
<b>Endnote 3—Legislation history</b>	120
<b>Endnote 4—Amendment history</b>	122

## Part 1—Preliminary

### 1.01 Name of Regulations

These Regulations are the *Bankruptcy Regulations 1996*.

### 1.03 Interpretation

(1) In these Regulations, unless the contrary intention appears:

**1985 Rural Adjustment Grant Scheme** means a scheme established and operated by a State or the Northern Territory in accordance with:

- (a) the agreement between the Commonwealth, the States and the Northern Territory the execution of which, on behalf of the Commonwealth, was approved by the *States and Northern Territory Grants (Rural Adjustment) Act 1985*; or
- (b) that agreement as subsequently amended.

**1988 Rural Adjustment Grant Scheme** means a scheme established and operated by a State or the Northern Territory in accordance with:

- (a) an agreement between the Commonwealth and that State or Territory whose execution, on behalf of the Commonwealth, was approved by the *States Grants (Rural Adjustment) Act 1988*; or
- (b) that agreement as subsequently amended.

**Act** means the *Bankruptcy Act 1966*.

**commencement date** means 16 December 1996.

**contribution assessment period** has the meaning given by section 139K of the Act.

**CPI rate**, in relation to a financial year, means the annual average of the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of the quarters in the year.

**Criminal Code** means the Criminal Code set out in the Schedule to the *Criminal Code Act 1995*, being that Code as amended from time to time.

**DEP scheme** means the scheme mentioned in section 52C of the *Farm Household Support Act 1992*.

**farm help re-establishment grant scheme** means the scheme mentioned in section 52A of the *Farm Household Support Act 1992*.

**FC (Bankruptcy) Rules** means the *Federal Court (Bankruptcy) Rules 2016*.

Regulation 1.03

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**FCC (Bankruptcy) Rules** means the *Federal Circuit Court (Bankruptcy) Rules 2016*.

**Fees and Remuneration Determination** means each determination made under subsection 316(1) of the Act, as in force from time to time.

**registered liquidator** has the meaning given by the Corporations Law.

**Rural Adjustment Grant Scheme** means a scheme established and operated by a State or the Northern Territory in accordance with:

- (a) the agreement between the Commonwealth and the States the execution of which, on behalf of the Commonwealth, was approved by the *States Grants (Rural Adjustment) Act 1976*; or
- (b) that agreement as subsequently amended, including that agreement as amended by:
  - (i) the agreement between the Commonwealth, the States and the Northern Territory the execution of which, on behalf of the Commonwealth, was approved by the *States and Northern Territory Grants (Rural Adjustment) Act 1979*; or
  - (ii) that agreement as subsequently amended.

**Rural Adjustment Scheme** has the meaning given by section 4 of the *Rural Adjustment Act 1992*.

**Rural Reconstruction Grant Scheme** means a scheme established and operated by a State in accordance with:

- (a) the agreement between the Commonwealth and the States the execution of which, on behalf of the Commonwealth, was approved by the *States Grants (Rural Reconstruction) Act 1971*; or
- (b) that agreement as subsequently amended.

**rural support scheme** has the meaning given by subsection 5(1) of the Act.

**Sugar Industry Reform Program** means the scheme known as the Sugar Industry Reform Program 2004 made under the Sugar Industry Reform Program Guidelines as in force on 29 April 2004, administered by the Department of Agriculture, Fisheries and Forestry.

**Tobacco Grower Adjustment Assistance Package** means the scheme known as the Tobacco Grower Adjustment Assistance Package 2006 made under the Tobacco Grower Adjustment Assistance Package Guidelines as in force on 2 March 2007, administered by the Department of Agriculture, Fisheries and Forestry.

**the court**, in relation to a judgment or order, means the court by which the judgment was given or the order was made.

**the Index** means the National Personal Insolvency Index established by subregulation 13.02(1).

- (2) A reference in these Regulations to a form of a specified number is a reference to the form of that number in Schedule 1.

#### **1.04 Application of *Criminal Code***

Chapter 2 of the *Criminal Code* applies to offences against these Regulations.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

## Part 2—Administration

### 2.01 Section 20J of the Act—prescribed rate of interest on moneys in Common Fund

For the purposes of section 20J of the Act, the prescribed rate of interest is 7 percent per year.

Note: This rate is prescribed under subsections 20J(2) and (4) of the Act.

### 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.

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**Part 3—Courts****3.01 Paragraph 29(5)(b) of the Act—prescribed countries**

For the purposes of subsection 29(5) of the Act, each of the countries specified in the following table is prescribed:

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<b>Table</b>	
Jersey	Singapore
Malaysia	Switzerland
Papua New Guinea	United States of America

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## Part 4—Proceedings in connexion with bankruptcy

### Division 1—Bankruptcy notices

#### 4.01 Application for bankruptcy notice

- (1) Subject to subregulation (2), to apply for the issue of a bankruptcy notice, a person must lodge with the Official Receiver:
  - (a) an application in the approved form; and
  - (b) 1 of the following documents in relation to the final judgment or final order specified by the person on the approved form:
    - (i) a copy of the sealed or certified judgment or order;
    - (ii) a certificate of the judgment or order sealed by the court or signed by an officer of the court;
    - (iii) a copy of the entry of the judgment or order certified as a true copy of that entry and sealed by the court or signed by an officer of the court.
- (2) If the final judgment or final order specified by the person on the approved form is an award mentioned in paragraph 40(3)(a) of the Act, the person must lodge with the Official Receiver:
  - (a) an application in the approved form; and
  - (b) a copy of the award certified as a true copy by the arbitrator who made the award or, failing the arbitrator, by an officer of the Court after having compared the copy with the original award; and
  - (c) a sealed or certified copy of the order giving leave to enforce the award.

Note 1: For bankruptcy notices, see regulation 4.02 and Form 1.

Note 2: A fee is payable to the Official Registrar for an application under this regulation—see Fees and Remuneration Determination.

#### 4.02 Form of bankruptcy notices

- (1) For the purposes of subsection 41(2) of the Act, the form of bankruptcy notice set out in Form 1 is prescribed.
- (2) A bankruptcy notice must follow Form 1 in respect of its format (for example, bold or italic typeface, underlining and notes).
- (3) Subregulation (2) is not to be taken as expressing an intention contrary to section 25C of the *Acts Interpretation Act 1901*.

Note: Under section 25C of the *Acts Interpretation Act 1901*, where an Act prescribes a form, then, unless the contrary intention appears, strict compliance with the form is not required and substantial compliance is sufficient; see also paragraph 46(1)(a) of that Act for the application of that Act to legislative instruments other than Acts.

#### 4.02A Service of bankruptcy notices

A bankruptcy notice must be served within:

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- (a) the period of 6 months commencing on the date of issue of the bankruptcy notice; or
- (b) any further period that the Official Receiver allows (whether within or outside that period of 6 months).

Note 1: If paragraph (b) applies to a bankruptcy notice, a fee is payable under the Fees and Remuneration Determination.

Note 2: A bankruptcy notice may be served by any of the methods mentioned in regulation 16.01.

#### **4.03 Inspection of bankruptcy notices**

- (1) Subject to subregulation (2), the only persons who may inspect a bankruptcy notice lodged with the Official Receiver are:
  - (a) a person specified in the notice; and
  - (b) a party to a proceeding to which the notice relates; and
  - (c) a solicitor acting for a person mentioned in paragraph (a) or (b).
- (2) If a creditor's petition is presented that is founded on an act of bankruptcy consisting of failure to comply with a bankruptcy notice, that notice (as lodged with the Official Receiver) is open to public inspection.

#### **4.04 Judgment or order in foreign currency**

- (1) This regulation applies to a bankruptcy notice if the judgment or order lodged under subregulation 4.01(1) in relation to the notice is expressed in an amount of foreign currency (whether or not the judgment or order is also expressed in an amount of Australian currency).
- (2) A bankruptcy notice to which this regulation applies must:
  - (a) contain a statement to the effect that payment of the amount of foreign currency expressed in the judgment or order may be paid in that foreign currency or by means of a specified amount of Australian currency that is stated to be equivalent to the amount of foreign currency; and
  - (b) set out:
    - (i) the applicable rate of exchange, being the rate worked out in accordance with subregulation (3); and
    - (ii) the conversion calculation; and
    - (iii) a statement that the conversion of the amount of foreign currency into Australian currency has been made in accordance with this regulation.
- (3) For paragraph (2)(b), the conversion of an amount of foreign currency into an equivalent amount of Australian currency must be done in accordance with the telegraphic rate of exchange prevailing on the second day before the day when the application to which the conversion applies is lodged under subregulation 4.01(1).

## **Division 2—Petitions**

### **4.05 Copy of petition, etc to be given to Official Receiver**

- (1) A creditor who presents a petition under Division 2 of Part IV of the Act must, within 2 business days after the petition is endorsed by the Court, give an endorsed copy of the petition to the Official Receiver.
- (3) A creditor who presents a petition under Division 2 of Part IV of the Act must give a copy of any order, endorsed by the Court, dismissing, staying or extending the petition, or adjourning the hearing of the petition, to the Official Receiver within 2 business days after the Court has endorsed the order.

### **4.06 Control of debtor's property before sequestration**

- (1) Where the Court makes a direction or other order under subsection 50(1) of the Act, the creditor who applied for the direction or other order must, within 7 days, serve the following documents in accordance with subregulation (2):
  - (a) a copy of the application;
  - (b) a copy of any affidavit filed in support of the application;
  - (c) a certified copy of the direction or other order.
- (2) The documents must be served:
  - (a) on the trustee who the Court has directed to take control of the debtor's property; and
  - (b) except where that person is the Official Trustee—on the Official Receiver.

### **4.07 Expenses of trustee before sequestration**

- (1) Where:
  - (a) the Court makes a direction or other order under subsection 50(1) of the Act; and
  - (b) the amount deposited, in accordance with the direction or other order of the Court, with the Official Trustee or a registered trustee is insufficient to meet the fees and expenses incurred by the Official Trustee or registered trustee:
    - (i) as a result of the direction or other order; or
    - (ii) in carrying out an examination of a person as a result of the issue of a summons under subsection 50(2) of the Act;the Official Trustee or registered trustee may:
  - (c) request the creditor who made the application under subsection 50(1) of the Act; or
  - (d) apply to the Court for an order directing that creditor; to deposit with the Official Trustee or the registered trustee a specified additional sum.

- (2) Where the Court, under section 50 of the Act, directs the Official Trustee or a registered trustee to take control of the property of a debtor, and subsequently any of the following events occurs:
- (a) the debtor enters into a personal insolvency agreement, or the debtor's estate is administered under Part XI of the Act, and the Court authorises the Official Trustee or the registered trustee to transfer the property to some other person;
  - (b) a sequestration order is made against the debtor;
  - (c) the creditor's petition against the debtor is dismissed;
  - (d) a debtor's petition relating to the debtor is accepted by the Official Receiver;
  - (e) a proposal by the debtor relating to a debt agreement is accepted under section 185B of the Act;
- the creditor is entitled to a refund of the amount deposited by him or her in accordance with the direction or other order of the Court to meet the fees and expenses of the Official Trustee or the registered trustee incurred:
- (f) as a result of the direction; or
  - (g) in carrying out an examination of a person as the result of the issue of a summons;
- less the amount of any fees or expenses so incurred.

#### **4.08 Application for damages where petition dismissed**

Where:

- (a) the Court has made a direction or other order under subsection 50(1) of the Act; and
  - (b) the creditor's petition against the debtor is subsequently dismissed;
- the debtor may, within 21 days after the day on which the petition is dismissed, apply to the Court for an order for:
- (c) the assessment of the amount of any damage resulting from the control of the property of the debtor by the Official Trustee or a registered trustee in accordance with the order; and
  - (d) the payment by the creditor to the debtor of an amount so assessed.

#### **4.09 Subsection 50(5) of the Act—prescribed modifications of applied provisions**

For the purposes of subsection 50(5) of the Act, section 81 of the Act is modified as follows:

- (a) by omitting from subsection (2) 'An' and substituting 'Subject to subsection (2A), an';
- (b) by inserting after subsection (2) the following subsection:  
'(2A) The Court or a magistrate may direct that an examination, or any part of an examination, under this section shall be held in private.';
- (c) by omitting from subsection (9) 'is the trustee' and substituting 'has been directed to take control of the property of the debtor';
- (d) by omitting subsection (10A);

## Regulation 4.10

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- (e) by omitting subsection (14) and substituting the following subsections:
- ‘(14) Subject to subsection (14A), the applicant for an examination under this section is to pay the costs incurred in connection with the examination.
  - ‘(14A) The Court or a magistrate may order that all or some of the costs mentioned in subsection (14) are to be paid by the debtor.’.

### 4.10 Acceptance of debtor’s declaration

Where, under paragraph 54C(a) of the Act, the Official Receiver accepts and signs a declaration, the Official Receiver must give a copy of the signed declaration to the debtor.

### 4.11 Prescribed information to be supplied by Official Receiver to debtor

- (1) For the purposes of subsections 54D(1), 55(3A), 56B(5) and 57(3A) of the Act, the following information is prescribed:
- (a) information about alternatives to bankruptcy;
  - (b) information about the consequences of bankruptcy;
  - (c) information about sources of financial advice and guidance to persons facing or contemplating bankruptcy;
  - (d) information about a debtor’s right to choose whether the bankruptcy is administered by a registered trustee or the Official Trustee;
  - (e) a statement that it is an act of bankruptcy for a debtor to present to the Official Receiver, under section 54A of the Act, a declaration of intention to present a debtor’s petition.
- (2) The information must be factual and objective.
- (3) The Official Receiver must not accept a declaration of intention to present a debtor’s petition under section 54A of the Act or a debtor’s petition under section 55, 56B or 57 of the Act unless the debtor has given to the Official Receiver a signed acknowledgement (which may be included in or appended to the petition) that the debtor has received and read the prescribed information.
- (4) If the debtor presents a petition without having given the acknowledgement, the Official Receiver must:
- (a) if the debtor presents the petition in person—give the prescribed information to the debtor; or
  - (b) if the debtor presents the petition by post—post the prescribed information to the debtor.
- (5) Subregulation (6) applies if a person (the *intending petitioner*) intends to present a petition under Division 2 of Part IV of the Act and the intending petitioner is:
- (a) unable to read the relevant material, because he or she is:
    - (i) blind, partially sighted, illiterate or partially literate; or
    - (ii) insufficiently familiar with the English language; or

- (b) unable to sign the petition or the acknowledgment, because of a physical incapacity.
- (6) The petition and the acknowledgement may be signed by another person, who must sign a statement:
  - (a) if subparagraph (5)(a)(i) applies—that he or she has read the relevant material to the intending petitioner; or
  - (b) if subparagraph (5)(a)(ii) applies—that he or she has interpreted the relevant material to the intending petitioner in a language with which both persons are familiar; or
  - (c) if paragraph (5)(b) applies—that he or she believes that the intending petitioner has read and understood the relevant material.
- (7) In this regulation:

*relevant material* means the petition, the prescribed information and the acknowledgment.

#### **4.12 Debtor's petition—filing of trustee's consent**

Where:

- (a) a debtor presents, or 2 or more debtors present, a petition to the Official Receiver under section 55, 56B or 57 of the Act; and
  - (b) there is in force under section 156A of the Act the consent of a registered trustee to act as the trustee of:
    - (i) the estate of the debtor; or
    - (ii) in the case of 2 or more debtors—the separate estates, the joint estates, or the joint and separate estates, of the debtors or any of them;
- the petition to the Official Receiver must have with it the original, or a clearly legible photocopy, of the instrument of consent.

#### **4.13 Notice to partners of referral to Court of petition by other partners against the partnership**

- (1) Notice by the Official Receiver under subsection 56C(2) of the Act must:
    - (a) be in writing; and
    - (b) state that the petition has been referred to the Court specified in the notice; and
    - (c) state the date, time and place of hearing of the petition.
  - (2) The Official Receiver must give the notice:
    - (a) at least 7 days before that date; and
    - (b) in accordance with regulation 16.01;
- to each member to whom, under that subsection, it is required to be given.

## **Part 5—Control over person and property of debtors and bankrupts**

### **5.01 Where debtor or bankrupt is arrested**

Where a person is arrested under section 78 of the Act, the arresting officer must immediately notify a Registrar of the arrest.

### **5.02 Fee for making request for consent to leave Australia**

- (1) This regulation applies in relation to a request by a bankrupt to the Official Trustee for the Official Trustee's consent, under paragraph 272(1)(c) of the Act, to the bankrupt leaving Australia.
- (2) A fee is payable to the Official Trustee in relation to the making of the request.

Note: For the amount of the fee, see the Fees and Remuneration Determination.

## **Part 6—Administration of property**

### **Division 1—Order of payment of debts**

#### **6.01 Priority payments under section 109 of the Act—prescribed matters**

- (1) Payment of proceeds of the property of a bankrupt under paragraph 109(1)(a) of the Act is to be in the order set out in Schedule 3.
- (2) For the purposes of item 5 of Schedule 3:
  - (a) a reference to the petitioning creditor is taken to include a reference to a petitioner whose petition has not been proceeded with because of the acceptance of the debtor's petition; and
  - (b) paragraph (a) applies irrespective of whether the debtor's petition was referred to the Court under subsection 55(3B) of the Act or, if the petition was so referred, the outcome of the reference.

#### **6.02 Maximum amount payable to employee**

- (1) For the purposes of paragraph 109(1)(e) of the Act, the maximum amount due to or in respect of an employee of a bankrupt is:
  - (a) in the case of a bankruptcy occurring or continuing in the period commencing on the commencement date and ending at the end of 30 June 1997—\$3,100; or
  - (b) in the case of a bankruptcy occurring in a financial year commencing on 1 July 1997 or on 1 July of a subsequent year—the amount worked out in accordance with subregulation (2).
- (2) For the purposes of subparagraph (1)(b), the applicable amount is:
  - (a) in the case of the financial year commencing on 1 July 1997—\$3,100 increased in accordance with the CPI rate for the financial year that commenced on 1 July 1996 and rounded down to the nearest multiple of \$50; and
  - (b) in the case of a subsequent financial year—the amount worked out in accordance with this subregulation for the immediately preceding financial year, increased in accordance with the CPI rate for that financial year and rounded down to the nearest multiple of \$50.

Example: In the case of a bankruptcy occurring in the financial year 1997-1998, the applicable CPI rate is the rate for 1996-1997.

Note: For the meaning of *financial year*, see para. 22(1)(e) of the *Acts Interpretation Act 1901*.

## Division 2—Property available for payment of debts

### 6.03 Household property

- (1) For the purposes of subparagraph 116(2)(b)(i) of the Act, household property of the bankrupt specified in this regulation is household property to which subsection 116(1) of the Act (which deals with property divisible among the creditors) does not extend.
- (2) Subsection 116(1) of the Act does not extend to household property (including recreational and sports equipment) that is reasonably necessary for the domestic use of the bankrupt's household, having regard to current social standards.
- (3) In particular (but without limiting by implication the generality of subregulation (2)), subsection 116(1) of the Act does not extend to property of the following kinds:
  - (a) in the case of kitchen equipment, cutlery, crockery, foodstuffs, heating equipment, cooling equipment, telephone equipment, fire detectors and extinguishers, anti-burglar devices, bedding, linen, towels and other household effects—that property to the extent that it is reasonably appropriate for the household, having regard to the criteria mentioned in subregulation (4);
  - (b) sufficient household furniture;
  - (c) sufficient beds for the members of the household; and
  - (d) educational, sporting or recreational items (including books) that are wholly or mainly for the use of children or students in the household;
  - (e) 1 television set;
  - (f) 1 set of stereo equipment;
  - (g) 1 radio;
  - (h) either:
    - (i) 1 washing machine and 1 clothes drier; or
    - (ii) 1 combined washing machine and clothes drier;
  - (i) either:
    - (i) 1 refrigerator and 1 freezer; or
    - (ii) 1 combination refrigerator/freezer;
  - (j) 1 generator, if relied on to supply electrical power to the household;
  - (k) 1 telephone appliance;
  - (l) 1 video recorder.
- (4) For the purposes of deciding whether property, other than property of a kind mentioned in paragraphs (3)(b) to (l) (both inclusive), is property to which subregulation (2) applies, regard must be had to the following criteria:
  - (a) the number and ages of members of the bankrupt's household;
  - (b) any special health or medical needs of any of those members;
  - (c) any special climatic or other factors (including geographical isolation) of the place where the household residence is located;

- (d) whether the property is reasonably necessary for the functioning or servicing of the household as a viable and properly run household;
  - (e) whether the costs of seizure, storage and sale of the property would be likely to exceed the sale price of the property;
  - (f) if paragraph (e) does not apply—whether for any other reason (for example, costs of transport) the sale of the property would be likely to be uneconomical.
- (5) The preceding provisions of this regulation do not prevent subsection 116(1) of the Act from extending to antique items.
- (6) For the purposes of subregulation (5), an item is taken to be antique if, and only if, a substantial part of its market value is attributable to its age or historical significance.

### **6.03A Personal property**

- (1) For subparagraph 116(2)(ba)(ii) of the Act, sporting, cultural, military or academic awards made to the bankrupt in recognition of his or her performance are personal property to which subsection 116(1) of the Act does not extend.
- (2) Subregulation (1) does not apply to a monetary award.

### **6.03B Property divisible among creditors—prescribed amounts**

- (1) For the purposes of subparagraph 116(2)(c)(i) of the Act, the maximum total value of a bankrupt's property that is for use by the bankrupt in earning income by personal exertion is:
- (a) in the case of a bankruptcy occurring or continuing in the period commencing on the commencement date and ending at the end of 30 June 1997—\$2,600; or
  - (b) in the case of a bankruptcy occurring in a financial year commencing on 1 July 1997 or on 1 July of a subsequent year—the amount worked out in accordance with subregulation (2).
- (2) For the purposes of subparagraph (1)(b), the applicable amount is:
- (a) in the case of the financial year commencing on 1 July 1997—\$2,600 increased in accordance with the CPI rate for the financial year that commenced on 1 July 1996 and rounded down to the nearest multiple of \$50; and
  - (b) in the case of a subsequent financial year—the amount worked out in accordance with this subregulation for the immediately preceding financial year, increased in accordance with the CPI rate for that financial year and rounded down to the nearest multiple of \$50.
- (3) For the purposes of paragraph 116(2)(ca) of the Act, the maximum aggregate value of property used by the bankrupt primarily as a means of transport is:

**Part 6** Administration of property

**Division 2** Property available for payment of debts

**Regulation 6.03B**

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- (a) in the case of a bankruptcy occurring or continuing in the period commencing on the commencement date and ending at the end of 30 June 1997—\$5,000; or
  - (b) in the case of a bankruptcy occurring in a financial year commencing on 1 July 1997 or on 1 July of a subsequent year—the amount worked out in accordance with subregulation (4).
- (4) For the purposes of subparagraph (3)(b), the applicable amount is:
- (a) in the case of the financial year commencing on 1 July 1997—\$5,000 increased in accordance with the CPI rate for the financial year that commenced on 1 July 1996 and rounded down to the nearest multiple of \$50; and
  - (b) in the case of a subsequent financial year—the amount worked out in accordance with this subregulation for the immediately preceding financial year, increased in accordance with the CPI rate for that financial year and rounded down to the nearest multiple of \$50.

