

Reprint
as at 30 May 2017



Insolvency (Personal Insolvency) Regulations 2007 (SR 2007/333)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 29th day of October 2007

Present:

His Excellency the Governor-General in Council

Pursuant to section 441 of the Insolvency Act 2006, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

Contents

	Page
1 Title	4
2 Commencement	4
3 References to Insolvency Act 2006	4
Part 1	
Prescribed forms and notices	
4 What this Part of regulations does	5
5 List of documents	5

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Business, Innovation, and Employment.

Part 2 Bankruptcy

6	Debtor's statement of affairs	6
7	Application by debtor for automatic adjudication	10
8	Bankrupt's statement of affairs	10
9	Notice to bankrupt to file statement of affairs	10

Control of bankrupt

10	Bankrupt's application for Assignee's consent to enter into business	11
11	Bankrupt's application for Assignee's consent to leave New Zealand	11

Creditors' claims

12	Creditor's claim form	12
----	-----------------------	----

Examinations

13	Expenses of attending examination	13
----	-----------------------------------	----

Assignee

14	Assignee's records and accounts	13
15	Assignee's bank account	13
16	Publication and advertisement of Assignee's final statement of receipts and payments <i>[Revoked]</i>	13
17	Assignee not required to incur expense if bankrupt has no available assets	13
18	Assignee's remuneration	13

Discharge

19	Time for creditor's notice of opposition to discharge on ground not specified in Assignee's report	14
----	--	----

Part 3 Compositions

20	Dispute as to claim under composition	14
21	Creditor's claim after approval of composition	14

Part 4 Proposals

22	Resolution accepting proposal	15
23	Notice of hearing of application for approval of proposal	15

Meetings

24	Chairperson	15
25	Chairperson may adjourn meeting	15
26	Quorum at meetings	15
27	Insolvent must attend meetings	16
28	Attendance by non-creditors	16

29	Trustee must report to meeting	16
30	Minutes and record of meetings	16
31	Who may vote at creditors' meeting	16
32	Admission or rejection of claims for purposes of voting	16
33	Voting by preferential creditors	17
34	Form of postal vote	17

Creditors' claims

35	Creditor must submit claim form	17
36	Trustee must notify creditor whether claim accepted or rejected	17

Trustee

37	Summary of receipts and payments	17
38	Audit of trustee's accounts and records	17
39	Trustee must produce accounts, etc, for purposes of audit	18
40	Trustee's fee	18
41	Appointment of new trustee by creditors	18
42	Replacement of trustee by court	18
43	Effect of appointment of new trustee	18

Part 5

Summary instalment orders

44	Application for summary instalment order	19
45	Notice of application for order	20
46	Time for debtor or creditor to make representations to Assignee	20
47	Time for sending notice of summary instalment order	20

Creditors' claims

48	Creditor must submit claim form	20
49	Late claim in respect of debt incurred before summary instalment order	21
50	Claim in respect of debt incurred after summary instalment order made	21
51	Variation of order as result of admission of claim under regulation 49 or 50	21
52	Supervisor must notify creditors as to acceptance or rejection of claim	21
53	Assignee may modify or reverse supervisor's decision to reject creditor's claim	22
54	Advice to creditors of dividend	22
55	Notice to employer to pay debtor's earnings to supervisor	22
56	Notice of default under order	22
57	Variation or discharge of summary instalment order	22
58	Notice by supervisor of variation or discharge of order	23

Supervisor

59	Supervisor's obligations	23
----	--------------------------	----

60	Supervisor and debtor must render accounts	23
61	Supervisor must provide Assignee with statement of receipts and payments after discharge of order	23
62	Money received by supervisor	23
63	Payments to creditors	24
64	Supervisor's remuneration	24

Part 6

No asset procedure

65	Application for entry to no asset procedure	24
66	Means test for entry to no asset procedure	25
67	Assignee's notice to debtor of admission to no asset procedure	25
68	Assignee's notice to debtor of termination of debtor's participation in no asset procedure	25

Part 7

Miscellaneous

69	Additional reasons for refusing access to public register or suspending operation of public register	26
70	Additional information in public registers	26
71	How Assignee must advertise document, proceeding, or other step	26
72	How document or notice must be filed or lodged with, or submitted to, the Assignee	26
73	Service of document or notices by Assignee	27

Schedule

Forms

28

Regulations

1 Title

These regulations are the Insolvency (Personal Insolvency) Regulations 2007.