## **Division 2A—Rural support schemes**

### **6.04A Prescribed rural support schemes (Act s 116)**

For paragraph 116(2)(k) of the Act, the following rural support schemes are prescribed:

- (a) DEP scheme;
- (b) farm help re-establishment grant scheme.

### **6.04B Prescribed rural support schemes (Act s 116)**

For paragraph 116(2)(l) of the Act, each rural support scheme mentioned in the following table, and the circumstances mentioned for the scheme, are prescribed.

<b>Item</b>	<b>Rural support scheme</b>	<b>Circumstance</b>
1	1985 Rural Adjustment Grant Scheme	Assistance is required by a person engaged in the agricultural industry, in the form of a loan for rehabilitation or household support
2	1988 Rural Adjustment Grant Scheme	Assistance is required by a person engaged in the agricultural industry, in the form of a grant or loan for rehabilitation or household support
3	Rural Adjustment Grant Scheme	Assistance is required by a person engaged in the agricultural industry, in the form of a grant or loan for rehabilitation or household support
4	Rural Adjustment Scheme	Assistance is required by a person engaged in the agricultural industry, in the form of a grant or loan for rural adjustment
5	Rural Reconstruction Grant Scheme	Assistance is required by a person engaged in the agricultural industry, in the form of a grant or loan for rehabilitation
6	Sugar Industry Reform Program	Assistance is required in the form of a grant to enable a person engaged in the sugar industry, as a grower or harvester, to exit all agricultural industries
7	Tobacco Grower Adjustment Assistance Package	Assistance is required in the form of a grant to enable a person engaged, or previously engaged, in the tobacco industry as a grower to exit all agricultural industries

## **Division 4—Undervalued transactions**

### **6.09 Transfers exempt from being void against trustee**

The kind of transfer of property to which paragraph 120(2)(d) of the Act applies is one where the costs of recovering the transferred property would, in the trustee's opinion, be likely to exceed the value to the creditors of the property.

## **Division 5—Realisation of property**

### **6.10 Disclaimer of onerous property**

- (1) A notice of disclaimer under subsection 133(1) or (1A) of the Act must:
  - (a) in every case—adequately identify:
    - (i) the bankrupt to whom the notice relates; and
    - (ii) the property or contract being disclaimed; and
  - (b) in the case of disclaimer, without the leave of the Court, of:
    - (i) a lease—set out facts showing that subsection 133(4) of the Act has been complied with; or
    - (ii) a contract—set out facts showing that the contract is, for the purposes of subsection 133(5A) of the Act, an unprofitable contract.
- (2) A trustee who gives a notice of disclaimer under subsection 133(1) or (1A) of the Act must give the notice to each person who, to the trustee's knowledge:
  - (a) in the case of disclaimer of property—has an interest in the property; or
  - (b) in the case of a contract—is entitled to a benefit of, or subject to a burden or liability under, the contract.

## Division 6—Definition of income (Act s 139L)

### 6.11 Interpretation

In this Division:

**FBTA Act** means the *Fringe Benefits Tax Assessment Act 1986* as in force at the beginning of 1 July 1992.

### 6.12 Fringe benefits: modification of the FBTA Act

- (1) For the purposes of subparagraph (a)(v) of the definition of *income* in section 139L of the Act, the FBTA Act is modified in accordance with Schedule 4.
- (2) For those purposes, the following modifications of the FBTA Act apply:
  - (a) a reference to a year of tax is taken to be a reference to a contribution assessment period;
  - (b) a reference to the taxable value of a benefit is taken to be a reference to the value, for the purposes of the Act, of the benefit;
  - (c) a reference to the declaration date is taken to be a reference to the date occurring 21 days after the end of the contribution assessment period in relation to the bankrupt;
  - (d) a reference to a declaration to be given to the employer is taken to be a reference to a declaration to be given to the trustee;
  - (e) a reference to a form approved by the Commissioner is taken to be a reference to a form approved by the Inspector-General;
  - (f) subject to paragraph (d), a reference to an employer, or to the employer, is taken to be a reference to any person (other than the bankrupt);
  - (g) a reference to an employee, or to the employee, is taken to be a reference to a bankrupt, or to the bankrupt, as the case requires;
  - (h) a reference (however expressed) to:
    - (i) the employment of the employee; or
    - (ii) an associate of the employee;is to be disregarded.
- (3) In spite of subregulations (1) and (2), the modifications specified or referred to in those subregulations do not apply in relation to the provision of a fringe benefit, within the meaning of the FBTA Act, where the provider of the fringe benefit:
  - (a) was the employer of the bankrupt; and
  - (b) provided the fringe benefit to the bankrupt in respect of his or her employment by the provider; and
  - (c) was not an employer over whom the bankrupt exercised effective control, whether directly or indirectly.

### 6.12A Restart scheme payments

For subparagraph (b)(v) of the definition of *income* in section 139L of the Act, payments of restart income support, being payments of a kind mentioned in paragraph (a) of the definition of *restart scheme payments* in subsection 3(2) of the *Farm Household Support Act 1992*, are not income of a bankrupt.

### 6.12B Superannuation contributions

- (1) Subject to subregulation (2), for subparagraph (b)(v) of the definition of *income* in section 139L of the Act, the following contributions and payments made for the purpose of providing superannuation benefits for a bankrupt person are not income of the person:
  - (a) contributions made by, or on behalf of, each employer of the person to the extent that the contributions reduce the employer's potential liability for the superannuation guarantee charge imposed under section 5 of the *Superannuation Guarantee Charge Act 1992*;
  - (b) contributions made by, or on behalf of, each employer of the person in accordance with the employer's obligation to make contributions for the person under:
    - (i) an industrial award or determination made under a law of the Commonwealth, a State or a Territory; or
    - (ii) an industrial agreement registered, made or lodged under a law of the Commonwealth, a State or a Territory; or
    - (iii) a law of the Commonwealth, or of a State or Territory; that exceed the contributions, made by or on behalf of the employer, mentioned in paragraph (a);
  - (c) payments of shortfall components made to, or for the benefit of, the person under sections 65 to 67 of the *Superannuation Guarantee (Administration) Act 1992*.
- (2) Contributions for a year are taken to be income of a person if:
  - (a) the contributions exceed 9% of the employee's ordinary time earnings for the year; and
  - (b) the employer has an obligation to make the contributions that arise under an individual industrial agreement; and
  - (c) the contributions are not contributions of the kind mentioned in subparagraph (1)(b)(iii).
- (3) For this regulation:

***individual industrial agreement*** means an industrial agreement made solely between the employer and the person, including the following:

- (a) an AWA, or an ITEA, to which the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* applies;
- (b) a similar agreement under the law of a State or Territory.

## Regulation 6.12C

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*ordinary time earnings* has the meaning given by section 6 of the *Superannuation Guarantee (Administration) Act 1992*.

*shortfall component* has the same meaning as it has in Part 8 of the *Superannuation Guarantee (Administration) Act 1992*.

### 6.12C Family assistance and social security payments

- (1) For subparagraph (b)(v) of the definition of *income* in section 139L of the Act, the following payments or amounts are not income of a bankrupt:
  - (a) a payment or amount of family tax benefit paid under the family assistance law;
  - (b) an amount that is not income for the purposes of the *Social Security Act 1991* because of subsection 8(8) of that Act, except for a payment or amount mentioned in paragraph (a), (h), (ha), (k), (ka), (m), (z), (za) or (zb) of that subsection.
- (2) For this regulation, *family assistance law* has the same meaning as in the *A New Tax System (Family Assistance) (Administration) Act 1999*.

### 6.12D Primary Industry rural support scheme

For subparagraph (b)(v) of the definition of *income* in section 139L of the Act, any of the following is not income of a bankrupt:

- (a) an amount paid to a person under the DEP scheme;
- (b) an amount paid to a person under the Sugar Industry Reform Program for the prescribed circumstance mentioned for it in regulation 6.04B;
- (c) an amount paid to a person under the Tobacco Grower Adjustment Assistance Package for the prescribed circumstance mentioned for it in regulation 6.04B.

## **Division 7—Contributions by bankrupt**

### **6.13 Interpretation**

In this Division:

**contributing bankrupt** means a bankrupt who is liable to make contributions.

**contribution** means a contribution payable or paid under section 139P or 139Q of the Act.

### **6.14 Contributions by bankrupt—modes of payment**

- (1) A contributing bankrupt may pay a contribution in any of the following ways:
  - (a) in cash to the trustee at the trustee's office during business hours;
  - (b) by bank draft, cheque, money order or postal order payable to the trustee and delivered or posted to that office;
  - (c) by deposit of the amount of the contribution in, or transfer of that amount to, the trustee's bank account;
  - (d) any other method authorised in writing by the trustee.
- (2) In the case of payment by cheque, payment is taken to occur when the cheque is cleared and the amount of the payment is credited to the account into which the cheque is deposited.
- (3) The trustee may, on reasonable notice in writing to the bankrupt, vary or cancel an authorisation under paragraph (1)(d).
- (4) If the trustee incurs a delivery or postal charge (including a surcharge) or bank charge in connection with the receipt or processing of payment of a contribution, the trustee may reimburse himself or herself for the amount of the charge from the bankrupt's estate.

### **6.15 Contributions where bankrupt dies**

If a contributing bankrupt dies during a contribution assessment period:

- (a) no refund is payable in respect of any part of a contribution paid by or on behalf of the bankrupt in respect of that period; and
- (b) if a contribution in respect of that period remains unpaid, the deceased bankrupt's estate is liable for the portion of the contribution attributable to the part of the period occurring before the date of death.

Note: For proceedings in bankruptcy on the death of the bankrupt, see s. 63 of the Act.

### **6.15A Contribution assessment—income of dependant**

- (1) For paragraph (c) of the definition of **dependant** in section 139K of the Act, the amount is \$2 500.

## Regulation 6.17

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- (2) Section 304A of the Act applies to this regulation as if the amount mentioned in subregulation (1) were an amount also mentioned in the definition of *indexable amount* in subsection 304A(1) of the Act.

### 6.17 Certificate of outstanding contribution

- (1) A trustee may give a certificate, signed and dated by the trustee, stating:
- (a) that the trustee has made an assessment under subsection 139W(1) or (2) of the Act in relation to a bankrupt; and
  - (b) the amount of the contribution to which the assessment relates that the bankrupt is liable to pay; and
  - (c) that the trustee has given notice setting out particulars of the assessment to the bankrupt under subsection 139W(4) of the Act; and
  - (d) the respective dates of the assessment and the notice.
- (2) In proceedings against the bankrupt for recovery of the amount, or part of the amount, of a contribution, the certificate:
- (a) is evidence that the bankrupt is liable to pay the amount of contribution stated in the certificate; and
  - (b) may be tendered in evidence without further proof.

### 6.18 Discharged bankrupt to give information if contribution unpaid

- (1) If:
- (a) a person is discharged from bankruptcy; and
  - (b) immediately before being discharged he or she was a contributing bankrupt; and
  - (c) after the discharge he or she remains liable, under section 139R of the Act, in respect of a contribution that is due and unpaid;
- the person must at once give notice in writing to the trustee in relation to the bankruptcy if any change occurs in the particulars:
- (d) set out in the person's statement of affairs in relation to the bankruptcy; or
  - (e) notified by the person under section 80 of the Act.

Penalty: 10 penalty units

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

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

## **Division 8—Notice under section 139ZL of the Act**

### **6.19 Notice under section 139ZL of the Act not to refer to protected money**

A notice under section 139ZL of the Act must not specify money or property that is protected, under a law of the Commonwealth or a State or Territory, from a process such as assignment, attachment, charging, execution or garnishment.

### **6.20 Notice under section 139ZL of the Act (notice of ceasing or commencing employment)**

- (1) If the employer of a bankrupt receives a notice under section 139ZL of the Act in relation to the bankrupt and the employment of the bankrupt subsequently ceases, the employer must, within 21 days of the cessation, give notice in writing to the trustee of the bankrupt stating that, on the date specified in the notice, the bankrupt ceased to be employed by the employer.

Penalty: 2 penalty units

- (2) Within 21 days after commencing employment with an employer, the bankrupt must give notice in writing to the trustee stating:
- (a) the employer's name and postal address; and
  - (b) the address of the place where the bankrupt is employed; and
  - (c) the amount of the bankrupt's average gross weekly income from the employment.

Penalty: 2 penalty units

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

## **Division 9—Distribution of property**

### **6.21 Minimum amount of dividend**

For the purposes of subsection 140(9) of the Act, the amount of \$25 is prescribed.

### **6.22 Manner of declaring final dividend**

A notice under subsection 145(3) of the Act must be given by serving it, in accordance with subregulation 16.01(1), on each person to whom, under the subsection, it must be given.

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## Part 7—Discharge and annulment

### 7.01 Trustee to inform the Official Receiver of return of bankrupt to Australia

- (1) This regulation applies to a registered trustee who is the trustee of the estate of a bankrupt, if:
  - (a) an objection to the discharge of the bankrupt has been made on a ground, or on grounds that include a ground, referred to in paragraph 149D(1)(a) or (h) of the Act (which refer to the bankrupt being out of Australia); and
  - (b) the bankrupt has returned to Australia; and
  - (c) the trustee becomes aware that the bankrupt has returned to Australia.
- (2) Within 7 days after becoming aware that the bankrupt has returned to Australia, the registered trustee must give notice in writing to the Official Receiver stating:
  - (a) that the bankrupt has returned to Australia; and
  - (b) the date on which:
    - (i) the bankrupt returned; or
    - (ii) if the trustee does not know the date on which the bankrupt returned—the trustee became aware that the bankrupt had returned.

Penalty: 1 penalty unit

- (3) An offence against subregulation (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

### 7.01A Grounds of objection—failure to provide complete and accurate information

For paragraph 149D(1)(d) of the Act, a bankrupt is taken to have failed to comply with a request to provide information if the bankrupt has provided information that is incomplete or inaccurate.

### 7.02 Trustee to inform the Official Receiver of cancellation of objection

- (1) This regulation applies where the Administrative Appeals Tribunal (the *AAT*), on an application under section 149Q of the Act for review of a decision of a registered trustee to file a notice of objection to the discharge of a bankrupt, cancels or varies the decision.
- (2) Where this regulation applies, the registered trustee must, by notice in writing, inform the Official Receiver of the decision of the AAT.
- (3) The registered trustee must give the notice within 7 days of being notified of the decision of the AAT.
- (4) An offence against subregulation (3) is an offence of strict liability.

**Part 7** Discharge and annulment

Regulation 7.02

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Penalty: 1 penalty unit.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

## **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.

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## **Part 9—Debt agreements**

### **9.01 Prescribed information to be supplied to the debtor**

- (1) For paragraph 185C(2D)(b) and subsection 185E(1) of the Act, the following information is prescribed:
  - (a) information about alternatives to entering into a debt agreement;
  - (b) information about the consequences of making a debt agreement proposal;
  - (c) information about sources of financial advice and guidance to persons facing or contemplating entering into a debt agreement;
  - (d) a statement that it is an act of bankruptcy for a debtor to give to the Official Receiver a debt agreement proposal.
- (2) The information must be factual and objective.
- (3) The Official Receiver must not accept a debtor's debt agreement proposal under Division 2 of Part IX of the Act, unless the debtor has given to the Official Receiver a signed acknowledgment that the debtor has received and read the prescribed information.
- (4) If the debtor presents a debt agreement proposal without having given the acknowledgement, the Official Receiver must:
  - (a) if the debtor presents the debt agreement proposal in person—give the prescribed information to the debtor; or
  - (b) if the debtor presents the debt agreement proposal by post—post the prescribed information to the debtor.
- (5) Subregulation (6) applies if a debtor intends to present a debt agreement proposal and the debtor is:
  - (a) unable to read the relevant material, because he or she is:
    - (i) blind, partially sighted, illiterate or partially literate; or
    - (ii) insufficiently familiar with the English language; or
  - (b) unable to sign the debt agreement proposal or the acknowledgment, because of a physical incapacity.
- (6) The debt agreement proposal and the acknowledgement may be signed by another person, who must sign a statement:
  - (a) if subparagraph (5)(a)(i) applies—that he or she has read the relevant material to the debtor; or
  - (b) if subparagraph (5)(a)(ii) applies—that he or she has interpreted the relevant material to the debtor in a language with which both persons are familiar; or
  - (c) if paragraph (5)(b) applies—that he or she believes that the debtor has read and understood the relevant material.
- (7) In this regulation:

Regulation 9.02

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*relevant material* means the debt agreement proposal, the prescribed information and the acknowledgment.

**9.02 Qualifications of applicants**

For paragraph 186C(2)(e) of the Act, the following qualifications are prescribed after 30 June 2009:

- (a) a Certificate IV in Financial Services (Accounting) from an Australian college of advanced education;
- (b) a degree, diploma or similar qualification from an Australian university, college of advanced education or other Australian tertiary institution that is of an equivalent or higher level to, and contains the same or similar subject matter as, the qualification mentioned in paragraph (a).

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## **Part 10—Personal insolvency agreements**

### **10.01 Modifications of Part X of the Act—joint debtors**

For section 187A of the Act, a provision of Part X of the Act specified in Part 1 of Schedule 6 is modified in accordance with that Part in relation to its application, in accordance with that section, to joint debtors, whether partners or not.

### **10.02 Information to be given to debtor (Act ss 188(2AA) and (2AB))**

- (1) For subsections 188(2AA) and (2AB) of the Act, the following information is prescribed:
    - (a) information about the consequences of entering into a personal insolvency agreement;
    - (b) information about sources of financial advice and guidance to persons facing or contemplating entering into a personal insolvency agreement;
    - (c) information about whether a personal insolvency agreement may be administered by a registered trustee or the Official Trustee;
    - (d) a statement that it is an act of bankruptcy if a debtor does any of the things mentioned in paragraphs 40(1)(i) to (m) of the Act;
    - (e) information about the processes under Part X of the Act;
    - (f) information about a debtor's rights and responsibilities under Part X of the Act, including a debtor's obligation to disclose all related entities;
    - (g) information about a controlling trustee's obligation to disclose his or her relationship with a debtor.
  - (2) The information must be factual and objective.
  - (3) A person authorised under subsection 188(1) of the Act to take control of a debtor's property must not consent to exercise the powers given by the authority unless the debtor has given the person a signed acknowledgement (which may be included with or appended to the authority) that the debtor has received and read the prescribed information.
  - (4) Subregulation (5) applies if a debtor intends to sign an authority and the debtor is:
    - (a) unable to read the relevant material, because he or she is:
      - (i) blind, partially sighted, illiterate or partially literate; or
      - (ii) insufficiently familiar with the English language; or
    - (b) unable to sign the authority or the acknowledgment, because of a physical incapacity.
  - (5) The authority and the acknowledgement may be signed by another person, who must sign a statement:
    - (a) if subparagraph (5)(a)(i) applies—that he or she has read the relevant material to the debtor; or
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### Regulation 10.03

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- (b) if subparagraph (5)(a)(ii) applies—that he or she has interpreted the relevant material to the debtor in a language with which both persons are familiar; or
- (c) if paragraph (5)(b) applies—that he or she believes that the debtor has read and understood the relevant material.

(6) In this regulation:

*relevant material* means the authority, the prescribed information and the acknowledgment.

#### 10.03 Documents under section 188 of Act

- (1) A registered trustee or solicitor who consents to exercise the powers given by an authority under section 188 of the Act must sign a consent in accordance with the approved form.
- (2) The registered trustee or solicitor must, within 2 business days after consenting, give a copy of the signed consent to an Official Receiver.
- (3) The registered trustee or solicitor must, within 2 business days after a proposal for dealing with the debtor's affairs under Part X of the Act is finalised, give a copy of the proposal to:
  - (a) an Official Receiver; and
  - (b) each creditor of the bankrupt of whom the registered trustee or solicitor is aware.

Note: Under subsection 188(5) of the Act, a registered trustee or solicitor who consents to exercise the powers given by an authority must also give a copy of the authority and the debtor's statement of affairs to an Official Receiver.

#### 10.06 Controlling trustee to give Official Receiver copy of special resolution and certain particulars for the Index

- (1) If, at a meeting called under an authority under section 188 of the Act, a special resolution is passed under subsection 204(1) of the Act, the controlling trustee must give to the Official Receiver, within 7 days after the date when the resolution is passed:
  - (a) a copy of the resolution; and
  - (b) written notice specifying the following particulars for entry in the Index:
    - (i) the date of the resolution;
    - (ii) in respect of the debtor:
      - (A) the debtor's full name, and any alias;
      - (B) the debtor's address;
      - (C) the debtor's occupation (if any);
    - (iii) if the resolution requires the debtor to execute a personal insolvency agreement—the name of each person nominated under subsection 204(3) of the Act to be a trustee of the agreement.

Penalty: 1 penalty unit.

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

### **10.07 Modifications of Part VIII of the Act—controlling trustees and trustees of personal insolvency agreements**

For section 210 of the Act, a provision of Part VIII of the Act specified in Part 3 of Schedule 6 is modified in accordance with that Part in relation to its application, in accordance with that section, to the controlling trustee in relation to a debtor.

### **10.08 Modifications of Division 1 of Part V of the Act—debtors whose property is subject to control under Division 2 of Part X of the Act**

For subsection 211(1) of the Act, a provision in Division 1 of Part V of the Act specified in Part 4 of Schedule 6 is modified in accordance with that Part in relation to its application, in accordance with that subsection, to a debtor whose property is subject to control under Division 2 of Part X of the Act.

### **10.10 Notification of personal insolvency agreement**

A notification under paragraph 218(1)(a) of the Act must be in writing.

Note: Regulation 16.01 applies to a notification under paragraph 218(1)(a) of the Act.

### **10.11 Sequestration order, or order terminating or setting aside a personal insolvency agreement—notice to Official Receiver (Act s 221, s 222 and s 222C)**

- (1) This regulation does not apply in relation to an applicant who is the Official Trustee, the Inspector-General or a person authorised by the Inspector-General under subsection 222(1) or (5) of the Act.
- (2) If the Court makes a sequestration order under subsection 221(1), 222(10) or 222C(5) of the Act, the applicant for the order must give a copy of the order to the Official Receiver.
- (3) If the Court makes an order:
  - (a) under subsection 222(1), (2) or (5) of the Act, setting aside a personal insolvency agreement; or
  - (b) under subsection 222C(1) of the Act, terminating a personal insolvency agreement;the applicant for the order must give a copy of the order to the Official Receiver.
- (4) A copy of an order required by this regulation to be given to the Official Receiver must be given within 2 days after the order is made.

Penalty: 1 penalty unit.

- (5) An offence against subregulation (4) is an offence of strict liability.

Regulation 10.12

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**10.12 Termination of personal insolvency agreement by trustee (Act s 222A)**

- (1) If a personal insolvency agreement is terminated in accordance with section 222A of the Act, the trustee of the agreement must immediately give written notice of the termination to the Official Receiver.

Penalty: 1 penalty unit.

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

**10.13 Modifications of Parts V and VI of the Act—personal insolvency agreements**

- (1) For subsection 231(1) of the Act, the provision specified in Part 5 of Schedule 6 is modified in accordance with that Part in relation to its application, in accordance with that subsection, to a debtor who has executed a personal insolvency agreement.
- (2) For subsection 231(3) of the Act, a provision specified in Part 6 of Schedule 6 is modified in accordance with that Part in relation to its application, in accordance with that subsection, to a personal insolvency agreement.
- (3) For subsection 231(5) of the Act, the provision specified in Part 7 of Schedule 6 is modified in accordance with that Part in relation to its application, in accordance with that subsection, to a trustee of a personal insolvency agreement.

**10.14 Certificate relating to realisation of divisible property and non-availability of dividend**

- (1) If the trustee of a personal insolvency agreement is satisfied that the divisible property of the debtor has, so far as practicable, been realised and no dividend is payable to the creditors, the trustee must, on written request by the debtor, give the debtor a certificate signed by the trustee to that effect.
- (2) The trustee must give the certificate to the debtor within 7 days of receiving the written request.
- (3) In any proceeding, a certificate signed by the trustee under subregulation (1):
  - (a) is evidence of the facts stated in it; and
  - (b) may be tendered in evidence without further proof.
- (4) If the trustee gives a certificate to the debtor under subsection 232(1) of the Act or subregulation (1), the trustee must, within 7 days of giving the certificate, give a copy of the certificate to the Official Receiver.

Penalty: 1 penalty unit.

- (5) An offence against subregulation (4) is an offence of strict liability.

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## **Part 11—Administration of estates of deceased persons in bankruptcy**

### **11.01 Statement of affairs and of administration of estate**

A statement under paragraph 246(1)(a) or subsection 247(1) of the Act must state, so far as applicable, the following particulars:

- (a) in relation to the capital account of the deceased person's estate:
  - (i) particulars of each amount received, including the name of the payer, the date received and the bank account into which the amount was paid; and
  - (ii) particulars of each amount paid, including the name of the payee, the date of payment and the bank account from which the amount was drawn;
- (b) in relation to each of the assets of the deceased person transferred to beneficiaries—the particulars of the asset, the date of transfer and the name and address of the relevant beneficiary;
- (c) in relation to the income account of the deceased person:
  - (i) particulars of each amount received, including the name of the payer, the date received and the bank account into which the amount was paid; and
  - (ii) particulars of each amount paid, including the name of the payee, the date of payment and the bank account from which the amount was drawn;
- (d) in relation to each of the unsecured debts owed by the deceased person:
  - (i) the name and address of the creditor and the amount (if any) owed by the creditor to the deceased person; and
  - (ii) the amount of the debt; and
  - (iii) the year when the debt was contracted; and
  - (iv) the nature of the debt;
- (e) in relation to each of the secured debts owed by the deceased person:
  - (i) the name and address of the creditor and the amount (if any) owed by the creditor to the deceased person; and
  - (ii) the amount of the debt and particulars of the security relating to it; and
  - (iii) the date when the security was given; and
  - (iv) the estimated present value of the security; and
  - (v) the estimated deficiency or surplus if the security were to be realised;
- (f) in relation to each of current hire purchase, credit purchase, lease purchase or similar agreements:
  - (i) the name and address of the finance company; and
  - (ii) the date of the agreement; and
  - (iii) particulars of the goods to which the agreement relates; and
  - (iv) any arrears of payment under the agreement; and

## Regulation 11.01A

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- (v) the amount required to complete the agreement; and
- (vi) the present value of the goods and the estimated deficiency or surplus if the goods were to be realised;
- (g) in relation to any other assets and liabilities, including contingent assets and liabilities, of the deceased person's estate—particulars of each asset and liability, including its present value.

### **11.01A Copy of petition etc to be given to Official Receiver**

- (1) A person who presents a petition under section 244 or 247 of the Act must, within 2 business days after the petition is endorsed by the Court, give a copy of the petition to the Official Receiver.
- (2) The time within which, under subsection 244(14) of the Act, a creditor must give to the Official Receiver a copy of an order under subsection 244(11) of the Act is 2 business days after the order is endorsed by the Court.

### **11.01B Proof of statement of affairs**

- (1) Subregulation (2) applies in any proceedings to a document or copy of a document that purports to be a certificate signed by the Inspector-General stating that, at a particular point in time, the form of statement of affairs that is attached to the certificate was the approved form for section 6A of the Act.
- (2) The document or copy:
  - (a) is proof, in the absence of evidence to the contrary, of information that is stated in it; and
  - (b) may be tendered in evidence without further proof.

### **11.02 Modifications of the Act—administration of estates of deceased persons**

For the purposes of subsections 248(1) and (3) of the Act, the provisions specified in Schedule 7 are modified in accordance with that Schedule in relation to proceedings under Part XI of the Act and the administration of estates under that Part.

## Part 12—Unclaimed dividends or moneys

### 12.01 Statement where moneys are paid to the Commonwealth

- (1) Where a trustee pays moneys, under subsection 254(2) of the Act, to the Commonwealth, he or she must, at the time of payment, give to the officer to whom the moneys are paid a statement setting out the name and address of:
  - (a) the trustee; and
  - (b) the relevant bankrupt, debtor or (subject to subregulation (2)) deceased person, as the case requires; and
  - (c) each person who, so far as the trustee is aware, is entitled to the moneys or any part of the moneys.
- (2) For the purposes of paragraph (1)(b), where the relevant person is a deceased person, the address to be stated is that person's address at the date of his or her death.
- (3) Where the Official Trustee or Official Receiver, or a registered trustee, pays moneys, under subsection 254(2A) of the Act, to the Commonwealth, that person must, at the time of payment give to the officer to whom the moneys are paid a statement setting out the name and address of:
  - (a) the trustee; and
  - (b) each person who, so far as the Official Trustee, Official Receiver or registered trustee is aware, is entitled to the moneys or any part of the moneys.
- (4) A registered trustee who gives a statement to an officer in accordance with subregulation (1) or (3) must, within 7 days, give a copy of the statement to the Official Receiver.
- (5) An offence against subregulation (4) is an offence of strict liability.

Penalty: 1 penalty unit.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

## **Part 13—National Personal Insolvency Index**

### **Division 1—Preliminary**

#### **13.01 Interpretation**

In this Part:

***BIOS*** means the electronic database, known as the Bankruptcy Index Online System, maintained before the commencement date by Registrars in Bankruptcy.

#### **13.02 Establishment and maintenance of the National Personal Insolvency Index**

- (1) For the purposes of the definition of ***National Personal Insolvency Index*** in subsection 5(1) of the Act, there is established an electronic index to be known as the National Personal Insolvency Index.
- (2) The Inspector-General has responsibility for the operation of the Index.
- (3) Each Official Receiver is to maintain the Index on behalf of the Inspector-General.

## **Division 2—Information to be entered on the Index**

### **13.03 What information is to be entered on the Index?**

- (1) Subject to this regulation, the following information is to be entered on the Index:
  - (a) in respect of each creditor's petition, bankruptcy, debt agreement under Part IX of the Act, personal insolvency agreement, administration under Part XI of the Act or order under section 253E of the Act, occurring or made on or after the commencement date—information of the kind specified in Schedule 8, to the extent applicable;
  - (b) the information on BIOS in respect of bankruptcies (including completed bankruptcies);
  - (c) in respect of each registered trustee or controlling trustee (other than the Official Trustee):
    - (i) the trustee's full name, and any alias;
    - (ii) the trustee's business address (including, where applicable, the postal address) and telephone number;
    - (iii) a statement or summary of any conditions applying to the person's entitlement to practise as a registered trustee;
    - (iv) the date on which details in respect of the trustee are entered on the Index;
    - (v) the date (if any) of termination of the trustee's registration as a trustee;
  - (d) in respect of each applicant for registration as a trustee:
    - (i) the applicant's full name, and any alias;
    - (ii) the applicant's business address (or, if none, his or her residential address);
    - (iii) the applicant's occupation;
    - (iv) the date on which details in respect of the applicant are entered on the Index;
  - (e) in respect of each debtor specified in subregulation (3):
    - (i) the debtor's full name, and any alias;
    - (ii) the debtor's address;
    - (iii) the debtor's occupation (if any);
    - (iv) the date on which details in respect of the debtor are entered on the Index;
  - (f) information that, under these Regulations, the Official Receiver:
    - (i) receives for entry on the Index; or
    - (ii) is required to enter on the Index;
  - (g) information concerning a creditor's petition (including details of any orders made in relation to the petition, or the withdrawal of the petition).

- (1A) In relation to a matter mentioned in paragraph (1)(a), a document described in an item in Schedule 8 must be given to the Official Receiver by the person
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### Regulation 13.04

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mentioned in column 4 of the item within the period mentioned in column 5 of the item.

- (1B) Item 13 of Schedule 8 applies in relation only to a bankruptcy dated 4 May 2003 or earlier.
- (2) Paragraph (1)(a) is taken to apply also to bankruptcies that:
- (a) occurred before the commencement date; and
  - (b) were not completed before the commencement date.
- (3) For the purposes of paragraph (1)(e), the following debtors are specified:
- (a) a debtor whose property is subject, by reason of a direction of the Court under paragraph 50(1)(a) of the Act, to the control of the Official Trustee or a registered trustee;
  - (b) a debtor who signed an authority under subsection 188(1) of the Act;
  - (c) subject to subregulation (5), in the case of a deceased debtor—where a petition for an order for the administration of the debtor’s estate has been presented under Part XI of the Act;
  - (d) a debtor who has applied to the Court under subsection 253E(1) of the Act for an order staying all or any proceedings under a petition.
- (4) In the application of paragraph (3)(c) (concerning certain deceased debtors) to paragraph (1)(e), the information to be entered is the information that applied in respect of the debtor immediately before his or her death.
- (5) Subregulation (1) applies subject to:
- (a) any decision of the Inspector-General under paragraph 13.04(3)(a); and
  - (b) any order or direction of the Administrative Appeals Tribunal on an application under regulation 13.05.
- (6) If an entry on the Index contains information that is, in the opinion of the Official Receiver, in any particular:
- (a) contrary to, or inconsistent with, a decision, order or direction of a kind mentioned in subregulation (5); or
  - (b) out of date, inaccurate or misleading;
- the Official Receiver must correct the entry without delay.

### **13.04 Application for certain information not to be on the Index**

- (1) Subject to subregulation (4), a person who is a debtor or bankrupt may apply in writing to the Inspector-General for information in respect of the person:
- (a) not to be entered on the Index, on the ground that the entry of the information would jeopardise, or be likely to jeopardise, the person’s safety; or
  - (b) on the Index to be removed on the ground that:
    - (i) its inclusion jeopardises, or is likely to jeopardise, the person’s safety; or
    - (ii) it is inaccurate or misleading; or

Regulation 13.05

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(c) on the Index to be corrected on the ground that it is inaccurate or misleading.

Note: Under subregulation (4), an application cannot be made for the removal of information in respect of a person's name or date of birth.

(2) The application must specify the ground relied and contain, or have with it, full particulars in support of the ground.

Example: A person may rely on a court order (such as a domestic violence order) to show that publication of the information in question would jeopardise, or be likely to jeopardise, the person's safety.

(3) The Inspector-General must, without delay:

- (a) decide an application; and
- (b) give notice in writing to the applicant of:
  - (i) the decision and the reasons for it; and
  - (ii) the applicant's right, if aggrieved by the decision, to apply under regulation 13.05 to the Administrative Appeals Tribunal for review of the decision.

(4) An application or a decision must not be made under this regulation to remove from the Index any of the following items of information in respect of a person:

- (a) the person's name;
- (b) the person's date of birth.

### **13.05 Application to the AAT**

A person who made an application under subregulation 13.04(1) and who is aggrieved by a decision under paragraph 13.04(3) (a) in respect of the application may apply to the Administrative Appeals Tribunal for review of the decision.

## **Division 2A—Removal of information from the Index**

### **13.05A Removal of information relating to debt agreement from the Index**

- (1) If a debt agreement ends under section 185N of the Act, the Official Receiver must remove information relating to the debt agreement from the Index within 1 month after the later of the following days:
  - (a) 5 years after the day on which the debt agreement was made;
  - (b) the day on which the debt agreement ends.
- (2) If a debt agreement is terminated under section 185P, 185Q, 185QA or 185R of the Act, the Official Receiver must remove information relating to the debt agreement from the Index within 1 month after the later of the following days:
  - (a) 5 years after the day on which the debt agreement was made;
  - (b) 2 years after the day on which the debt agreement is terminated.
- (3) If an order is made under section 185U of the Act declaring all of a debt agreement void, the Official Receiver must remove information relating to the debt agreement from the Index within 1 month after the later of the following days:
  - (a) 5 years after the day on which the debt agreement was made;
  - (b) 2 years after the day on which the order is made.

### **13.05B Removal of information relating to debt agreement proposal from the Index**

The Official Receiver must remove information relating to a debt agreement proposal from the Index within 1 year after the day on which any of the following occurs:

- (a) the proposal is withdrawn;
- (b) the proposal is not accepted under section 185EC of the Act;
- (c) the acceptance of the proposal for processing is cancelled under section 185ED of the Act;
- (d) the proposal lapses under section 185G of the Act.

## **Division 3—Miscellaneous**

### **13.06 Inspection of the Index**

- (1) A person may, by application in writing, ask an Official Receiver to inspect material in the Index and give an extract of material specified in the application.
- (2) On receipt of an application, the Official Receiver:
  - (a) if the fee determined under the Fees and Remuneration Determination is paid—must inspect the Index and, within 14 days of receiving the application:
    - (i) give the requested extract to the applicant; or
    - (ii) tell the applicant, in writing, that the requested extract is not entered in the Index; or
  - (b) may give the applicant a list of Index search agents who may be able to inspect material entered in the Index for the applicant.
- (3) A person who has been granted access to the Index by the Inspector-General may, after paying the fee determined under the Fees and Remuneration Determination:
  - (a) inspect material entered in the Index; or
  - (b) obtain an extract of material entered in the Index.

Example: For paragraph (b), making notes of information shown on a computer screen, or obtaining a print-out of information stored electronically.

- (4) However, prior payment is not required under subregulation (3) if the person has an alternative arrangement with the Inspector-General about the method of payment.

Example: An arrangement for payment by bulk billing.

- (5) The Inspector-General may specify conditions that apply to:
  - (a) the use of information entered in the Index; and
  - (b) the use of an extract of material entered in the Index.

Note: Under regulation 13.09, the Inspector-General has control of access to the Index.

### **13.07 Extract, etc of the Index to be admissible in evidence**

- (1) In any proceedings, a document or copy of a document that qualifies under subregulation (2):
  - (a) is proof, in the absence of evidence to the contrary, of information on the Index that is stated in it; and
  - (b) may be tendered in evidence without further proof.
- (2) A document or copy qualifies if it:
  - (a) purports (irrespective of the form of wording used) to be an extract of information on the Index; and

Regulation 13.08

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- (b) does not appear to the Court to have been revised or tampered with in a way that affects, or is likely to affect, the information.

**13.08 Immunity from defamation**

- (1) The Inspector-General, and any officer acting at the direction or with the authority of the Inspector-General, have immunity from actions for defamation arising out of publication of material in the Index or publication of extracts of material from the Index.
- (2) An officer has immunity from actions for defamation arising out of publication of material in the Index or publication of extracts of material from the Index, if the publication was done:
  - (a) by an officer acting in the course of his or her duty; and
  - (b) in good faith.
- (3) A person who provides material for entry in the Index has immunity from actions for defamation arising out of publication of the material by way of providing it for such inclusion, publication of the material in the Index or publication of extracts of the material from the Index, if the publication was done:
  - (a) in the performance of a function or duty under these Regulations or any other law of the Commonwealth; and
  - (b) in good faith.
- (4) Nothing in subregulation (2) or (3) affects by implication the generality of subregulation (1).
- (5) The immunity of the Inspector-General or another officer under this regulation arising out of publication of material extends to the Commonwealth and the Official Trustee to the extent that the Commonwealth or the Official Trustee would, apart from this subregulation, be liable in respect of the publication.
- (6) Nothing in this regulation affects by implication any other ground of defence.

**13.09 Access to the Index**

The Inspector-General has control of access to the Index.

**13.10 Information extracted from the Index to be evidence**

Information extracted from the Index is evidence, in the absence of proof to the contrary, of the truth of the information.

## **Part 14—Offences under the Act**

### **Division 1—Offences**

#### **14.01 Apprehension under a warrant—notification to Registrar in certain cases**

- (1) This regulation applies where:
  - (a) a warrant issued under subsection 264B(1) of the Act for the apprehension of a person is executed; and
  - (b) the person executing the warrant considers that it is impracticable to bring the apprehended person forthwith before the Court, a Registrar or a magistrate.
- (2) Where this regulation applies, the person executing the warrant must immediately notify a Registrar of the apprehension and of the date and time when the person considers that it will be practicable to bring the apprehended person before the Court, a Registrar or a magistrate.

#### **14.02 Registrar to act on notification; direction to person executing warrant**

- (1) Where a Registrar receives a notification under subregulation 14.01(2), he or she must, without delay:
  - (a) fix a date, time and place for the apprehended person to be brought before the Court, a Registrar or a magistrate; and
  - (b) direct the person who gave the notification to bring the apprehended person before the Court, a Registrar or a magistrate accordingly.
- (2) The time and date fixed under paragraph (1)(a) must be the earliest that, in the Registrar's opinion, are practicable.
- (3) A person to whom a direction is given under paragraph (1)(b) must comply with it.

## Division 2—Infringement notices

### 14.03 Purpose and effect of Division

- (1) For section 277B of the Act, this Division establishes an infringement notice scheme, as an alternative to prosecution, for infringement notice offences.
- (2) This Division does not:
  - (a) require an infringement notice to be issued to a person for an infringement notice offence; or
  - (b) affect the liability of a person to be prosecuted for an infringement notice offence if an infringement notice is not issued to the person for the offence; or
  - (c) prevent the issue of 2 or more infringement notices to a person for an infringement notice offence; or
  - (d) affect the liability of a person to be prosecuted for an infringement notice offence if the person does not comply with an infringement notice for the offence; or
  - (e) limit or otherwise affect the penalty that may be imposed by a court on a person convicted of an infringement notice offence.

### 14.04 Definitions

In this Division:

***infringement notice*** means an infringement notice served under regulation 14.05.

***infringement notice offence*** means an offence mentioned in the table in subsection 277B(2) of the Act.

***infringement penalty***, for an infringement notice offence, means the penalty for the offence mentioned in the table in subsection 277B(2) of the Act.

### 14.05 When infringement notices can be issued

If the Inspector-General has reasonable grounds to believe that a person has committed an infringement notice offence, the Inspector-General may, within 12 months after the alleged commission of the offence, issue the person with an infringement notice for the offence.

### 14.06 Contents of infringement notice

- (1) An infringement notice must:
  - (a) be identified by a unique number; and
  - (b) state that the notice is issued under these Regulations; and
  - (c) state the name of the person who issued the notice and how the person may be contacted; and

- (d) be signed by the person who issued the notice; and
  - (e) state the name and address of the person to whom it is issued; and
  - (f) set out brief details of the offence the person is alleged to have committed, including:
    - (i) the infringement notice offence that was allegedly contravened; and
    - (ii) the maximum penalty that may be imposed by a court for the offence; and
  - (g) state the amount of the infringement penalty that is payable under the notice; and
  - (h) state how and where the infringement penalty can be paid, including:
    - (i) the period in which the penalty may be paid; and
    - (ii) if the penalty can be paid by posting the payment—the place to which it should be posted; and
  - (i) state that if the person pays the infringement penalty in time:
    - (i) any liability of the person for the offence is discharged; and
    - (ii) a prosecution of the offence may not be brought against the person; and
    - (iii) the person is not regarded as having admitted guilt or liability for the offence; and
    - (iv) the person is not regarded as having been convicted of the offence; and
  - (j) state that the person may apply to the Inspector-General for an extension of time in which to pay the infringement penalty; and
  - (k) set out how the notice may be withdrawn; and
  - (l) state that if the notice is withdrawn:
    - (i) any amount of penalty paid under the notice must be refunded to the person; and
    - (ii) the person may be prosecuted in a court for the offence; and
  - (m) state that the person may apply in writing to the Inspector-General requesting the withdrawal of the notice.
- (2) An infringement notice may contain any other information that the Inspector-General considers necessary.

#### **14.07 Method of serving infringement notices**

- (1) An infringement notice must be served on the person to whom it is issued.
- (2) An infringement notice may be served on an individual:
  - (a) personally or by post; or
  - (b) by leaving the notice:
    - (i) at the last-known place of residence or business of the person; and
    - (ii) with a person, apparently over the age of 16 years, who appears to live or work at the place.
- (3) An infringement notice may be served on a corporation:

### Regulation 14.08

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- (a) by leaving it at, or by sending it by post to, the address of the head office, a registered office or a principal office, of the corporation; or
  - (b) by giving it, at an office mentioned in paragraph (a), to someone who is, or who the person serving the notice reasonably believes is, an officer or employee of the corporation.
- (4) Subject to subregulation (5), an infringement notice may be served on a registered trustee or a registered debt agreement administrator by sending it by electronic communication to the trustee's or administrator's business email address.
- (5) An infringement notice must not be sent by electronic communication unless the Inspector-General believes, on reasonable grounds, that the registered trustee or a registered debt agreement administrator will access the email account to which the notice is sent.