2 Commencement

These regulations come into force on 3 December 2007.

3 References to Insolvency Act 2006

- (1) In these regulations, unless the context otherwise requires, **Act** means the Insolvency Act 2006.
- (2) In these regulations, unless otherwise stated, a reference to a section is a reference to a section of the Act.

Part 1

Prescribed forms and notices

4 What this Part of regulations does

This Part lists those documents for which these regulations prescribe the content or the form.

5 List of documents

- (1) This regulation tells you—
 - (a) what are the documents dealt with in these regulations; and
 - (b) where to find them in these regulations.
- (2) This is the list of the documents dealt with in these regulations, and in brackets next to each document you will see the number of the regulation that deals with it:

Documents relating to bankruptcy

- (a) statement of affairs (*see* regulations 6, 8(2), and 65(3));
- (b) application by debtor for automatic adjudication (*see* regulation 7);
- (c) notice to bankrupt to file statement of affairs (*see* regulation 9 and form 1 of the Schedule);
- (d) bankrupt's application for Assignee's consent to enter into business (*see* regulation 10);
- (e) bankrupt's application for Assignee's consent to leave New Zealand (*see* regulation 11);
- (f) creditor's claim form (*see* regulation 12);
- (g) creditor's notice of opposition to discharge on ground not specified in Assignee's report (*see* regulation 19);

Documents relating to compositions

- (h) creditor's claim form (*see* regulation 21(2));

Documents relating to proposals

- (i) resolution accepting proposal (*see* regulation 22);
- (j) notice to insolvent and creditors of hearing of trustee's application to court for approval of proposal (*see* regulation 23 and form 2 of the Schedule);
- (k) form of postal vote (*see* regulation 34 and form 3 of the Schedule);
- (l) trustee's summary of receipts and payments (*see* regulation 37(2) and form 4 of the Schedule);

Documents relating to summary instalment orders

- (m) application for summary instalment order (*see* regulation 44);

- (n) notice of application for summary instalment order (*see* regulation 45):
- (o) creditor's claim form (*see* regulation 48(2)):
- (p) application to vary or discharge summary instalment order (*see* regulation 57(1)):

Documents relating to no asset procedure

- (q) application for entry to no asset procedure (*see* regulation 65(2) and (3)):
- (r) Assignee's notice to debtor of admission to no asset procedure (*see* regulation 67):
- (s) Assignee's notice of termination of debtor's participation in no asset procedure (*see* regulation 68).

Regulation 5(2)(a): amended, on 24 March 2016, by regulation 4(1) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 5(2)(j): amended, on 24 March 2016, by regulation 4(2) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 5(2)(k): amended, on 24 March 2016, by regulation 4(3) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 5(2)(r): amended, on 24 March 2016, by regulation 4(4) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Part 2 Bankruptcy

6 Debtor's statement of affairs

- (1) For the purposes of section 46(1), a statement of affairs must be—
 - (a) signed by the debtor; and
 - (b) dated.
- (2) The statement of affairs must contain the following information:
 - (a) the debtor's full legal name:
 - (b) the debtor's current address, telephone number, and any other contact detail (such as a mobile telephone number or an email address):
 - (ba) any previous address of the debtor at which the debtor has resided in the previous 5 years, but, if there are more than 2, only the 2 most recent:
 - (c) any other name used by the debtor in the previous 7 years, including any alias but excluding any trading name:
 - (ca) any trading name used by the debtor in the previous 5 years (solely or with other persons):
 - (d) the debtor's date of birth:
 - (e) whether the debtor is male or female:
 - (f) the debtor's tax file number (IRD number):