#### **14.08 Time for payment of infringement penalty**

The penalty specified in an infringement notice must be paid:

- (a) within 28 days after the day the notice is served on the person to whom it is issued; or
- (b) if the person applies for an extension of time in which to pay the infringement penalty and that application is granted—within the extension period allowed; or
- (c) if the person applies for an extension of time in which to pay the infringement penalty and the application is refused—before the end of the later of:
  - (i) 7 days after day the notice of the refusal is served on the person; and
  - (ii) 28 days after the day the infringement notice is served on the person;or
- (d) if the person applies for the notice to be withdrawn and the application is refused—within 28 days after the day the notice of the refusal is served on the person.

#### **14.09 Extension of time to pay infringement penalty**

- (1) 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 infringement penalty specified in the notice.
- (2) If the application is made after the end of the 28 day period specified in the notice for payment of the infringement penalty, the application must include a statement explaining why the person could not deal with the notice within that period.
- (3) Within 14 days after receiving the application, the Inspector-General must:
  - (a) grant, or refuse to grant, an extension of time to pay the infringement penalty; and

- (b) notify the person in writing of the decision, and, if the decision is a refusal, the reasons for the decision.
- (4) Notice of the decision may be served on the person in any way in which the infringement notice could have been served on the person.

#### **14.10 Withdrawal of infringement notice**

- (1) 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.
- (2) Within 14 days after receiving the application, the Inspector-General must:
  - (a) withdraw, or refuse to withdraw, the notice; and
  - (b) notify the person in writing of the decision, and, if the decision is a refusal, the reasons for the decision.
- (3) Before withdrawing, or refusing to withdraw, a notice, the Inspector-General must consider:
  - (a) the circumstances of the offence stated in the notice; and
  - (b) whether there are exceptional circumstances to justify the withdrawal; and
  - (c) any other relevant matter.
- (4) The Inspector-General may also withdraw an infringement notice without an application having been made if he or she believes it is appropriate to do so in all the circumstances of the particular case.

#### **14.11 Notice of withdrawal of infringement notices**

- (1) 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.
- (2) A notice withdrawing an infringement notice served on a person for an offence:
  - (a) must include the following information:
    - (i) the name and address of the person;
    - (ii) the number of the infringement notice;
    - (iii) the date of issue of the infringement notice; and
  - (b) must state that the notice is withdrawn; and
  - (c) if it is proposed that a prosecution be brought against the person for the offence—must state that the person may be prosecuted in a court for the offence.

#### **14.12 Refund of infringement penalty**

If an infringement notice is withdrawn after the infringement 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

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**14.13 Effect of payment of infringement penalty**

If a person served with an infringement notice pays the infringement penalty specified in the notice within the period specified in the notice (or any further period of time allowed under regulation 14.09):

- (a) any liability of the person for the offence is discharged; and
- (b) a prosecution of the offence may not be brought against the person for the offence; and
- (c) the person is not regarded as having admitted guilt or liability for the offence; and
- (d) the person is not regarded as having been convicted of the offence.

**14.14 Payment of infringement penalty—cheques**

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

**14.15 Evidentiary certificates**

- (1) The Inspector-General may sign a certificate that states any of the following in relation to an infringement notice served on a person:
  - (a) that the infringement penalty specified in the infringement notice was not paid by the person within the time specified in the notice;
  - (b) that the Inspector-General granted, or refused to grant, an extension of time to the person to pay the infringement penalty;
  - (c) that the infringement penalty was not paid by the person within the period specified in the extension;
  - (d) that the infringement notice was withdrawn under regulation 14.10 on a day specified in the certificate.
- (2) At a hearing of a prosecution for an offence mentioned in an infringement notice, a certificate signed by the Inspector-General in accordance with subregulation (1) is evidence of the matters specified in the certificate.
- (3) A certificate that purports to be signed by the Inspector-General is taken to have been signed by the Inspector-General unless the contrary is proved.

## **Part 15A—Provisions relating to the Bankruptcy Charges Acts**

### **15A.01 Interpretation**

(1) In this Part:

*charge* means an interest charge, a realisations charge or a registration charge.

*charge period* has the same meaning as in the Estate Charges Act.

*penalty* means a late payment penalty.

*trustee* includes a debt agreement administrator.

(2) An expression defined for Part XV of the Act has the same meaning in this Part.

### **15A.02 Mode of payment**

An amount of charge or penalty may be paid to the Inspector-General:

- (a) in cash; or
- (b) by cheque; or
- (c) by any other means (for example, by direct debit or electronic transfer) that the Inspector-General approves in writing.

### **15A.03 Overpayments to be refunded or offset**

The amount of an overpayment by a trustee of a charge or penalty may be:

- (a) refunded to the trustee; or
- (b) unless the trustee, by notice in writing to the Inspector-General, directs otherwise—offset against an amount of charge or penalty payable by the trustee.

### **15A.04 Information to accompany payment of interest charge**

- (1) A payment of interest charge by a trustee must have with it, in the approved form, any information required by the approved form.
- (2) Where a payment of interest charge is made by or on behalf of a trustee by non-physical means (for example, by direct debit or electronic transfer), the trustee must without delay give the Inspector-General that information.
- (3) This regulation does not apply to the Official Trustee.

### **15A.05 Information to accompany payment of realisations charge**

- (1) A payment of realisations charge by a trustee must have with it, in the approved form, any information required by the approved form.

Regulation 15A.07

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- (2) Where a payment of realisations charge is made by or on behalf of a trustee by non-physical means (for example, by direct debit or electronic transfer), the trustee must without delay give the Inspector-General that information.
- (3) This regulation does not apply to the Official Trustee.

**15A.07 Lodgment of request for remission**

A request by a trustee for remission of a charge or penalty must be in writing and lodged with an Official Receiver.

## **Part 16—Miscellaneous**

### **Division 1—Provisions concerning documents (including inventories)**

#### **16.01 Service of documents**

- (1) Unless the contrary intention appears, where a document is required or permitted by the Act or these Regulations to be given or sent to, or served on, a person (other than a person mentioned in regulation 16.02), the document may be:
  - (a) sent by post, or by a courier service, to the person at his or her last-known address; or
  - (b) left, in an envelope or similar packaging marked with the person's name and any relevant document exchange number, at a document exchange where the person maintains a document exchange facility; or
  - (c) left, in an envelope or similar packaging marked with the person's name, at the last-known address of the person; or
  - (d) personally delivered to the person; or
  - (e) sent by facsimile transmission or another mode of electronic transmission:
    - (i) to a facility maintained by the person for receipt of electronically transmitted documents; or
    - (ii) in such a manner (for example, by electronic mail) that the document should, in the ordinary course of events, be received by the person.
- (2) A document given or sent to, or served on, a person in accordance with subregulation (1) is taken, in the absence of proof to the contrary, to have been received by, or served on, the person:
  - (a) in the case of service in accordance with paragraph (1)(a) or (b)—when the document would, in the due course of post or business practice, as the case requires, be delivered to the person's address or document exchange facility; and
  - (b) in the case of service in accordance with paragraph (1)(c), (d) or (e)—when the document is left, delivered or transmitted, as the case requires.

#### **16.02 Documents for the Inspector-General, the Official Receiver or the Official Trustee**

- (1) Unless the contrary intention appears, where a document is required or permitted by the Act or these Regulations to be given or sent to, or filed or lodged with, the Inspector-General, the Official Receiver or the Official Trustee, the document must:
  - (a) be posted to, or delivered at:
    - (i) in the case of a document for the Inspector-General—the office of the Inspector-General; or
    - (ii) in the case of a document for the Official Receiver or the Official Trustee—the office of the Official Receiver; or

### Regulation 16.03

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- (b) sent by facsimile transmission:
    - (i) in the case of a document for the Inspector- General—to a facility maintained by the Inspector- General for receipt of facsimile transmissions; or
    - (ii) in the case of a document for the Official Receiver or the Official Trustee—to a facility maintained by the Official Receiver for receipt of facsimile transmissions; or
  - (c) sent by another mode of electronic transmission (for example, by electronic mail):
    - (i) in the case of a document for the Inspector- General—to the office of the Inspector-General; or
    - (ii) in the case of a document for the Official Receiver or the Official Trustee—to the office of the Official Receiver.
- (2) Where subregulation (1) applies, the document is taken to be received, filed or lodged only when the document (or, where applicable, a copy of it) is actually received by, or on behalf of, the Inspector-General or the Official Receiver (as the case requires).

### **16.03 Inventory by trustee taking possession of, or attaching, property**

Where, under the Act, a trustee takes possession of, or attaches, the property of a bankrupt, debtor or deceased person, the trustee must, as soon as is reasonably practicable:

- (a) make, sign and date an inventory of the property; and
- (b) give a copy of the inventory to any person who has custody of the property or part of the property.

### **16.03A Document filed by Inspector-General or Official Receiver—fee not payable**

A fee is not payable by the Inspector-General or the Official Receiver in respect of an application to, or the filing of a document in, the Court.

## **Division 2—Matters relevant to fees**

Note: Divisions 2 and 3 of Part 16 of the Regulations formerly provided for the fees in relation to the Act (including remuneration of the Official Trustee). As a result of the amendment of the Act by the *Bankruptcy Legislation Amendment (Fees and Charges) Act 2006*, the remuneration of the Official Trustee and fees in relation to the Act are now set out in the Fees and Remuneration Determination.

### **16.06 Payment of fees**

- (1) If a fee is payable in respect of:
  - (a) the making of a request or an application to an Official Receiver; or
  - (b) the presentation or lodgment of a document with an Official Receiver;the request, application or document must not be dealt with unless the fee has been paid.
- (2) If a fee is payable in respect of the doing of a matter or thing by an Official Receiver, the matter or thing must not be done unless the fee has been paid.
- (3) However, prior payment of a fee is not required under subregulation (1) or (2) if the person has an alternative arrangement with the Inspector-General about the method of payment.

Example: An arrangement under which fees payable by a registered trustee are paid monthly in arrears.

### **16.07 Official Trustee's entitlement to interim remuneration**

- (1) The Official Trustee's entitlement to remuneration under the Fees and Remuneration Determination arises when the Official Trustee:
  - (a) performs work or first acts in accordance with clause 3.03, 3.04, 3.07 or 3.08 of the Fees and Remuneration Determination; or
  - (b) is appointed as described in clause 3.06 of the Fees and Remuneration Determination; or
  - (c) first acts in accordance with subclause 3.09(1) of the Fees and Remuneration Determination; or
  - (d) performs work as described in subclause 3.09(2) or clause 3.10 of the Fees and Remuneration Determination.
- (2) For paragraph (1)(a), (b) or (d), remuneration is payable to the Official Trustee in respect of an amount received by the Official Trustee:
  - (a) when the amount is received; and
  - (b) at the rate applicable when the amount is received.
- (3) For paragraph (1)(c), remuneration is payable to the Official Trustee:
  - (a) from time to time as the funds are realised; and
  - (b) at the rate applicable when the funds are realised.

## Regulation 16.08

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### 16.08 Reimbursement of Official Trustee for expenses

- (1) An amount equal to the amount of expenses incurred by the Official Trustee, in performing work of a kind mentioned in clause 3.03, 3.04, 3.08 or 3.09 of the Fees and Remuneration Determination in relation to an estate or debtor, is payable to the Official Trustee:
  - (a) for work under clause 3.03, 3.08 or 3.09—out of the estate; or
  - (b) for work under clause 3.04—out of the composition or scheme of arrangement.
- (2) In this regulation:

*amount realised* has the meaning given by clause 3.01 of the Fees and Remuneration Determination.

### 16.09 Fees—notes and transcript of evidence

For paragraph 81(17)(b) of the Act, the prescribed fee is \$20.

### 16.11 Waiver or remission of fees by Inspector-General

- (1) Subject to subregulation (2), the Inspector-General may waive or remit the whole or part of any fee.
- (2) A fee may only be waived or remitted, whether wholly or in part, if the Inspector-General is reasonably satisfied that:
  - (a) payment of the fee by the person liable to pay it has imposed, or would impose, undue hardship on the person; or
  - (b) because of other exceptional circumstances, it is proper and reasonable to do so.
- (3) For paragraph (2)(a), *undue hardship* means hardship that is unusual and exceptional in comparison to the hardship arising in the normal course of bankruptcy.
- (4) A decision under subregulation (1) must be notified in writing to:
  - (a) the person concerned; and
  - (b) except where the fee is payable to the Inspector-General—the officer to whom the fee is or, but for the waiver or remission, would be payable.
- (5) In this regulation:

*fee* means a fee payable under:

  - (a) regulation 16.09; or
  - (b) item 1, 2, 3, 4, 9, 13, 14 or 15 of the table following clause 2.01 of the Fees and Remuneration Determination; or
  - (c) clause 2.02, 2.03, 2.08 or 2.09 of the Fees and Remuneration Determination.

## **16.12 Review by AAT of decision of Inspector-General**

Application may be made to the Administrative Appeals Tribunal for review of a decision of the Inspector-General under subregulation 16.11(1) to refuse to waive or remit the whole or part of a fee that became payable under a provision or item mentioned in the definition of fee in regulation 16.11.

Note: Under section 27A of the *Administrative Appeals Tribunal Act 1975*, the decision-maker must give any person whose interests are affected by the decision notice, in writing or otherwise, of the making of the decision and of the person's right to have the decision reviewed. In giving that notice, the decision-maker must have regard to the Code of Practice determined under section 27B of that Act (*Gazette* No. S 432, 7 December 1994).

### **Division 3—Transitional**

#### **16.13 Application of *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008***

- (1) The amendments made by items 20, 21, 22, 23, 29, 30 and 31 of Schedule 2 to the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008* apply to a bankruptcy the date of which is on or after the commencement of those amendments.
- (2) The amendments made by items 25 to 28 of Schedule 2 to the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008* apply to a transfer of property that is made on or after the commencement of those amendments.
- (3) The amendment made by item 16 of Schedule 2 to the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008* applies to an examinable period, within the meaning of section 139CA of the Act, that begins on or after the commencement of that amendment.
- (4) For sections 265 and 268 of the Act, the amendments made by items 11, 13, 18 and 19 of Schedule 2 to the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008* applies to a disposition of property that is made on or after the commencement of those amendments.

#### **16.14 Transitional provisions relating to the *Bankruptcy Amendment (National Personal Insolvency Index) Regulation 2015***

- (1) If:
  - (a) subregulation 13.05A(1), (2) or (3) requires the Official Receiver to remove information relating to a debt agreement from the Index; and
  - (b) the later of the days referred to in the subregulation was before 19 November 2015;the Official Receiver is taken to have complied with the subregulation if the Official Receiver removes the information as soon as practicable after 19 November 2015.
- (2) If:
  - (a) regulation 13.05B requires the Official Receiver to remove information relating to a debt agreement proposal from the Index; and
  - (b) the day on which one of the events referred to in the regulation occurred was before 19 November 2015;the Official Receiver is taken to have complied with the regulation if the Official Receiver removes the information as soon as practicable after 19 November 2015.

# Schedule 1—Forms

(regulation 4.02)

## Bankruptcy Notice

Bankruptcy Act 1966 Subsection 41(2)  
Bankruptcy Regulations 1996 Regulation 4.02

<b>To</b>	Title	Given Name/s	Surname
	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>of</b>	Address		Postcode
	<input type="text"/>		<input type="text"/>
<b>and*</b>	Title	Given Name/s	Surname
	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>of</b>	Address		Postcode
	<input type="text"/>		<input type="text"/>

*\* if more than one debtor*

**You are notified that:**

Creditor's name and ABN/ ACN if applicable (*if more than one creditor, include all creditors*)

Address

Address (line 2)

Postcode

**claim/s that you owe the following debt**

1. Amount as per the attached final judgment/s or final order/s (note A)	<input type="text"/>
2. <u>Add</u> legal costs (note B)	<input type="text"/>
3. <u>Add</u> interest accrued since date of judgment/s or order/s (note C)	<input type="text"/>
4. Sub total (1 + 2 + 3)	<input type="text"/>
5. <u>Less</u> payments made and/or credit allowed since judgment/s or order/s	<input type="text"/>
<b>6. TOTAL DEBT AMOUNT (4 - 5)</b>	<input type="text"/>

**Notes**

A. If an attached final judgment or final order is expressed in an amount of foreign currency, you may pay the amount in that foreign currency or pay an equivalent amount in Australian dollars that has been calculated using the opening telegraphic transfer rate of *[name of institution]*  as at *[date]*

Foreign currency amount  X *[telegraphic transfer rate]*  = AUD \$

B. Where legal costs are being claimed (and a specific amount was not included in the judgment/s or order/s), a certificate of taxed or assessed costs in support of the amount claimed is attached.

C. Where interest is being claimed, the provisions under which it is claimed and the basis of its calculation are shown in the attached interest schedule. If no interest is claimed the creditor need not attach the schedule to this notice.

1. You are required, within  days after service on you of the Bankruptcy Notice, to either:

- (a) pay to the creditor the amount of the debt claimed; or
- (b) make arrangements to the creditor's satisfaction for settlement of the debt.

\* A Bankruptcy Notice served in Australia must be complied with within 21 days after service. The Court may fix a different time for compliance where it gives leave to serve a Bankruptcy Notice outside of Australia.

2. Payment of the debt can be made to (name and address, including telephone, fax and email address if appropriate):

3. Bankruptcy proceedings may be taken against you if, within the time stated in paragraph 1 above, you do not comply with either paragraph 1(a) or 1(b), and the Court (that is, the Federal Court of Australia or the Federal Magistrates Court of Australia) does not extend the time for compliance with this Bankruptcy Notice (see paragraph 4 below).

4. Applying to extend the time for compliance: You may apply to the Court, within the time stated in paragraph 1 above, for an extension of time for compliance with this Bankruptcy Notice on the grounds that:

- (a) you have instituted proceedings to set aside the judgment/s or order/s in respect of which this Bankruptcy Notice has been issued; and/or
- (b) you have filed with the Court an application to set aside this Bankruptcy Notice (on grounds other than those set out in paragraph 5 below).

5. Applying to set aside the Bankruptcy Notice: You may apply to the Court, within the time stated in paragraph 1 above, for an order that this Bankruptcy Notice be set aside on the grounds that you have a counter-claim, set-off or cross demand, equal to or exceeding the amount claimed in this Bankruptcy Notice, and you could not have set up that counter-claim, set-off or cross demand in the action or proceeding in which the judgment or order in respect of which this Bankruptcy Notice has been issued was obtained.

6. You should note the following points carefully:

- (a) if you apply to the Court for an extension of time to comply with this Bankruptcy Notice (see paragraph 4 above), and the Court has not granted any extension before the expiration of the time stated in paragraph 1 above, you must still comply with this Bankruptcy Notice within the time stated;
- (b) however, if you have applied to the Court to set aside this Bankruptcy Notice on the grounds set out in paragraph 5 above, you need not comply with this Bankruptcy Notice before the Court decides on your application. Whether you have to comply with the Bankruptcy Notice after this time will depend on the Court's decision.

7. If you make an application to the Court, the creditor will accept service of legal documents at (name and address, including telephone, fax and email address if appropriate):

**WARNING**  
**THIS BANKRUPTCY NOTICE IS AN IMPORTANT DOCUMENT. THE INFORMATION IT CONTAINS IS BASED ON PROVISIONS OF THE BANKRUPTCY ACT 1966 (THE ACT). THE INFORMATION IS A SUMMARY ONLY AND NOT A COMPLETE STATEMENT OF THE LAW. IF YOU REQUIRE A MORE DETAILED EXPLANATION, OR ARE UNSURE WHAT TO DO AFTER READING THE NOTICE, YOU SHOULD SEEK LEGAL ADVICE.**

**Note to creditor about use of information**  
The information you provide on this Bankruptcy Notice may be included on a public record. It may also be disclosed to government agencies and departments, or other persons or bodies for purposes authorised by the Act.

Issued by the Official Receiver when endorsed below

Office use only

## Schedule of Post-Judgment Interest Calculation

Interest calculations in relation to the judgment/s or order/s attached to this notice					
Interest claim period		Statutory provision under which the post-judgment interest is being claimed	Principal amount on which interest is claimed	Rate of interest (%)	Interest amount claimed
Date from	Date to				
Judgment/ order number:					
Judgment/ order number:					
Judgment/ order number:					
Judgment/ order number:					
Total amount of interest claimed					

## Schedule 3—Paragraph 109(1)(a) of the Act—order of payment of first priority debts

(regulation 6.01)

1. Realisations charges payable under the *Bankruptcy (Estate Charges) Act 1997*

- 1A. If the Official Trustee transfers the administration of the bankruptcy to a registered trustee:
- (a) the remuneration set out in Division 3.2 of the Fees and Remuneration Determination that is payable to the Official Trustee; and
  - (b) the reimbursement set out in regulation 16.08 that is payable to the Official Trustee.

2. Expenses reasonably incurred by or on behalf of the trustee:
- (a) in protecting all or part of the bankrupt's assets; or
  - (b) in carrying on, in accordance with the Act, a business of the bankrupt; or
  - (c) by way of an advance made to the trustee of the bankrupt's estate for payment of properly incurred expenses of the estate for any proper purpose (other than remuneration of the trustee)

3. Other fees, costs, charges and expenses payable by the trustee in administering the bankrupt's estate

4. Where:
- (a) a creditor has deposited an amount in accordance with an order made under section 50 of the Act; and
  - (b) the amount, or part of the amount, has been used for meeting the expenses referred to in that regulation;
- the amount, or part of the amount, that has been so used

5. The taxed costs of the petitioning creditor, the administrator of the estate of a deceased person or the applicant under Part X of the Act for a sequestration order and, if a petitioning creditor under Part X of the Act also applied for an order under Division 5 or 6 of Part IX of the Act, any taxed costs of the creditor in respect of the application\*

6. The trustee's lawful remuneration

7. Where the creditors, or a majority of them, have approved payment of out-of-pocket expenses incurred by a member of the committee of inspection—those expenses, to the extent that the trustee of the bankrupt's estate allows them as being fair and reasonable

8. Costs of any audit carried out under section 70-15 of Schedule 2 to the Act

\*Note: For the extended application of item 5, see subregulation 6.01(2).

## **Schedule 4—Modifications of the Fringe Benefits Tax Assessment Act 1986**

(regulation 6.12)

### **1 Section 7 (Car benefits)**

1.1 Subsections 7(1), (2), (3) and (4):

Omit the subsections, substitute:

‘(1) Where, at any time on a day, a person:

- (a) applies a car held by the person; or
- (b) makes a car held by the person available;

for the private use of a bankrupt, the car is taken, for the purposes of this Act, to constitute a benefit provided on that day by the first-mentioned person to the bankrupt.’.

### **2 Section 8 (Exempt car benefits)**

2.1 Subsections 8(1) and (2):

Omit the subsections.

### **3 Section 9 (Taxable value of car fringe benefits—statutory formula)**

3.1 Subparagraphs 9(2)(c)(i) and (ii):

Omit the subparagraphs, substitute:

‘(i) for the first contribution assessment period:

- (A) where the annualised number of whole kilometres travelled by the car during the year preceding the bankruptcy was more than 40,000—0.07; or
- (B) where the annualised number of whole kilometres travelled by the car during the year preceding the bankruptcy was not more than 40,000 and not less than 25,000—0.11; or
- (C) where the annualised number of whole kilometres travelled by the car during the year preceding the bankruptcy was less than 25,000 and not less than 15,000—0.20; or
- (D) where the annualised number of whole kilometres travelled by the car during the year preceding the bankruptcy was less than 15,000—0.26; and

(ii) for each subsequent contribution assessment period:

- (A) where the annualised number of whole kilometres travelled by the car during the previous contribution assessment period was more than 40,000—0.07; or
- (B) where the annualised number of whole kilometres travelled by the car during the previous contribution assessment period was not more than 40,000 and not less than 25,000—0.11; or

- (C) where the annualised number of whole kilometres travelled by the car during the previous contribution assessment period was less than 25,000 and not less than 15,000—0.20; or
- (D) where the annualised number of whole kilometres travelled by the car during the previous contribution assessment period was less than 15,000—0.26;’.

3.2 Paragraph 9(2)(d):

Omit the paragraph, substitute:

- ‘(d) the annualised number of whole kilometres travelled by the car during a contribution assessment period is:
  - (i) if records of the bankrupt show the number of kilometres travelled by the car during the year preceding that period—that number of kilometres; or
  - (ii) in any other case—the number of kilometres worked out in accordance with the following formula:

$$\frac{AB}{C};$$

where:

*A* is the number of whole kilometres travelled by the car during the period (in this subsection referred to as the ‘holding period’) constituting that part of the contribution assessment period during which the provider held the car; and

*B* is the number of days in the contribution assessment period; and

*C* is the number of days in the holding period; and’.

3.3 Sub-subparagraph 9(2)(e)(ia)(B):

Omit the sub-subparagraph.

3.4 Subsection 9(2):

Add at the end:

‘Examples:

1. **Assessment in the first contribution assessment period**

A car is purchased in June 1994 for Christopher’s use. The purchase price of the car is \$20,000. During the period up to till 30 June 1995, Christopher uses the car on 200 days and travels 10,000 kilometres in that period. Christopher is declared bankrupt on 1 July 1992. His contribution to expenses is \$300.

The annualised number of kilometres according to the formula  $\frac{AB}{C}$  is

$$\frac{10\,000 \times 365}{200} = 18\,250 \text{ kilometres}$$

The figures to be inserted in the formula for calculating the value of the car benefit are:

- A (base value): \$20,000;
- B (statutory fraction [for 18,250 km.]): 0.20;
- C (days when benefit provided): 365;
- D (days in contribution assessment period): 365;
- E (bankrupt's contribution): \$300.

The value of the car benefit, according to the formula  $\frac{ABC}{D} - E$  is:

$$\frac{\$20\,000 \times 0.20 \times 365}{365} - 300 = \$3,700$$

**2. Assessment in the second contribution assessment period**

Suppose that the same car is provided in the second contribution assessment period for the use of the bankrupt, and that during the first contribution assessment period the car travelled 40,000 kilometres. The annualised number of kilometres for the second contribution assessment period is then 40,000 kilometres. Suppose also that the bankrupt's contribution remains \$300. All figures will remain the same except the statutory fraction, which will be 0.11. According to the formula, the value of the benefit in the second contribution assessment period is:

$$\frac{\$20\,000 \times 0.11 \times 365}{365} - 300 = \$1,900.$$

**4 Section 10 (Taxable value of car fringe benefits—cost basis)**

4.1 Omit the section.

**5 Section 10A (No reduction of operating cost in a log book year of tax unless log book records and odometer records are maintained)**

5.1 Omit the section.

**6 Section 10B (no reduction of operating cost in a non-log book year of tax unless log book records and odometer records are maintained in log book year of tax)**

6.1 Omit the section.

**7 Section 10C (Nominated business percentage to be reduced if it exceeds business percentage established during applicable log book period or if it is unreasonable)**

7.1 Omit the section.

**8 Section 11 (Calculation of depreciation and interest)**

8.1 Omit the section.

**9 Section 12 (Depreciated value)**

9.1 Omit the section.

**10 Section 13 (Expenditure to be increased in certain circumstances)**

10.1 Subsection 13(1):

Omit all the words after ‘section 9’.

**11 Section 22A (Taxable value of in-house expense payment fringe benefits)**

11.1 Omit the section.

**12 Section 23 (Taxable value of external expenses payment fringe benefits)**

12.1 Omit ‘external’.

**13 Section 26 (Taxable value of non-remote housing fringe benefits)**

13.1 Omit the section, substitute:

**‘26 Taxable value of housing fringe benefits**

Subject to this Part, the value of a housing fringe benefit in relation to a contribution assessment period is the portion of the market value of the recipient’s current housing right that exceeds the recipient’s rent’.

**14 Section 28 (Indexation factor for valuation purposes—non-remote housing)**

14.1 Omit the section.

**15 Section 29 (Taxable value of remote area accommodation)**

15.1 Omit the section.

**16 Section 29A (Indexation factor for valuation purposes—remote area accommodation)**

16.1 Omit the section.

**17 Section 31 (Taxable value of living-away-from-home allowance fringe benefits)**

17.1 Add at the end:

‘(2) For the purposes of this section, ‘deducted home consumption expenditure’ referred to in the definition of *exempt food component* in section 136 to be taken to be:

- (a) in relation to a person of the age of 12 years or over—\$42; and
- (b) in relation to a person under the age of 12 years—\$21.

Example: **Calculation of the value of a living-away-from-home allowance.**

Assume that a bankrupt living away from his or her family is given a living-away-from-home allowance of \$220 a week. Of this amount, \$100 represents reasonable compensation for the costs of accommodation (i.e. the ‘exempt accommodation component’ is \$100), and \$80 represents reasonable compensation for the cost of food.

The remaining \$40 is compensation for the disadvantage of living away from home in a town where facilities that would be available at home are not available.

Under subsection 31(2), the exempt food component is \$80 minus \$42 (i.e. the compensation for increased food cost less the deducted home consumption expenditure). The value of the benefit is:

$$\$200 - 100 - (80 - 42) = \$82.$$

**18 Section 32: (Airline transport benefits)**

18.1 Sub-subparagraph 32(b)(ii)(B):

Omit ‘and’.

18.2 Paragraph 32(c):

Omit the paragraph.

**19 Section 36 (Taxable value of board fringe benefits)**

19.1 Omit the section, substitute:

**‘36 Taxable value of board fringe benefits**

Subject to this Part, the value of a board fringe benefit is:

- (a) in relation to a contribution assessment period beginning:
  - (i) on 1 July 1992; or
  - (ii) during the year beginning on 1 July 1992;
 \$1; and
- (b) in relation to a later contribution assessment period—a sum worked out according to the formula:

$$1 \times \text{CPI}$$

where:

*CPI* is the increase in the All Groups Consumer Price Index number that is the weighted average of the 8 capital cities published by the Australian Statistician in respect of the period that commences on 1 July 1992 and ends immediately before the start of the financial year in which the contribution assessment period commences.’.

**20 Section 37 (Reduction of taxable value—‘otherwise deductible’ rule)**

20.1 Omit the section.

**21 Division 11 of Part III (Property fringe benefits)**

21.1 Omit the Division.

**22 Section 46 (Year of tax in which residual benefits taxed)**

22.1 Omit the section, substitute:

**‘46 Contribution assessment period in which residual fringe benefits are to be assessed**

A residual benefit that is provided during a period which extends over two or more contribution assessment periods is subject to assessment for income contribution in each of those periods.’.

**23 Section 48 (Taxable value of in-house non-period residual fringe benefits)**

23.1 Omit the section.

**24 Section 49 (Taxable value of in-house period residual fringe benefits)**

24.1 Omit the section.

**25 Section 50 (Taxable value of external non-period residual fringe benefits)**

25.1 Omit the section, substitute:

**‘50 Value of residual fringe benefits**

Subject to this Part, the value of a residual fringe benefit in relation to a contribution assessment period is the cost to the provider of providing the benefit, reduced by the amount of the recipient’s contribution.’.

**26 Section 51 (Taxable value of external period residual fringe benefits)**

26.1 Omit the section.

**27 Division 14 of Part III (Reduction of taxable value of miscellaneous fringe benefits)**

27.1 Omit the Division.

**28 Division 14A of Part III (Amortisation of taxable value of fringe benefits relating to remote area home ownership schemes)**

28.1 Omit the Division.

**29 Division 14B of Part III (Reducible fringe benefits relating to remote area home ownership repurchase schemes)**

29.1 Omit the Division.

**30 Section 136 (Interpretation)**

30.1 Subsection 136(1):

Insert the following definition:

*‘contribution assessment period* has the meaning given by section 139K of the *Bankruptcy Act 1966* as in force from time to time.’.

30.2 Subsection 136(1) (definition of *family member*):

Omit the definition, substitute:

*‘family member*, in relation to:

- (a) a benefit provided to a employee, or to an associate of a employee, means:
  - (i) the employee; or
  - (ii) the spouse of the employee; or
  - (iii) a child of the employee; and
- (b) a benefit provided to a bankrupt, or to an associate of a bankrupt, means:
  - (i) the bankrupt; or
  - (ii) the spouse of the bankrupt; or
  - (iii) a child of the bankrupt;’.

30.3 Subsection 136(1) (definition of *fringe benefit*):

Omit the definition, substitute:

*‘fringe benefit*, in relation to a bankrupt, in relation to a contribution assessment period, means a benefit provided at any time during the period by any person to the bankrupt, other than:

- (a) a benefit provided to the bankrupt by his or her spouse under, or because of a genuine maintenance agreement between the spouses; or
- (b) a benefit provided under a maintenance order, within the meaning of the *Bankruptcy Act 1966* as in force from time to time; or

- (c) the benefit of an order by a court in favour of the bankrupt in respect of costs of litigation; or
- (d) educational expenses paid by any person in respect of a child of:
  - (i) the bankrupt; or
  - (ii) the bankrupt's spouse; or
- (e) the amount of a refund, or part of a refund, due by the Commissioner to the bankrupt under a law of the Commonwealth, being an amount that the Commissioner has lawfully offset against a tax liability, within the meaning of the *Taxation Administration Act 1953* as in force from time to time, of the bankrupt; or
- (f) subject to subsection (1A), a benefit of a kind referred to in paragraphs (f) to (p) (inclusive) of the definition of **fringe benefit** in this Act (in its unmodified form) as in force at the beginning of 1 July 1992; or
- (g) support by way of one or both of the following:
  - (i) lodging (including any board); or
  - (ii) occasional use of a motor vehicle used for domestic purposes; up to a value of \$250 a week, if the support is provided by a person in the person's principal place of residence, and the person is:
  - (iii) a close relative; or
  - (iv) a brother or sister (including a half-brother, half-sister, adoptive brother or adoptive sister);of the bankrupt.

Note: **Close relative**, in relation to a person, is defined in section 136 of the *Fringe Benefits Tax Assessment Act 1986* as:

- (a) the spouse of the person; or
- (b) a child or parent of the person; or
- (c) a parent of the person's spouse.

30.4 After subsection 136(1), insert:

- '(1A) For the purposes of paragraph (f) of the definition of **fringe benefit** in subsection (1), paragraph (h) of the paragraphs referred to in that paragraph has effect as if 'the employee, or by a relative of the employee,' were omitted and 'the bankrupt' substituted.'

## **Schedule 6—Modifications in relation to Part X of the Act**

(regulations 10.01, 10.05, 10.07, 10.08 and 10.13)

### **Part 1—Modifications of Part X of the Act—joint debtors**

#### **1 Section 187A**

*omit*

This Part

*insert*

(1) This Part

#### **2 Section 187A**

*insert*

- (2) In the application of this Part (other than subsection 187(1A)) to joint debtors, whether partners or not, an expression specified in one of the following rules of interpretation applies to the extent that the context reasonably permits:
- (a) ‘a debtor’ is to be read as ‘joint debtors’;
  - (b) ‘the debtor’ is to be read as ‘the joint debtors’;
  - (c) ‘the debtor’s’ is to be read as ‘the joint debtors’;
  - (d) if used in relation to a debtor:
    - (i) ‘he or she’ is to be read as ‘they’; and
    - (ii) ‘his or her’ is to be read as ‘their’; and
    - (iii) ‘him or her’ is to be read as ‘them’; and
    - (iv) a noun or verb in the singular form is to be read as being in the plural form.
- (3) Subsection (2) applies, subject to any specific modifications of this Part by the *Bankruptcy Regulations 1996*.
- (4) To the extent that the context reasonably permits, a reference (by operation of subsection (2)) to joint debtors includes a reference to any of the joint debtors.
- (5) A reference to the affairs, or examinable affairs, of a debtor includes a reference to the separate affairs, or separate examinable affairs, of a joint debtor.

#### **3 Subsection 188(1)**

*omit*

A debtor

*insert*

If each joint debtor is a person

**4 Subsection 188(1)**

*before*

may sign

*insert*

the joint debtors

**5 Subsections 188(2AA) and (2AB)**

*omit*

the debtor

*insert*

each joint debtor

**6 Subsection 188(2C)**

*omit the second occurrence of*

the debtor

*insert*

each joint debtor

**7 Subsection 188(2D)**

*omit the second occurrence of*

the debtor

*insert*

each joint debtor

**8 Subsection 188(4)**

*before*

debtor

*insert*

joint

**10 Paragraphs 188A(2)(a) and (c)**

*omit*

the debtor's

*insert*

each joint debtor's

**11 Paragraph 188A(2)(e)**

*omit*

the debtor

*insert*

each joint debtor

**12 Paragraph 188A(2)(l)**

*omit*

the debtor

*insert*

each joint debtor

**13 Subsection 189AB(1)**

*omit*

- (1) When the debtor's property becomes subject to control under this Division, the debtor's property is charged with:

*insert*

- (1) When the property of joint debtors becomes charged under this Division, the charges specified in subsection (1A) are created with respect to:

**14 After subsection 189AB(1)**

*insert*

- (1A) The charges are:

- (a) a charge over the joint property of the joint debtors; and  
(b) a separate charge over the separate property of each joint debtor.

**15 Subsection 189AB(2)**

*omit*

the charge is not affected

*insert*

none of the charges is affected

**16 Subsections 189AB(3) and (4)**

*omit*

The charge

*insert*

Each charge

**17 Paragraph 189A(1)(a)**

*substitute*

- (a) summarising and commenting on the information about:
  - (i) the joint estates of the joint debtors; and
  - (ii) the separate estate of each joint debtor;

that is available to the controlling trustee; and

## **Part 3—Modifications of Part VIII of the Act—controlling trustees and trustees of personal insolvency agreements**

### **1 Before Part VIII, Division 1**

*insert in Part VIII*

#### **Division 1A—Interpretation**

##### **154AA Interpretation**

In this Part, in its application to Part X, a reference to a registered trustee includes a reference to a controlling trustee and a trustee of a personal insolvency agreement.

### **2 Section 156A**

*omit*

### **3 Subsection 157(1)**

*substitute*

(1) If:

- (a) the Official Trustee is:
  - (i) under section 188 or 192, the controlling trustee in relation to a debtor; or
  - (ii) under Part X, the trustee of a personal insolvency agreement; and
- (b) the creditors wish to appoint, in place of the Official Trustee:
  - (i) a registered trustee or a solicitor as the controlling trustee; or
  - (ii) a registered trustee as the trustee of the personal insolvency agreement;

the creditors may do so by resolution at a meeting of creditors.

### **4 Section 158**

*substitute*

#### **158 Appointment of more than 1 controlling trustee**

The creditors may appoint 2 or more controlling trustees jointly, or jointly and severally.

### **5 Section 159**

*omit*

## **6 Section 160**

*substitute*

### **160 Vacancy in position of trustee—Official Trustee to act**

If at any time there is no controlling trustee in relation to a debtor, or no trustee of a personal insolvency agreement under Part X, the Official Trustee is to act as the trustee.

## **7 After subsection 161(1)**

*insert*

- (1A) This section does not apply in relation to a trustee of a personal insolvency agreement.

## **9 Section 180**

*omit*

trustee of an estate.

*insert*

trustee, other than controlling trustee, under Part X.

## **11 Subsection 181A(1)**

*substitute*

- (1) The current controlling trustee or the current trustee of a personal insolvency agreement may, with the written consent of another trustee (either a registered trustee or the Official Trustee), nominate the other trustee as the new trustee.

## **12 Subsection 181A(4)**

*substitute*

- (4) If no creditor lodges a written notice of objection with the current trustee at least 2 days before the specified date, the new trustee replaces the current trustee on the date specified in the notice.

## **Part 4—Modifications of Division 1 of Part V of the Act— debtors whose property is subject to control under Division 2 of Part X of the Act**

### **1 Section 77F**

*substitute*

#### **77F Allowances and expenses to be paid out of debtor's property subject to control under Division 2 of Part X**

If the evidence that a person gives, or the books that a person produces, under section 77C, relate to matters concerning the property of a debtor that is subject to control under Division 2 of Part X, any amount payable to the person under section 77D or 77E is to be paid out of that property.

### **2 Subsection 81(1)**

*substitute*

- (1) Where a person (in this section called the ***relevant person***) becomes a debtor whose property is subject to control under Division 2 of Part X, the Court or a Registrar may at any time (whether before or after control over that property has ended), on the application of:
  - (a) a person (in this section called a ***creditor***) who has or had a debt that would be provable if the debtor were a bankrupt;
  - (b) the controlling trustee; or
  - (c) the Official Receiver;

summon the relevant person for examination in relation to the property that is subject to control under Division 2 of Part X.

## **Part 5—Modification under subsection 231(1) of the Act— personal insolvency agreements**

### **1 Section 77F**

*substitute*

#### **77F Allowances and expenses to be paid out of debtor's property subject to personal insolvency agreement**

If the evidence that a person gives, or the books that a person produces, under section 77C, relate to matters concerning the property of a debtor that is subject to a personal insolvency agreement, any amount payable to the person under section 77D or 77E is to be paid out of that property.

## **Part 6—Modifications under subsection 231(3) of the Act— personal insolvency agreements**

### **1 Subsection 113(1)**

*omit*

presentation of a petition on which, or by virtue of the presentation of which, a person became a bankrupt,

*insert*

making of a sequestration order,

### **2 Subsection 113(1)**

*omit*

or, in the case of a debtor's petition, the presentation of the petition

### **3 After subsection 133(13)**

*insert*

(14) This section does not apply in relation to a personal insolvency agreement.

### **4 After paragraph 134(1)(b)**

*insert*

(ba) carry on a business of the debtor in accordance with an authorisation given under subsection (5);

### **5 After subsection 134(4)**

*insert*

- (5) If a personal insolvency agreement provides for the business of the debtor to be assigned to the trustee, the agreement may:
- (a) authorise the trustee to carry on a business of a debtor; and
  - (b) specify the period during which, and the conditions (if any) subject to which, the trustee may carry on the business.
- (6) The creditors may vary or terminate an authority under subsection (5) by passing a special resolution to that effect at a meeting called for the purpose.
- (7) This section extends only in relation to property of the debtor that is subject to the personal insolvency agreement.

### **6 Subsection 136(1)**

*omit*

Where any property of the bankrupt is subject to a mortgage,

*insert*

Where any property of the debtor that is subject to the personal insolvency agreement is also subject to a mortgage,

## **7 Subsection 137(1)**

*omit*

Where goods of a bankrupt

*insert*

Where goods of a debtor that are subject to a personal insolvency agreement

## **8 Paragraphs 138(1)(a) and (b)**

*substitute*

- (a) the property of a debtor that is subject to a personal insolvency agreement includes rights in respect of industrial property; and
- (b) the debtor is liable to pay royalties or a share of profits to a person in respect of those rights;

## **9 Paragraph 138(1)(c)**

*omit*

the bankrupt;

*insert*

the debtor;

## **10 Paragraph 138(1)(d)**

*omit*

the bankrupt

*insert*

the debtor

## **11 Paragraphs 139(1)(a) and (b)**

*substitute*

- (a) the trustee has seized or disposed of any goods in the possession or on the premises of a debtor that are subject to a personal insolvency agreement without notice of any claim by any person in respect of those goods; and
- (b) the goods were not, at the date of execution of the personal insolvency agreement, the property of the debtor;

## **12 Subsection 139(2)**

*omit everything after*

in respect of property

---

*insert*

that is subject to the personal insolvency agreement, being rates, land tax or municipal or other statutory charges that fall due on or after the date of execution of the personal insolvency agreement, except to the extent, if any, of the rents and profits received by the trustee in respect of that property on or after the date of execution of the personal insolvency agreement.

### **13 Subsection 139(3)**

*substitute*

- (3) Where the trustee of a personal insolvency agreement carries on a business previously carried on by the debtor, the trustee is not personally liable for any payment in respect of long service leave or extended leave:
- (a) for which the debtor was liable; or
  - (b) to which a person employed by the trustee in his or her capacity as trustee of the personal insolvency agreement, or the legal personal representative of such a person, becomes entitled after the date of execution of the personal insolvency agreement.

### **14 Subsection 139(4)**

*omit*

trustee of the estate of a bankrupt

*insert*

trustee of a personal insolvency agreement

### **15 Section 139ZJ**

*omit*

In this Subdivision:

*insert*

- (1) In this Subdivision:

### **16 Section 139ZJ**

*insert*

- (2) In sections 139ZK, 139ZL and 139ZP, a reference to a bankrupt is to be read as a reference to a debtor.

- (3) In subsection (2):

***debtor*** means a person who has executed a personal insolvency agreement.

### **17 Paragraphs 139ZK(1)(e) and (f)**

*omit*

---

bankruptcy,  
*insert*  
personal insolvency agreement,

**18 Subsection 139ZL(1)**

*omit everything before paragraph (a), insert*

- (1) If a debtor is liable to pay a specified amount of his or her income to the trustee in accordance with a personal insolvency agreement, the Official Receiver:

**19 Subsection 139ZL(1)**

*omit*

make the contribution.

*insert*

pay that amount.

**20 Paragraphs 139ZL(3)(a) and (b)**

*omit*

the contribution

*insert*

the amount of income

**21 Subsection 139ZQ(1)**

*omit*

bankrupt under Division 3,

*insert*

personal insolvency agreement because of the application of any of sections 120 to 125,

**22 Subsection 139ZR(3)**

*omit*

Division 3.

*insert*

any of sections 120 to 125.

## **Schedule 7—Modifications under Part XI of the Act—administration of estates of deceased persons**

(regulation 11.02)

### **1 Section 49 (Change of petitioners):**

1.1 Omit ‘debtor’, substitute ‘deceased debtor’s estate’.

### **2 Section 50 (Taking control of debtor’s property before sequestration)**

2.1 Subsection 50(1):

Omit ‘debtor, but before the debtor becomes’, substitute ‘debtor who dies after presentation of a creditor’s petition but before becoming’.

2.2 Paragraph 50(1)(a):

Omit ‘debtor’s property;’, substitute ‘deceased debtor’s estate;’.

2.3 Paragraph 50(1)(b):

Omit ‘property.’, substitute ‘estate.’.

2.4 Paragraph 50(1A)(c):

Omit ‘debtor’, substitute ‘deceased debtor’s legal personal representative’.

2.5 Subsection 50(1B):

Omit ‘debtor’s property’, insert ‘deceased debtor’s estate’.

2.6 Subsection 50(2):

Omit ‘debtor’ (first occurring), substitute ‘legal personal representative of the deceased debtor’.

2.7 Subsection 50(2):

Before ‘debtor’ (second and third occurring), insert ‘deceased debtor’.

2.8 Subsection 50(3):

Omit ‘debtor and the debtor’s’, substitute ‘deceased debtor and the debtor’s’.

2.9 Subsection 50(4):

Before ‘debtor’ (twice occurring) and ‘debtor’s’, insert ‘deceased’.

2.10 Paragraph 50(5)(a):

Omit ‘a sequestration order had been made against the debtor’, insert ‘an order had been made for the administration of the estate of the deceased debtor’.

2.11 Paragraph 50(5)(c):

Omit ‘debtor’s bankruptcy if a sequestration’, substitute ‘administration of the deceased debtor’s estate if an’.

2.12 Section 50:

Add at the end:

‘(6) In this section:

*legal personal representative*, in relation to a deceased debtor, means:

- (a) the executor under the deceased debtor’s will; or
- (b) the administrator under letters of administration or court order; of the deceased debtor’s estate, or a part of that estate.’.

## 14 Section 73 (Composition or arrangement)

14.1 Subsection 73(1):

Omit ‘a bankrupt’, substitute ‘the legal personal representative of a deceased person’.

14.2 Subsection 73(1):

Omit ‘his or her’ (wherever occurring), substitute ‘the deceased person’s’.

14.5 Section 73:

Add at the end:

‘(6) In this section:

*legal personal representative*, in relation to a deceased person, means:

- (a) the executor under the deceased person’s will; or
- (b) the administrator under letters of administration or court order; of the deceased person’s estate, or a part of that estate.’.

## 15 Section 74 (Annulment of bankruptcy)

15.1 Omit the section, substitute:

**‘74 Annulment of administration**

- ‘(1) A special resolution passed in accordance with subsection 74(1) takes effect on the date on which it is passed to annul the administration of the estate to which it relates.
- ‘(2) As soon as practicable after that date the trustee of the estate must give to the Official Receiver a certificate, signed by the trustee, of the following matters:
  - (a) the name of the estate;

- (b) the number of the administration;
  - (c) the terms and date of the special resolution.
- ‘(3) The Official Receiver must enter those matters in the official records.’

## **16 Section 75 (Effect of composition or scheme of arrangement)**

### 16. Subsection 75(2):

Omit the subsection.

### 16.2 Subparagraphs 75(4)(b)(i), (ii), (iii) and (iv):

Omit the subparagraphs, substitute:

- ‘(i) the creditors or the estate of the deceased person will suffer injustice or undue delay if the composition or scheme of arrangement proceeds;  
or
- (ii) the approval of the creditors resulted from a misrepresentation by the legal personal representative; or
- (iii) it is desirable that the deceased person’s:
  - (A) affairs be investigated; or
  - (B) estate be administered;  
under this Act; or
- (iv) it is likely that the creditors will receive a greater dividend if the estate is again administered under this Act;’.

### 16.3 Subsection 75(4):

Omit ‘trustee’, substitute ‘trustee, the legal personal representative’.

### 16.4 Subsection 75(6), (7) and (8):

Omit the subsections, substitute:

‘(6) In this section:

***legal personal representative***, in relation to a deceased person, means:

- (a) the executor under the deceased person’s will; or
- (b) the administrator under letters of administration or court order;  
of the deceased person’s estate, or a part of that estate.’

## **17 Section 81 (Discovery of bankrupt’s property etc)**

### 17.1 Subsection 81(1):

Omit the subsection, substitute:

- ‘(1) At any time during or after the administration under Part XI of the estate of a deceased person (in this section called ‘the relevant person’), the Court may, on the application of:
  - (a) a person (in this section called a ‘creditor’) who has or had a debt provable in the administration; or

(b) the trustee of the estate; or

(c) the Official Receiver;

summon an examinable person in relation to the estate for examination in relation to the administration.

‘(1AA) For the purposes of subsection (1):

*examinable person*, in relation to an estate of the relevant person, means:

(a) a person who is believed to be indebted to the estate; or

(b) a person who may be able to give information the relevant person or the examinable affairs of the relevant person; or

(c) a person who has possession of books that may relate to:

(i) the relevant person; or

(ii) the examinable affairs of the relevant person; or

(iii) the estate; or

(d) the executor under the relevant person’s will; or

(e) the administrator under letters of administration or court order;

of the relevant person’s estate, or a part of that estate.’

17.2 Subsection 81(1B):

Omit paragraph (b), substitute:

‘(b) relate to:

(i) the relevant person; or

(ii) the examinable affairs of the relevant person; or

(iii) the estate.’

17.3 Subsection 81(11AA):

Omit the subsection.

17.4 Subsection 81(12):

Before ‘relevant person’ (first occurring), insert ‘estate of the’.

17.5 Subsection 81(14):

Omit ‘person, other than the relevant person,’ substitute ‘person’.

## 18 Section 82 (Debts provable in bankruptcy)

18.1 Subsection 82(1):

Omit all the words from and including ‘a bankrupt’ to the end, substitute ‘the estate of a deceased person was subject at the date of the order for the administration of the estate, or to which the estate may become subject because of an obligation incurred before that date, are provable in the administration of the estate.’

18.2 Subsection 82(1A):

Omit ‘bankrupt under a maintenance agreement or maintenance order before the date of the bankruptcy.’, substitute ‘by the deceased person under a maintenance agreement or maintenance order during the person’s lifetime and before the date of the order for the administration of the person’s estate.’.

18.3 Paragraph 82(8)(b):

Omit ‘discharge of the bankrupt;’, substitute ‘end of the administration of the deceased person’s estate;’.

**19 Section 87 (Deduction of discounts)**

19.1 Omit ‘debtor had not become a bankrupt.’, substitute ‘estate had not become subject to administration under Part XI.’.

**20 Section 88 (Apportionment to principal and interest of payments made before bankruptcy)**

20.1 Omit ‘by a debtor to a creditor before the debtor became a bankrupt’, substitute:

‘to a creditor by:

- (a) the deceased person before his or her death; or
- (b) the deceased person’s estate before the date of the order for the administration of the estate;’.

**21 Section 95 (Proof in respect of distinct contracts)**

21.1 Omit ‘person was, at the time when he or she became a bankrupt,’ substitute ‘deceased person whose estate is being administered under Part XI was, at the date of his or her death,’.

**22 Section 104 (Appeal against decision of trustee in respect of proof)**

22.1 Subsection 104(1):

*omit*

bankrupt

*insert*

legal personal representative of the bankrupt

22.2 After subsection 104(1):

*insert*

‘(1A) An application may be made under subsection (1) on the grounds that the proof was wrongly admitted.’.

22.2 After subsection 104(3):

*insert*

‘(4) In this section:

**legal personal representative**, for a deceased person, means:

- (a) the executor under the deceased person's will; or
- (b) the administrator under letters of administration or court order; of the deceased person's estate, or a part of that estate.'.

### 23 Section 109 (Priority payments)

23.1 Paragraph 109(1)(a):

After 'petitioning creditor', insert 'or the trustee of the deceased person's estate'.

23.2 Paragraph 109(1)(b):

Omit the paragraph.

### 24 Section 109A (Debts due to employees)

24.1 Subsection 109A(1):

Omit the subsection, substitute:

'Where:

- (a) a contract of employment with a person who has since died and whose estate is being administered under Part XI was subsisting immediately before the date of the person's death; or
- (b) a contract of employment with the trustee, in his or her capacity as trustee, of an estate that is being administered under Part XI was subsisting immediately before the date of the order for the administration;

the employee under the contract is, whether or not the employee is a person referred to in subsection (2), entitled to payment under section 109 as if the employee's employment had been terminated:

- (c) where paragraph (a) applies:
  - (i) by the person; and
  - (ii) on the date;

mentioned in that paragraph; or

- (d) where paragraph (b) applies:
  - (i) by the trustee; and
  - (ii) on the date;

mentioned in that paragraph.'.

24.2 Subsection 109A(2):

After 'trustee (twice occurring), insert 'or legal personal representative'.

24.3 After subsection 109A(2), insert:

'(2A) In subsection (2):

**legal personal representative**, in relation to a deceased person, means:

- (a) the executor under the deceased person's will; or

(b) the administrator under letters of administration or court order; of the deceased person's estate, or a part of that estate.'.

**25 Section 110 (Application of estates of joint debtors)**

25.1 Omit the section.

**26 Section 114 (Payment of liabilities etc incurred under terminated deed etc)**

26.1 Omit 'becomes a bankrupt', substitute 'dies, and his or her estate becomes subject to administration under Part XI,'.

**28 Section 117 (Policies of insurance against liabilities to third parties)**

28.1 Paragraph 117(1)(b):

Omit '(whether before or after he or she became a bankrupt);', substitute 'at any time;,'.

**29 Section 118 (Execution by creditor against property of debtor who becomes a bankrupt etc)**

29.1 Paragraph 118(1)(i)(a):

Omit 'the presentation of a petition, or after the presentation of a petition, against a', substitute 'the making of an order under Part XI, or after the making of such an order, for the administration of the estate of a deceased'.

29.2 Subparagraph 118(1)(a)(ii):

Omit 'and'.

29.3 Paragraph 118(1)(b):

Omit the paragraph.

29.4 Subsections 118(1), (3) and (4):

Omit 'bankrupt' (wherever occurring), substitute 'debtor'.

29.5 Subsection 118(3):

Omit 'bankruptcy', substitute 'administration of the estate'.

29.6 Paragraph 118(9)(a):

Omit 'the presentation of a petition, or after the presentation of a petition, against a', substitute 'the making of an order under Part XI, or after the making of such an order, for the administration of the estate of a deceased'.

29.7 Subsection 118(9):

Omit 'in the bankruptcy.', substitute 'of the estate.'.

29.8 Subsection 118(10):

Omit ‘debtor,’ (twice occurring), substitute ‘deceased person’s estate’.

29.9 Paragraphs 118(11)(a) and (b):

Omit ‘who, after the sale, becomes a bankrupt;’, substitute ‘who dies and whose estate becomes, or of a deceased person’s estate that becomes, after the sale, subject to an administration order under Part XI;’.

29.10 Subsection 118(11):

Omit ‘of the bankrupt’.

**30 Section 119 (Duties of sheriff after receiving notice of presentation of petition etc)**

30.1 Subsection 119(1):

Omit ‘against a debtor’, substitute ‘for an order for the administration of a deceased person’s estate’.

30.2 Paragraphs 119(1)(a) and (b):

Omit ‘debtor’ (wherever occurring), substitute ‘estate’.

30.3 Subsection 119(2):

Omit ‘the reference to the Court of a debtor’s petition against a debtor’, substitute ‘the presentation to the Court of a petition by a person administering the estate of a deceased person for an order for the administration of the estate’.

30.4 Paragraphs 119(2)(a) and (b):

Omit ‘debtor’ (wherever occurring), substitute ‘estate’.

30.5 Subsection 119(3):

Omit ‘a creditor’s petition against a debtor has been given under subsection (1) to a sheriff or notice of the reference to the Court of a debtor’s petition against a debtor has been given under subsection’, substitute ‘a petition has been given under subsection (1) or’.

30.6 Subsection 119(3):

Omit ‘the debtor’ (wherever occurring), substitute ‘the estate’.

30.7 Subsection 119(4):

Omit ‘against a debtor’, substitute ‘for an order for the administration of a deceased person’s estate’.

30.8 Paragraphs 119(4)(a) and (b):

Omit ‘debtor’ (wherever occurring), substitute ‘estate’.

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30.9 Subsection 119(5):

Omit ‘the reference to the Court of a debtor’s petition against a debtor’, substitute ‘the presentation to the Court of a petition by a person administering the estate of a deceased person for an order for the administration of the estate’.

30.10 Paragraphs 119(5)(a) and (b):

Omit ‘debtor’ (wherever occurring), substitute ‘estate’.

30.11 Subsection 119(6):

Omit ‘against a debtor’, substitute ‘for an order for the administration of a deceased person’s estate’.

30.12 Subsection 119(6):

Omit ‘the debtor’ (wherever occurring), substitute ‘the estate’.

30.13 Subsection 119(7):

Omit ‘a debtor’, substitute ‘a deceased person’s estate’.

30.14 Subsection 119(7):

Omit ‘the debtor becomes a bankrupt’, substitute ‘the estate is administered under Part XI’.

**31 Section 119A (Duties of sheriff after receiving notice of bankruptcy etc)**

31.1 Subsection 119A(1):

Omit ‘has become a bankrupt’, substitute ‘has died, and his or her estate has become subject to administration under Part XI,’.

31.2 Subparagraph 119A(1)(a)(i):

Omit ‘bankrupt’, substitute ‘estate’.

31.3 Subparagraph 119A(1)(a)(ii):

Omit ‘bankrupt’ (first occurring), substitute ‘estate’.

31.4 Subparagraph 119A(1)(a)(ii):

Omit ‘bankrupt became a bankrupt,’ (twice occurring), substitute ‘debtor died,’.

31.5 Subparagraph 119A(1)(a)(ii):

Omit ‘bankrupt’ (third occurring), substitute ‘debtor or estate’.

31.6 Subparagraph 119A(1)(a)(iii):

Omit ‘bankrupt;’, substitute ‘estate;’.

31.7 Subparagraph 119A(1)(b)(i):

Omit ‘the bankrupt’ (first and third occurring), substitute ‘the estate’.

31.8 Subparagraphs 119A(1)(b)(i) and (ii):

Omit ‘bankrupt became a bankrupt,’ substitute ‘debtor died,’.

31.9 Subparagraph 119A(1)(b)(ii):

Omit ‘to the bankrupt;’ substitute ‘to the estate;’.

31.10 Subsection 119A(5):

Omit the subsection.

31.11 Paragraph 119A(6)(a):

Omit ‘bankrupt’, substitute ‘deceased person’.

31.12 Paragraph 119A(6)(b):

Omit ‘bankrupt’, substitute ‘estate’.

31.13 Subsection 119A(7):

Omit ‘a bankrupt’, substitute ‘the estate of a deceased person’.

## **32 Section 122 (Avoidance of preferences)**

32.1 Subsection 122(1):

Omit ‘insolvent (the *debtor*)’, substitute ‘insolvent and who subsequently dies (the *deceased debtor*)’.

32.2 Subsection 122(1):

Omit ‘in the debtor’s bankruptcy’, substitute ‘of the deceased debtor’s estate being administered under Part XI’.

32.3 Paragraph 122(1)(b):

Omit the paragraph (including the table), substitute:

‘(b) was made in the period beginning 6 months before the presentation of the petition for an order for the administration of the estate and ending immediately before the date of the order.’.

32.4 Subsection 122(1A):

Omit ‘debtor’, substitute ‘deceased debtor before his or her death’.

32.5 Paragraphs 122(1A)(a) and (b):

Before ‘debtor’, insert ‘deceased’.

32.6 Paragraph 122(1A)(b):

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Before ‘debtor’s’, insert ‘deceased’.

32.7 Paragraph 122(2)(b):

After ‘debtor’, insert ‘or the estate of the deceased debtor’.

32.8 Subsection 122(4A):

After ‘debtor’ (twice occurring), insert ‘or the estate of the deceased debtor’.

**33 Section 123 (Protection of certain transfers of property against relation back etc)**

33.1 Subsection 123(1):

Omit ‘becomes a bankrupt.’, substitute ‘has died, and his or her estate has become subject to administration under Part XI.’.

33.2 Paragraphs 123(1)(a), (b) and (c):

After ‘debtor’ insert ‘before he or she died’.

33.3 Paragraph 123(1)(e):

Omit ‘before the day on which the debtor became a bankrupt.’, substitute ‘on or before the day on which the debtor died.’.

33.4 Subsection 123(4):

Before ‘debtor’, insert ‘deceased’.

33.5 Subsection 123(4):

Omit ‘became a bankrupt.’, substitute ‘died.’.

33.6 Subsection 123(6):

Omit ‘a debtor becomes’, substitute ‘a deceased debtor before his or her death became’.

33.7 Subsection 123(6):

Before ‘debtor’ (second and third occurring), insert ‘deceased’.

**34 Section 124 (Protection of certain payments to bankrupt etc)**

34.1 Subsection 124(1):

Omit ‘becomes, or has become, a bankrupt’, substitute ‘has died, and his or her estate has become subject to administration under Part XI’.

34.2 Paragraph 124(1)(a):

After ‘made’, insert ‘on or’.

34.3 Paragraph 124(1)(a):

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Omit ‘becomes a bankrupt’, substitute ‘dies’.

34.4 Paragraph 124(1)(b):

Omit ‘on or’.

34.5 Paragraph 124(1)(b):

Omit ‘became a bankrupt’, substitute ‘died’.

### **35 Section 125 (Certain accounts of undischarged bankrupt)**

35.1 Subsection 125(1):

Omit ‘an undischarged bankrupt’, substitute ‘deceased and that his or her estate is being administered under Part XI’.

### **36 Section 126 (Dealings with undischarged bankrupt in respect of after-acquired property)**

36.1 Omit the section.

### **37 Section 127 (Limitation of time for making of claims by trustee etc)**

37.1 After subsection 127(1), insert:

‘(1A) In the application of Part XI to this section, the reference in subsection (1) to the date on which a person became bankrupt is taken to be a reference to the date on which administration of a deceased person’s estate commenced.’.

### **38 Section 134 (Powers exercisable at discretion of trustee)**

38.1 Paragraph 134(1)(m):

Omit ‘the bankrupt: (first occurring), substitute ‘the legal personal representative of a deceased person:’.

38.2 Subparagraph 134(1)(m)(i):

Omit ‘the bankrupt;’, substitute ‘the estate of the deceased person;’.

38.3 Subparagraph 134(1)(m)(ii):

Omit ‘bankrupt’s’ (twice occurring), substitute ‘estate’s’.

38.4 Subparagraph 134(1)(m)(iii):

Omit ‘bankrupt;’, substitute ‘estate’.

38.5 Paragraph 134(1)(m):

Omit ‘bankrupt’s services, make such allowance to the bankrupt’, substitute ‘services of the legal personal representative of the deceased person, pay such remuneration to him or her’.

38.6 Paragraphs 134(1)(n) and (o):

Omit ‘the bankrupt’, substitute ‘the estate of the deceased person’.

38.7 After subsection 134(1), insert:

‘(1AA) In subsection (1):

*legal personal representative*, in relation to a deceased person, means:

- (a) the executor under the deceased person’s will; or
- (b) the administrator under letters of administration or court order; of the deceased person’s estate, or a part of that estate.’.

38.7 Subsection 134(1A):

Omit ‘An allowance made to the bankrupt’, substitute ‘Remuneration paid to the legal personal representative of a deceased person’.

### **39 Section 134 (Powers exercisable at discretion of trustee)**

39.1 Paragraphs 134(1)(b) and (c):

Omit ‘the bankrupt;’, substitute ‘the estate of the deceased person;’.

39.2 Paragraph 134(1)(ma):

Omit the paragraph, substitute:

- ‘(j) pay such remuneration out of the estate of the deceased person as he or she thinks fit to the legal personal representative of the deceased person.’.

39.3 Section 134:

Add at the end:

‘(5) In this section:

*legal personal representative*, for a deceased person, means:

- (a) the executor under the deceased person’s will; or
- (b) the administrator under letters of administration or court order; of the deceased person’s estate, or a part of that estate.’.

### **40 Section 138 (Limitation on trustee’s power in respect of copyright, patents etc)**

40.1 Paragraph 138(1)(a):

Omit ‘bankrupt’, substitute ‘estate of a deceased person’.

40.2 Paragraphs 138(1)(b), (c) and (d):

Omit ‘bankrupt’, substitute ‘estate’.

**41 Section 139ZL (Official Receiver may require persons to make payments)**

41.1 Subsection 139ZL(6):

Omit ‘bankrupt’, substitute ‘legal personal representative of the deceased person’.

41.2 After subsection 139ZL(6), insert:

‘(6A) In subsection (6):

*legal personal representative*, in relation to a deceased person, means:

- (a) the executor under the deceased person’s will; or
- (b) the administrator under letters of administration or court order; of the deceased person’s estate, or a part of that estate.’.

**42 Section 139ZQ (Official Receiver may require payment)**

42.1 Subsection 139ZQ(5):

Omit ‘bankrupt’, substitute ‘legal personal representative of the deceased person’.

42.2 After subsection 139ZQ(5), insert:

‘(5A) In subsection (5):

*legal personal representative*, in relation to a deceased person, means:

- (a) the executor under the deceased person’s will; or
- (b) the administrator under letters of administration or court order; of the deceased person’s estate, or a part of that estate.’.

**43 Section 143 (Provision to be made for creditors residing at a distance etc)**

43.1 Paragraph 143(a):

Omit ‘bankrupt’s statement of’, substitute ‘statement of a deceased person’s’.

**44 Section 146 (Distribution of dividends where bankrupt fails to file statement of affairs)**

44.1 Omit ‘a bankrupt’, substitute ‘the legal personal representative of a deceased person’.

44.2 Omit ‘his or her affairs’ (twice occurring), substitute ‘the deceased person’s affairs’.

44.3 Omit ‘bankrupt’ (second occurring), substitute ‘legal personal representative’.

#### **45 Section 156A (Consent to act as trustee)**

45.1 Paragraph 156A(1)(a):

Before ‘debtor’ (first occurring), insert ‘deceased’.

45.2 Paragraphs 156A(1)(a) and (3)(a):

Omit ‘debtor becomes a bankrupt;’, substitute ‘deceased debtor’s estate is administered under Part XI;’.

45.3 Paragraph 156A(3)(a):

Omit ‘estate of the bankrupt;’, substitute ‘estate;’.

## Schedule 8—Information on the National Personal Insolvency Index

(regulation 13.03)

Note: References in this Schedule to sections, subsections and paragraphs are references to those provisions of the Act.

Item No.	Provision of the Act	Document from which information may be entered in the Index	Person who must give the document to the Official Receiver	Period within which the document must be provided to the Official Receiver	Information to be entered in the Index
1	Section 50  trustee to take control of debtor's property before sequestration	court order	applicant (creditor)	as soon as practicable	<ul style="list-style-type: none"> <li>• date of order</li> <li>• particulars of debtor</li> <li>• date when trustee's control ends (subsection 50(1B))</li> </ul>
2	Sections 43 and 47  creditor's petition	creditor's petition and verifying affidavit (subsections 47(1) and (1A))	petitioning creditor	within 3 business days	<ul style="list-style-type: none"> <li>• date of petition</li> <li>• particulars of debtor</li> <li>• name of petitioning creditor</li> <li>• name and telephone number of petitioning creditor's solicitors</li> <li>• date of court hearing for sequestration order</li> </ul>
3	Section 43  sequestration order	sequestration order (subsection 43(1), section 52)	Creditor who obtained the order (subsection 52(1A))	within 2 days	<ul style="list-style-type: none"> <li>• date of order</li> <li>• particulars of bankrupt</li> <li>• name of petitioning creditor</li> <li>• name and telephone number of petitioning creditor's</li> </ul>

<b>Item No.</b>	<b>Provision of the Act</b>	<b>Document from which information may be entered in the Index</b>	<b>Person who must give the document to the Official Receiver</b>	<b>Period within which the document must be provided to the Official Receiver</b>	<b>Information to be entered in the Index</b>
					<ul style="list-style-type: none"> <li>solicitors</li> <li>• name of trustee</li> <li>• date of filing of Statement of Affairs</li> </ul>
4	Section 55  debtor's petition	debtor's petition and statement of affairs (subsection 55(2))	debtor (subsection 55(1))	not applicable	<ul style="list-style-type: none"> <li>• particulars of debtor</li> <li>• date of acceptance (or, if the Court orders the Official Receiver to accept the petition, the date of commencement of the bankruptcy (subsection 55(3B))</li> <li>• name of trustee</li> <li>• date of filing of Statement of Affairs</li> </ul>
5	Section 56B  debtor's petition against partnership	debtor's petition and statements of affairs (section 56B)	petitioning partners (subsection 56A(1))	not applicable	<ul style="list-style-type: none"> <li>• particulars of each debtor/partner</li> <li>• date of acceptance (or, if the Court orders the Official Receiver to accept the petition, the date of commencement of the bankruptcy of each partner (section 56C))</li> <li>• name of trustee</li> </ul>

**Schedule 8** Information on the National Personal Insolvency Index

<b>Item No.</b>	<b>Provision of the Act</b>	<b>Document from which information may be entered in the Index</b>	<b>Person who must give the document to the Official Receiver</b>	<b>Period within which the document must be provided to the Official Receiver</b>	<b>Information to be entered in the Index</b>
					<ul style="list-style-type: none"> <li>• date of filing of Statement of Affairs</li> </ul>
6	Section 57  debtor's petition by joint debtors who are not partners	debtor's petition and statements of affairs (subsection 57(2))	2 or more petitioning debtors (subsection 57(1))	not applicable	<ul style="list-style-type: none"> <li>• particulars of each debtor</li> <li>• date of acceptance (or, if the Court orders the Official Receiver to accept the petition, the date of commencement of the bankruptcy of each debtor subsection 57(3B))</li> <li>• name of trustee</li> <li>• date of filing of Statement of Affairs</li> </ul>
7	Section 74  annulment of bankruptcy by special resolution of creditors	written notice (subsection 74(5A))	trustee (subsection 74(5A))	as soon as practicable after passage of special resolution (subsection 74(5A))	<ul style="list-style-type: none"> <li>• date of annulment of the bankruptcy</li> </ul>
7A	Section 76B  record of the termination or setting aside of a composition or scheme of arrangement	copy of record	trustee	immediately	<ul style="list-style-type: none"> <li>• date of termination or setting aside</li> </ul>

<b>Item No.</b>	<b>Provision of the Act</b>	<b>Document from which information may be entered in the Index</b>	<b>Person who must give the document to the Official Receiver</b>	<b>Period within which the document must be provided to the Official Receiver</b>	<b>Information to be entered in the Index</b>
8	Section 149  automatic discharge from bankruptcy	not applicable	not applicable	not applicable	<ul style="list-style-type: none"> <li>• date of discharge</li> </ul>
9	Sections 149B, 149C  objection to discharge	Notice of objection (section 149B)	trustee (section 149B)	at any time before discharge	<ul style="list-style-type: none"> <li>• date objection takes effect (ie day on which details of notice entered in the Index section 149G)</li> <li>• grounds of objection</li> <li>• person lodging the notice (i.e. trustee)</li> </ul>
10	Section 149H  trustee ceasing to object on a particular ground	notice of ceasing to object (subsection 149H(1))	trustee (subsection 149H(1))	at any time before discharge (subsection 149H(1))	<ul style="list-style-type: none"> <li>• date objection ceases to have effect (if at all) (ie day on which details of notice entered in the Index subsection 149H(3))</li> <li>• grounds of objection to which notice relates</li> <li>• person lodging the notice (i.e. trustee)</li> </ul>
11	Section 149J  trustee or Official Receiver withdrawing objection	notice of withdrawal (subsection 149J(1))	trustee (subsection 149J(1)) (see also subsection 149J(2) for Official Receiver)	at any time before discharge (subsections 149J(1) and (2))	<ul style="list-style-type: none"> <li>• date withdrawal of objection takes effect (ie day on which details of notice entered in the Index)</li> </ul>

**Schedule 8** Information on the National Personal Insolvency Index

<b>Item No.</b>	<b>Provision of the Act</b>	<b>Document from which information may be entered in the Index</b>	<b>Person who must give the document to the Official Receiver</b>	<b>Period within which the document must be provided to the Official Receiver</b>	<b>Information to be entered in the Index</b>
					<ul style="list-style-type: none"> <li>subsection 149J(3))</li> <li>• person lodging the notice (i.e. trustee or Official Receiver)</li> </ul>
12	Section 149N  Inspector General's review of decision to object (also: section 149Q-AAT review of decision)	if the Inspector General cancels the objection—written notice that objection cancelled	trustee	as soon as practicable after objection cancelled	<ul style="list-style-type: none"> <li>• date the cancellation takes effect (subsection 149N(2))</li> </ul>
13	Sections 149S and 149ZF  early discharge from bankruptcy	[application for early discharge (subsection 149S(2))] certificate of discharge (subsection 149ZF (3))	certificate—registered trustee (subsection 149ZF(3)) (see also Official Receiver: subsection 149ZF(3); see also subsection 149ZK(2) for decision on review)	as soon as practicable after trustee signs certificate (subsection 149ZF(3))	<ul style="list-style-type: none"> <li>• date on which bankruptcy is discharged (subsection 149ZF(1); see also subsection 149ZK(2))</li> </ul>
14	Section 153A  annulment of bankruptcy on payment of debts	certificate (subsection 153A(2))	trustee (subsection 153A(2))	as soon as practicable after debts paid in full (subsection 153A(2))	<ul style="list-style-type: none"> <li>• date of annulment</li> </ul>

<b>Item No.</b>	<b>Provision of the Act</b>	<b>Document from which information may be entered in the Index</b>	<b>Person who must give the document to the Official Receiver</b>	<b>Period within which the document must be provided to the Official Receiver</b>	<b>Information to be entered in the Index</b>
15	Section 153B  annulment of bankruptcy by Court	court order (section 153B)	applicant (Rule 7.04 of FC (Bankruptcy) Rules and of FCC (Bankruptcy) Rules)	2 days after the order is entered (Rule 7.04 of FC (Bankruptcy) Rules and of FCC (Bankruptcy) Rules)	<ul style="list-style-type: none"> <li>• date of annulment</li> </ul>
20	Sections 184 and 184A  release of trustee by operation of law after 7 years	no document specified	registered trustee	not applicable	<ul style="list-style-type: none"> <li>• fact that the administration of an estate is finalised</li> </ul>

**Schedule 8** Information on the National Personal Insolvency Index

<b>Item No.</b>	<b>Provision of the Act</b>	<b>Document from which information may be entered in the Index</b>	<b>Person who must give the document to the Official Receiver</b>	<b>Period within which the document must be provided to the Official Receiver</b>	<b>Information to be entered in the Index</b>
21	Part IX  debt agreement proposal	debt agreement proposal, explanatory statement and statement of affairs	debtor	not applicable	<ul style="list-style-type: none"> <li>• date that acceptance of proposal for processing and name and address of debt agreement processor are entered in the Index</li> <li>• particulars of debtor</li> <li>• particulars of whether proposal accepted or rejected following processing</li> <li>• date that a proposal lapses (if at all)</li> <li>• date of withdrawal or cancellation of proposal</li> </ul>

<b>Item No.</b>	<b>Provision of the Act</b>	<b>Document from which information may be entered in the Index</b>	<b>Person who must give the document to the Official Receiver</b>	<b>Period within which the document must be provided to the Official Receiver</b>	<b>Information to be entered in the Index</b>
22	Part IX  debt agreements	debt agreement  notification of completion or termination of the debt agreement  notification of a designated 6-month arrears default	notification of completion: the debt agreement administrator  notification of 6-month arrears default: the debt agreement administrator	notification of completion: 5 business days after end of debt agreement  notification of 6-month arrears default: 10 business days after occurrence of designated 6-month arrears default	<ul style="list-style-type: none"> <li>• particulars of debtor (if different from particulars in debt agreement proposal)</li> <li>• date that making of debt agreement entered in the Index</li> <li>• date at end or termination of debt agreement</li> <li>• particulars of reason for debt agreement termination or end</li> </ul>
22A	Section 185N  ending a debt agreement by discharging obligations	certificate given under subsection 185N(3)	not applicable	not applicable	<ul style="list-style-type: none"> <li>• date of giving of certificate</li> </ul>

**Schedule 8** Information on the National Personal Insolvency Index

<b>Item No.</b>	<b>Provision of the Act</b>	<b>Document from which information may be entered in the Index</b>	<b>Person who must give the document to the Official Receiver</b>	<b>Period within which the document must be provided to the Official Receiver</b>	<b>Information to be entered in the Index</b>
22B	Section 185P (as in force immediately before 1 July 2007) terminating a debt agreement (made as the result of the acceptance of a debt agreement proposal given to the Official Receiver before 1 July 2007) by proposal	Minutes of creditors meeting called under section 185A (as in force immediately before 1 July 2007), or the record made by the Official Receiver of acceptance of proposal under subsection 185B(3) (as in force immediately before 1 July 2007)	not applicable	not applicable	date of acceptance of proposal
22C	Section 185Q terminating a debt agreement by court order	court order	applicant (Rule 9.05 of FC (Bankruptcy) Rules and of FCC (Bankruptcy) Rules)	2 days after the order is entered (Rule 9.05 of FC (Bankruptcy) Rules and of FCC (Bankruptcy) Rules)	<ul style="list-style-type: none"> <li>• date order made</li> </ul>

<b>Item No.</b>	<b>Provision of the Act</b>	<b>Document from which information may be entered in the Index</b>	<b>Person who must give the document to the Official Receiver</b>	<b>Period within which the document must be provided to the Official Receiver</b>	<b>Information to be entered in the Index</b>
22D	Section 185QA (as in force immediately before 1 July 2007)  terminating a debt agreement (made as the result of the acceptance of a debt agreement proposal given to the Official Receiver before 1 July 2007) by special resolution of creditors	Minutes of meeting called under section 185QA (as in force immediately before 1 July 2007)	not applicable	not applicable	date of passing of special resolution
23	Sections 185T and 185U  voiding a debt agreement	court order (subsection 185U(1))	applicant (Rule 9.05 of FC (Bankruptcy) Rules and of FCC (Bankruptcy) Rules)	2 days after the order is entered (Rule 9.05 of FC (Bankruptcy) Rules and of FCC (Bankruptcy) Rules)	<ul style="list-style-type: none"> <li>• date of order</li> <li>• whether agreement is voided in whole or in part</li> </ul>
23A	Section 186B  Application for registration as a debt agreement administrator	application	Inspector-General	not applicable	<ul style="list-style-type: none"> <li>• date of application</li> <li>• particulars of applicant</li> </ul>

**Schedule 8** Information on the National Personal Insolvency Index

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23B	Section 186D  Registration as a debt agreement administrator	application  approval or refusal of registration application under section 186C (including any conditions specified for subsection 186C(9)).	Inspector-General	not applicable	<ul style="list-style-type: none"> <li>• particulars of applicant</li> <li>• details of the approval or refusal (including specified conditions applying to the debt agreement administrator on registration)</li> </ul>
23C	Section 186F  Conditions of registration	notice of imposition of conditions	Inspector-General	not applicable	<ul style="list-style-type: none"> <li>• particulars of conditions imposed on debt agreement administrator's registration</li> </ul>
23D	Sections 185ZCA, 186J, 186K and 186L  Debt agreement administrator registration ceases	approval of registration  notice of request to accept surrender of registration (section 186J)  notice of cancellation of registration (section 186K or 186L)	Inspector-General	not applicable	<ul style="list-style-type: none"> <li>• date debt agreement administrator registration ceases</li> <li>• particulars of reason for end of registration</li> </ul>
24	Section 188 and subsection 189(1B)	authority (subsection 188(1));  notice	registered trustee or solicitor (subsection 188(5);  subsection	authority: 2 business days of consent to act;  notice:	<ul style="list-style-type: none"> <li>• date of authority</li> <li>• date of filing of statement of affairs</li> <li>• name of</li> </ul>

<b>Item No.</b>	<b>Provision of the Act</b>	<b>Document from which information may be entered in the Index</b>	<b>Person who must give the document to the Official Receiver</b>	<b>Period within which the document must be provided to the Official Receiver</b>	<b>Information to be entered in the Index</b>
	authority to be controlling trustee (personal insolvency agreement);  notice of event causing end of control by trustee	(subsection 189(1B))	189(1B))	7 days after becoming aware that control has ended	controlling trustee <ul style="list-style-type: none"> <li>particulars of debtor</li> <li>date of termination of control</li> </ul>
24A	Section 192  authority to be controlling trustee passing to Official Trustee	Evidence of event mentioned in subsection 192(1) (death, cessation, incapacity written request)	Official Trustee	14 days of control passing	<ul style="list-style-type: none"> <li>particulars of debtor</li> <li>date of passing of control</li> </ul>
25	Section 204 and subsection 218(1)  personal insolvency agreement	copy of agreement (paragraph 218(1)(b))	trustee (paragraph 218(1)(b))	within 21 days after executing agreement	<ul style="list-style-type: none"> <li>date of execution of agreement</li> <li>particulars of debtor (if different from particulars in section 188 authority)</li> <li>name of each nominated trustee of the agreement</li> <li>(subsection 204(3); see also section 215A)</li> <li>date of filing of statement of affairs</li> </ul>
26	Section 221  sequestration	court order (subsection 221(1))	applicant	2 days after the order is made	<ul style="list-style-type: none"> <li>date of order</li> <li>particulars of bankrupt (if different from</li> </ul>

**Schedule 8** Information on the National Personal Insolvency Index

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	order for certain failures under Part X				<ul style="list-style-type: none"> <li>particulars in section 188 authority))</li> <li>• name of petitioning creditor (if any)</li> <li>• name and telephone number of petitioning creditor's solicitors (if any)</li> <li>• name of trustee</li> <li>• date of filing of Statement of Affairs</li> </ul>
27	Subsection 222(10)  sequestration order against estate of debtor	sequestration order	applicant for sequestration order	2 days after the order is made (regulation 10.11)	<ul style="list-style-type: none"> <li>• date of order</li> <li>• particulars of debtor</li> </ul>
28	Section 222A  termination of personal insolvency agreement by trustee	copy of written notice of termination (regulation 10.12)	trustee of the agreement	immediately (regulation 10.12)	<ul style="list-style-type: none"> <li>• date of termination</li> </ul>
28A	Subsection 222C (5)  sequestration order against estate of debtor	sequestration order	applicant for sequestration order	2 days after the order is made (regulation 10.11)	<ul style="list-style-type: none"> <li>• date of order</li> <li>• particulars of debtor</li> </ul>
28B	Subsections 224A(1) and (3)	copy of resolution or special	trustee (subsections 224A(1) and (3))	immediately (subsections 224A(1) and (3))	<ul style="list-style-type: none"> <li>• date of termination</li> </ul>

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	terminating personal insolvency agreement by creditors or event specified in agreement	resolution (subsection 224A(1)); written notice (subsection 224A(3))			
28C	Subsection 224A(4)  court order setting aside or terminating a personal insolvency agreement	written notice	registered trustee	2 days after the order is made (regulation 10.11)	<ul style="list-style-type: none"> <li>• date when agreement set aside or terminated</li> </ul>
28D	Section 232  certificate relating to discharge of obligations under personal insolvency agreement	certificate given to debtor under subsection 232(1)	trustee	not applicable	<ul style="list-style-type: none"> <li>• date when trustee signed certificate</li> </ul>
29	Section 244  creditor's petition for Part XI administration (deceased estates)	creditor's petition and verifying affidavit (subsections 244(1) and (5))	petitioning creditor	not applicable	<ul style="list-style-type: none"> <li>• date of petition</li> <li>• particulars of deceased</li> <li>• name of petitioning creditor</li> <li>• name and telephone number of petitioning creditor's solicitors</li> <li>• date of hearing for administration order</li> <li>• date of filing</li> </ul>

**Schedule 8** Information on the National Personal Insolvency Index

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					of Statement of Affairs
30	Section 244 and section 245 (death of debtor after creditor's petition under section 47)  Part XI administration (deceased estates)	court order (subsections 244(14); 245(3))	petitioning creditor (subsections 244(14); 245(3))	2 days beginning on the day the order is made (subsection 244(14))	<ul style="list-style-type: none"> <li>• date of order</li> <li>• particulars of deceased (if particulars different from particulars in relevant creditor's petition)</li> <li>• name of trustee</li> </ul>
31	Section 247 administrator's petition for Part XI administration of deceased estate	petition and statement of affairs (subsection 247(1))	administrator (subsection 247(1))	not applicable	<ul style="list-style-type: none"> <li>• date of petition</li> <li>• particulars of deceased</li> <li>• name of administrator</li> <li>• name and telephone number of administrator's solicitors</li> <li>• date of filing of Statement of Affairs</li> </ul>
32	Section 247 court order for Part XI administration on administrator's petition	court order (subsection 247(1A))	applicant (subsection 247(3))	2 days beginning on the day the order is made (subsection 247(3))	<ul style="list-style-type: none"> <li>• date of order</li> <li>• the following particulars if different from those in administrator's petition: <ul style="list-style-type: none"> <li>• particulars of deceased</li> <li>• name of administrator</li> <li>• name and telephone number of administrator's solicitors</li> </ul> </li> </ul>

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					<ul style="list-style-type: none"> <li>• name of trustee</li> <li>• date of filing of Statement of Affairs</li> </ul>
33	Section 253E  stay of proceedings in relation to farmers' debts assistance	court order (subsection 253E(1))	applicant	7 days	<ul style="list-style-type: none"> <li>• date of order</li> <li>• period of stay (subsection 253E(3))</li> </ul>

## Endnotes

Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

**Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnotes

### Endnote 3—Legislation history

### Endnote 3—Legislation history

Number and year	FRLI registration or gazettal	Commencement	Application, saving and transitional provisions
1996 No. 263	11 Dec 1996	16 Dec 1996	
1996 No. 278	12 Dec 1996	16 Dec 1996	—
1997 No. 76	14 Apr 1997	rr 18.1, 29 and 30: 16 Dec 1996 rr 18.2, 26, 32, 33, 34, 35.2, 38.3 and 40: 14 Apr 1997 (r 1.2 and gaz 1997, No S136) Remainder: 14 Apr 1997	r 40
1997 No. 325	28 Nov 1997	1 Dec 1997	—
2000 No. 140	28 June 2000	1 July 2000	—
2000 No. 220	17 Aug 2000	1 July 2000	—
2001 No. 262	5 Oct 2001	5 Oct 2001	—
2002 No. 255	6 Nov 2002	6 Nov 2002	—
2003 No. 76	2 May 2003	5 May 2003	—
2004 No. 256	26 Aug 2004	1 Dec 2004 (r 2 and gaz 2004, No GN34)	—
2005 No. 218	7 Oct 2005 (F2005L02918)	8 Oct 2005 (r 2(a))	—
2006 No. 4	16 Feb 2006 (F2006L00521)	17 Feb 2006	rr 4–6
2006 No. 50	17 Mar 2006 (F2006L00820)	27 Mar 2006 (r 2)	—
2006 No. 137	23 June 2006 (F2006L01854)	1 July 2006	—
2007 No. 91	26 Apr 2007 (F2007L01128)	27 Apr 2007 (r 2)	—
2007 No. 138	13 June 2007 (F2007L01540)	rr 1–4 and Sch 1: 14 June 2007 Remainder: 1 July 2007	r 4
2010 No. 195	9 July 2010 (F2010L01915)	1 Aug 2010	—
2010 No. 287	25 Nov 2010 (F2010L03075)	1 Dec 2010 (r 2)	r 4
51, 2013	11 Apr 2013 (F2013L00649)	Sch 1 (items 8–10): 12 Apr 2013 (s 2 item 2)	—
36, 2014	26 Mar 2014 (F2014L00350)	1 Apr 2014 (s 2) Note: Sch 1 (item 1) was disallowed by the Senate on 23 June 2014 at 17.45	—
179, 2015	16 Nov 2015 (F2015L01800)	19 Nov 2015 (s 2(1) item 1)	—

## Endnote 3—Legislation history

<b>Name</b>	<b>Registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Bankruptcy Amendment (Rules of Court) Regulation 2016	30 Mar 2016 (F2016L00431)	Sch 1: 1 Apr 2016 (s 2(1) item 2)	—
Corporations and Other Legislation Amendment (Insolvency Law Reform) Regulation 2016	13 Dec 2016 (F2016L01926)	Sch 1 (items 8–16): 1 Mar 2017 (s 2(1) item 2) Sch 1 (items 52–65): 1 Sept 2017 (s 2(1) item 3)	—
Bankruptcy Amendment (Fees) Regulations 2017	22 Dec 2017 (F2017L01712)	23 Dec 2017 (s 2(1) item 1)	—

## Endnotes

### Endnote 4—Amendment history

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### Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
r. 1.01 .....	rs. 2000 No. 140
r. 1.02 .....	rep LA s 48D
r. 1.03 .....	am No 4, 2006; No 137, 2006; No 91, 2007; No 195, 2010; No 51, 2013; F2016L00431; F2016L01926
r. 1.04 .....	ad. 2001 No. 262
<b>Part 2</b>	
r. 2.01 .....	am. 1997 No. 76
r. 2.05 .....	ad F2016L01926
<b>Part 4</b>	
<b>Division 1</b>	
r. 4.01 .....	rs. 2010 No. 195
r. 4.02A.....	ad. 1997 No. 76
	rs. 2006 No. 4
Note to r. 4.02A.....	ad. 2006 No. 137
	rep. 2010 No. 195
Note 1 to r. 4.02A.....	ad. 2010 No. 195
Note 2 to r. 4.02A.....	ad. 2010 No. 195
r. 4.04 .....	am. 2010 No. 195
<b>Division 2</b>	
r. 4.05 .....	am No 76, 1997; No 255, 2002; No 195, 2010; No 287, 2010; F2016L01926
r. 4.07 .....	am. 2004 No. 256
r. 4.11 .....	am. 1997 No. 76; 2004 No. 256; 2007 No. 138; 2010 No. 195
Division 3.....	rep F2016L01926
r. 4.14 .....	rep F2016L01926
r. 4.15 .....	rep F2016L01926
r. 4.16 .....	rep F2016L01926
r. 4.17 .....	rs No 76, 1997
	am No 137, 2006; No 195, 2010
	rep F2016L01926
r. 4.18 .....	rep F2016L01926
r. 4.19 .....	rep F2016L01926
<b>Part 5</b>	
r. 5.02 .....	ad No 36, 2014
<b>Part 6</b>	
<b>Division 1</b>	
r. 6.01 .....	am. 2002 No. 255
r. 6.02 .....	am. 1997 No. 76

## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
<b>Division 2</b>	
r. 6.03 .....	am. 1996 No. 278; 1997 No. 76
r. 6.03A.....	ad. 2003 No. 76
r. 6.04 .....	am. 1997 No. 76
Renumbered r. 6.03B.....	2007 No. 91
<b>Division 2A</b>	
Division 2A .....	ad. 2007 No. 91
r. 6.04A.....	ad. 2007 No. 91
r. 6.04B.....	ad. 2007 No. 91
Division 3 .....	rep. 2007 No. 138
r. 6.05 .....	rep. 2007 No. 138
r. 6.06 .....	rep. 2007 No. 138
r. 6.07 .....	rep. 2007 No. 138
r. 6.08 .....	am. 1996 No. 278 rep. 2007 No. 138
<b>Division 6</b>	
Division 6 heading.....	rs No. 255, 2002
r. 6.12 .....	am No 255, 2002
Division 6A heading.....	rep No. 255, 2002
Division 6A .....	ad No. 325, 1997
r. 6.12A.....	ad No. 325, 1997 am No. 255, 2002
r. 6.12B.....	ad No. 255, 2002 am No. 50, 2006; No. 195, 2010
r. 6.12C.....	ad No. 76, 2003
r. 6.12D.....	ad No. 91, 2007
<b>Division 7</b>	
r. 6.15A.....	ad. 2003 No. 76
r. 6.16 .....	am. 1997 No. 76 rep. 2004 No. 256
r. 6.18 .....	am. 2001 No. 262
<b>Division 8</b>	
r. 6.20 .....	am. 2001 No. 262
<b>Part 7</b>	
r. 7.01 .....	am. 1997 No. 76; 2001 No. 262
r. 7.01A.....	ad. 2002 No. 255
r. 7.02 .....	am. 2001 No. 262
<b>Part 8</b>	
Part 8 .....	rs F2016L01926
<b>Division 1</b>	

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
Division 1 .....	am No 255, 2002 rs F2016L01926
r. 8.01 .....	am No 76, 2003 rs F2016L01926
r. 8.02 .....	am No 76, 2003 rs F2016L01926
r. 8.03 .....	am No 76, 1997 rep F2016L01926
r. 8.04 .....	rep F2016L01926
Division 1A .....	ad No 76, 1997 rep F2016L01926
r. 8.04A.....	ad No 76, 1997 am No 262, 2001; No 195, 2010 rep F2016L01926
Division 2 .....	rs No 255, 2002 rep F2016L01926
r. 8.05 .....	rs No 255, 2002 rep F2016L01926
r. 8.05A.....	ad No 255, 2002 rep F2016L01926
r. 8.05B.....	ad No 255, 2002 rep F2016L01926
r. 8.05C.....	ad No 255, 2002 rep F2016L01926
r. 8.05D.....	ad No 255, 2002 rep F2016L01926
r. 8.05E.....	ad No 255, 2002 rep F2016L01926
r. 8.05F.....	ad No 255, 2002 rep F2016L01926
r. 8.05G.....	ad No 255, 2002 rep F2016L01926
r. 8.05H.....	ad No 255, 2002 rep F2016L01926
r. 8.05I.....	ad No 255, 2002 rep F2016L01926
r. 8.05J.....	ad No 255, 2002 rep F2016L01926
r. 8.05K.....	ad No 255, 2002 rep F2016L01926

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
r. 8.05L.....	ad No 255, 2002 am No 76, 2003 rep F2016L01926
r. 8.05M.....	ad No 255, 2002 rep F2016L01926
r. 8.05N.....	ad No 255, 2002 rep F2016L01926
r. 8.05O.....	ad No 255, 2002 rep F2016L01926
r. 8.05P.....	ad No 255, 2002 rep F2016L01926
Division 3 heading.....	rs No 76, 1997 rep F2016L01926
Division 3.....	rs No 76, 1997 rep F2016L01926
r. 8.06.....	rs No 76, 1997 rep F2016L01926
r. 8.06A.....	ad No 76, 1997 rep F2016L01926
Division 4 heading.....	rs No 76, 1997; No 287, 2010 rep F2016L01926
Division 4.....	rs No 287, 2010 rep F2016L01926
r. 8.07.....	rs No 287, 2010 rep F2016L01926
r. 8.08.....	am No 76, 1997 rs No 287, 2010 rep F2016L01926
r. 8.09.....	am No 255, 2002 rs No 287, 2010 rep F2016L01926
r. 8.10.....	am No 278, 1996 rs No 287, 2010 rep F2016L01926
r. 8.11.....	rs No 287, 2010 rep F2016L01926
r. 8.11A.....	ad No 255, 2002 rep No 287, 2010
r. 8.12.....	rep No 255, 2002 ad No 76, 2003

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
	rs No 287, 2010 rep F2016L01926
r. 8.12A.....	ad No 287, 2010 rep F2016L01926
r. 8.12B.....	ad No 287, 2010 rep F2016L01926
r. 8.12C.....	ad No 287, 2010 rep F2016L01926
r. 8.12D.....	ad No 287, 2010 rep F2016L01926
r. 8.12E.....	ad No 287, 2010 rep F2016L01926
r. 8.12F.....	ad No 287, 2010 rep F2016L01926
r. 8.12G.....	ad No 287, 2010 rep F2016L01926
r. 8.12H.....	ad No 287, 2010 rep F2016L01926
r. 8.12I.....	ad No 287, 2010 rep F2016L01926
r. 8.12J.....	ad No 287, 2010 rep F2016L01926
r. 8.12K.....	ad No 287, 2010 rep F2016L01926
r. 8.12L.....	ad No 287, 2010 rep F2016L01926
r. 8.12M.....	ad No 287, 2010 rep F2016L01926
r. 8.12N.....	ad No 287, 2010 rep F2016L01926
r. 8.12O.....	ad No 287, 2010 rep F2016L01926
r. 8.13.....	am No 262, 2001 rep F2016L01926
r. 8.14.....	am No 262, 2001 rep F2016L01926
Division 5A.....	ad No 278, 1996 rep No 76, 1997
r. 8.14A.....	ad No 278, 1996 am No 76, 1997

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
	rep No 76, 1997
Division 6 .....	rs No 255, 2002
	rep F2016L01926
r. 8.15 .....	rs No 255, 2002
	rep F2016L01926
r. 8.16 .....	ad No 255, 2002
	rep F2016L01926
r. 8.17 .....	ad No 255, 2002
	rep F2016L01926
r. 8.18 .....	ad No 255, 2002
	rep F2016L01926
r. 8.19 .....	ad No 255, 2002
	rep F2016L01926
r. 8.20 .....	ad No 255, 2002
	rep F2016L01926
r. 8.21 .....	ad No 255, 2002
	rep F2016L01926
r. 8.22 .....	ad No 255, 2002
	rep F2016L01926
r. 8.23 .....	ad No 255, 2002
	rep F2016L01926
r. 8.24 .....	ad No 255, 2002
	rep F2016L01926
r. 8.25 .....	ad No 255, 2002
	rep F2016L01926
r. 8.26 .....	ad No 255, 2002
	rep F2016L01926
r. 8.27 .....	ad No 255, 2002
	rep F2016L01926
r. 8.28 .....	ad No 255, 2002
	am No 76, 2003
	rep F2016L01926
r. 8.29 .....	ad No 255, 2002
	rep F2016L01926
r. 8.30 .....	ad No 255, 2002
	am No 76, 2003
	rep F2016L01926
r. 8.31 .....	ad No 255, 2002
	rep F2016L01926
Subdivision 4 heading .....	rs No 256, 2004

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
	rep F2016L01926
r. 8.32 .....	ad No 255, 2002
	rep F2016L01926
r. 8.33 .....	ad No 255, 2002
	rep F2016L01926
r. 8.34 .....	ad No 255, 2002
	rep F2016L01926
Subdivision 4A .....	ad No 256, 2004
	rep F2016L01926
r. 8.34A .....	ad No 256, 2004
	rep F2016L01926
Subdivision 5 .....	ad No 76, 2003
	rep F2016L01926
<b>Division 2</b>	
Division 2 .....	ad F2016L01926
r. 8.35 .....	ad No 76, 2003
	am No 256, 2004; No 195, 2010
	rs F2016L01926
r. 8.36 .....	ad No 76, 2003
	rep F2016L01926
r. 8.37 .....	ad No 76, 2003
	am No 4, 2006
	rep F2016L01926
r. 8.40 .....	ad F2016L01926
r. 8.45 .....	ad F2016L01926
<b>Division 3</b>	
Division 3 .....	ad F2016L01926
r. 8.50 .....	ad F2016L01926
r. 8.55 .....	ad F2016L01926
<b>Part 9</b>	
r. 9.01 .....	rs. 2007 No. 138
	am. 2010 No. 195
r. 9.02 .....	ad. 2003 No. 76
	rep. 2007 No. 138
r. 9.03 .....	ad. 2003 No. 76
	rep. 2007 No. 138
r. 9.04 .....	ad. 2003 No. 76
	am. 2004 No. 256
	rep. 2007 No. 138
r. 9.05 .....	ad. 2003 No. 76

## Endnote 4—Amendment history

Provision affected	How affected
	rep. 2007 No. 138
r. 9.06 .....	ad. 2003 No. 76
	am. 2006 No. 4
	rep. 2007 No. 138
r. 9.07 .....	ad. 2003 No. 76
	rep. 2007 No. 138
r. 9.08 .....	ad. 2007 No. 138
Renumbered r. 9.02 .....	2007 No. 138
r. 9.02 .....	am. 2010 No. 195
<b>Part 10</b>	
Part 10 .....	rs. 2004 No. 256
r. 10.01 .....	rs. 2004 No. 256
r. 10.02 .....	rs. 2004 No. 256
	am. 2010 No. 195
r. 10.03 .....	rs No 256, 2004
	am No 4, 2006; No 195, 2010, No 287, 2010; F2016L01926
r. 10.04 .....	rs No 256, 2004
	am No 4, 2006; No 195, 2010; No 287, 2010
	rep F2016L01926
r. 10.05 .....	rs No 256, 2004
	rep F2016L01926
r. 10.06 .....	rs. 2004 No. 256
r. 10.07 .....	rs. 2004 No. 256
r. 10.08 .....	rs. 2004 No. 256
r. 10.09 .....	rs. 2004 No. 256
	rep F2016L01926
r. 10.10 .....	am. 1997 No. 76; 2001 No. 262
	rs. 2004 No. 256
Note to r. 10.10(4) .....	rep. 2001 No. 262
r. 10.11 .....	rs. 2004 No. 256
r. 10.12 .....	rs. 2004 No. 256
r. 10.13 .....	am. 2001 No. 262
	rs. 2004 No. 256
r. 10.14 .....	rs. 2004 No. 256
r. 10.15 .....	am. 2001 No. 262
	rep. 2004 No. 256
r. 10.16 .....	rep. 2004 No. 256
r. 10.17 .....	am. 2001 No. 262
	rep. 2004 No. 256
r. 10.18 .....	am. 2001 No. 262; 2002 No. 255

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
	rep. 2004 No. 256
Note to r. 10.18(2).....	rep. 2001 No. 262
<b>Part 11</b>	
r. 11.01A.....	ad No 195, 2010 am F2016L01926
r. 11.01B.....	ad. 2010 No. 195
<b>Part 12</b>	
Heading to r. 12.01 .....	rs. 2005 No. 218
r. 12.01 .....	am. 1996 No. 278; 2001 No. 262; 2005 No. 218
Note to r. 12.01(4).....	rep. 2001 No. 262
<b>Part 13</b>	
<b>Division 2</b>	
r. 13.03 .....	am. 1997 No. 76; 2003 No. 76; 2004 No. 256
r. 13.04 .....	am. 1996 No. 278
<b>Division 2A</b>	
Division 2A .....	ad No 179, 2015
r 13.05A.....	ad No 179, 2015
r 13.05B.....	ad No 179, 2015
<b>Division 3</b>	
r. 13.06 .....	am. 1997 No. 76 rs. 2002 No. 255; 2006 No. 137 am. 2010 No. 195
Heading to r. 13.07 .....	rs. 1997 No. 76
r. 13.07 .....	am. 1997 No. 76
r. 13.11 .....	ad. 1997 No. 76 rep. 2006 No. 137
Part 15 .....	rep. 2002 No. 255
rr. 15.01–15.12 .....	rep. 2002 No. 255
rr. 15.13, 15.14 .....	am. 1997 No. 76 rep. 2002 No. 255
rr. 15.15–15.19 .....	rep. 2002 No. 255
<b>Part 14</b>	
<b>Division 1</b>	
Heading to Div. 1 of.....	ad. 2010 No. 287
Part 14	
<b>Division 2</b>	
Div. 2 of Part 14 .....	ad. 2010 No. 287
r. 14.03 .....	ad. 2010 No. 287
r. 14.04 .....	ad. 2010 No. 287
r. 14.05 .....	ad. 2010 No. 287

## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
r. 14.06 .....	ad. 2010 No. 287
r. 14.07 .....	ad. 2010 No. 287
r. 14.08 .....	ad. 2010 No. 287
r. 14.09 .....	ad. 2010 No. 287
r. 14.10 .....	ad. 2010 No. 287
r. 14.11 .....	ad. 2010 No. 287
r. 14.12 .....	ad. 2010 No. 287
r. 14.13 .....	ad. 2010 No. 287
r. 14.14 .....	ad. 2010 No. 287
r. 14.15 .....	ad. 2010 No. 287
<b>Part 15A</b>	
Part 15A .....	ad. 1997 No. 76
r. 15A.01.....	ad. 1997 No. 76 am. 2007 No. 138
r. 15A.02.....	ad. 1997 No. 76
r. 15A.03.....	ad. 1997 No. 76
r. 15A.04.....	ad. 1997 No. 76
r. 15A.05.....	ad. 1997 No. 76
r. 15A.06.....	ad. 1997 No. 76 rep. 2006 No. 137
r. 15A.07.....	ad. 1997 No. 76 am. 2010 No. 287
<b>Part 16</b>	
<b>Division 1</b>	
r. 16.02 .....	am. 1997 No. 76
<b>Division 2</b>	
Heading to Div. 2 of Part 16 .....	rs. 2006 No. 137
Note to Heading to Div. 2 of Part 16 .....	ad. 2006 No. 137 am. 2010 No. 195
Heading to Subdiv. A of Div. 2 of Part 16 Renumbered Subdiv. 2.1 of Div. 2 of Part 16 .....	2002 No. 255
Heading to Subdiv. 2.1 of Div. 2 of Part 16 (formerly Subdiv. A of Div. 2 of Part 16) .....	rep. 2006 No. 137
r. 16.04 .....	rep. 2006 No. 137
r. 16.05 Renumbered r. 16.03A.....	2002 No. 255
r. 16.06 .....	am. 2006 No. 4

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
	rs. 2006 No. 137
Heading to Subdiv. 2.2 of..... Div. 2 of Part 16	ad. 2002 No. 255 rep. 2006 No. 137
r. 16.07 .....	am. 1997 No. 76; 2000 No. 140 rs. 2002 No. 255; 2006 No. 137 am. 2010 No. 195
Note to r. 16.07(9) .....	rep. 2000 No. 140
r. 16.07A.....	ad. 2002 No. 255 am. 2004 No. 256 rep. 2006 No. 137
r. 16.07B.....	ad. 2002 No. 255 rep. 2006 No. 137
r. 16.07C.....	ad. 2002 No. 255 rep. 2006 No. 137
r. 16.07D.....	ad. 2002 No. 255 rep. 2006 No. 137
r. 16.07E.....	ad. 2002 No. 255 rep. 2006 No. 137
r. 16.08 .....	am. 1997 No. 76 rs. 2002 No. 255; 2006 No. 137 am. 2010 No. 195
r. 16.08A.....	ad. 2002 No. 255 rep. 2006 No. 137
Heading to Subdiv. 2.3 of..... Div. 2 of Part 16	ad. 2002 No. 255 rep. 2006 No. 137
r. 16.09 .....	am. 1997 No. 325 rs. 2002 No. 255; 2006 No. 137
r. 16.10 .....	rep. 2002 No. 255
r. 16.11 .....	am. 1997 No. 76 rep. 2002 No. 255
Heading to Subdiv. B of..... Div. 2 of Part 16	rep. 2002 No. 255
r. 16.12 .....	am. 1997 No. 76; 2000 No. 140; 2002 No. 255 rep. 2006 No. 137
r. 16.13 .....	rep. 2006 No. 137
Heading to Subdiv. 2.4 .....	rep. 2006 No. 137
of Div. 2 of Part 16	
Subdiv. 2.4 of Div. 2..... of Part 16	ad. 2002 No. 255
r. 16.13A.....	ad. 2002 No. 255 am. 2006 Nos. 4 and 137

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
	renum No 137, 2006
r 16.11 (prev r 16.13A) .....	am No 195, 2010; F2017L01712
r. 16.13B .....	ad. 2002 No. 255
	rs. 2006 No. 4
Renumbered r. 16.12 .....	2006 No. 137
Note to r. 16.13B became .....	2006 No. 137
Note to r. 16.12	
Div. 3 of Part 16 .....	rep. 2006 No. 137
<b>Division 3</b>	
Div. 3 of Part 16 .....	ad. 2010 No. 195
r. 16.13 .....	ad. 2010 No. 195
r. 16.14AA .....	ad. 1996 No. 278
	rep. 2006 No. 137
r. 16.14 .....	am. 1997 No. 76; 2004 No. 256
	rep. 2006 No. 137
	ad No 179, 2015
r. 16.15 .....	rs. 1997 No. 76
	rep. 2006 No. 137
r. 16.16 .....	rep. 2006 No. 137
r. 16.17 .....	rep. 1997 No. 76
<b>Schedule 1</b>	
Heading to Schedule 1 .....	rs. 2000 No. 220
Schedule 1 .....	am. 1997 No. 76
Form 1 .....	rs. 1997 No. 76
	am. 2000 No. 220; 2003 No. 76
	rs. 2010 No. 195
Form 2 .....	rep. 1997 No. 76
Schedule 2 .....	am No 256, 2004; No 4, 2006; No 137, 2006
	rep F2016L01926
<b>Schedule 3</b>	
Schedule 3 .....	am No 255, 2002; No 137, 2006; No 195, 2010; F2016L01926
<b>Schedule 4</b>	
Schedule 4 .....	am. 1997 No. 76; 2002 No. 255
Schedule 4A .....	ad No 256, 2004
	am No 287, 2010
	rep F2016L01926
Schedule 5 .....	rep No 138, 2007
<b>Schedule 6</b>	
Schedule 6 .....	am No 76, 2003
	rs No 256, 2004

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
	am No 4, 2006; No 137, 2006; No 287, 2010; F2016L01926
<b>Schedule 7</b>	
Schedule 7 .....	am No 76, 2003; F2016L01926
<b>Schedule 8</b>	
Schedule 8 .....	am No 76, 1997; No 255, 2002; No 76, 2003; No 256, 2004; No 4, 2006; No 138, 2007; No 51, 2013; No 179, 2015; F2016L00431; F2016L01926
Schedule 9 .....	am. 1997 No. 76; 2004 No. 256 rep. 2006 No. 137
Schedule 10 .....	am. 1997 No. 76 rep. 2002 No. 255

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