- (g) if the debtor has a current passport, the nationality and number of the passport:
- (h) if the debtor is employed—
 - (i) the employer's name and address:
 - (ii) the debtor's occupation:
- (ha) the following details for each account held by the debtor (solely or with other persons) with any bank in the previous 5 years:
 - (i) the account name:
 - (ii) the account number:
 - (iii) the bank and bank branch:
 - (iv) the name of each signatory:
- (i) a statement of the debtor's income:
- (j) an itemised statement of the debtor's expenses:
- (k) if the debtor has included his or her partner's expenses under paragraph (j), a statement of the partner's income:
- (l) a statement of the debtor's current assets, including the description, value, and location of those assets:
- (m) a statement of any assets that the debtor has disposed of in the previous 5 years:
- (n) a statement of the debtor's liabilities, including any contingent liabilities, with the following details for each liability:
 - (i) the amount:
 - (ia) each creditor's name, address, telephone number, and any other contact detail (such as a mobile telephone number or an email address):
 - (ib) if it is a joint liability, the following:
 - (A) a statement that it is a joint liability:
 - (B) each other debtor's name, address, telephone number, and any other contact detail (such as a mobile telephone number or an email address):
 - (ii) *[Revoked]*
 - (iii) how it was incurred:
 - (iv) whether it is secured:
 - (v) if it is secured, a description of the security:
 - (vi) *[Revoked]*
- (o) a statement of all financial transactions by the debtor during the previous 3 years:

- (p) the following details for any person who, as a lawyer or an accountant, provided services to the debtor in the previous 5 years:
 - (i) the person's name, address, telephone number, and any other contact detail (such as a mobile telephone number or an email address):
 - (ii) the name of the body corporate, partnership, or other organisation (if any) through which the person provided the services (whether as an employee or otherwise):
 - (q) the following details for any person not covered by paragraph (p) who, as a professional adviser, provided services to the debtor in the previous 5 years in respect of the debtor's financial affairs (including the valuation of any of the debtor's assets or liabilities):
 - (i) the person's name, address, telephone number, and any other contact detail (such as a mobile telephone number or an email address):
 - (ii) the name of the body corporate, partnership, or other organisation (if any) through which the person provided the services (whether as an employee or otherwise):
 - (r) a statement of the debtor's involvement with any trust in the previous 5 years as a settlor, trustee, or beneficiary, including details of the following:
 - (i) any money or other assets paid or transferred by the debtor to the trustee, or by the trustee to the debtor, in the previous 5 years:
 - (ii) any liability currently owed to the debtor by the trustee:
 - (s) a statement of any agreement entered into by the debtor in the previous 5 years under section 21, 21A, or 21B of the Property (Relationships) Act 1976, including the following:
 - (i) the name of the other party to the agreement:
 - (ii) details of the assets and liabilities dealt with by the agreement:
 - (t) a statement of any lump sum contributions made by the debtor in the previous 5 years to a retirement scheme.
- (3) In subclause (2), references to the previous 3, 5, or 7 years are to the period of 3, 5, or 7 years that ends with—
- (a) the date of the statement of affairs; or
 - (b) the date of adjudication, if this regulation is being applied in accordance with regulation 8.
- (4) In subclause (2)(ha), **bank** means—
- (a) a registered bank, or an overseas bank, as defined in section 2(1) of the Reserve Bank of New Zealand Act 1989; or

- (b) a building society as defined in section 2(1) of the Building Societies Act 1965 or a body corporate or other organisation of the same, or substantially the same, nature operating outside New Zealand; or
 - (c) a credit union as defined in section 2 of the Friendly Societies and Credit Unions Act 1982 or a body corporate or other organisation of the same, or substantially the same, nature operating outside New Zealand.
- (5) In subclause (2)(p), **lawyer** includes a person practising law outside New Zealand (in addition to a person covered by the definition of lawyer in section 3).
- (6) In subclause (2)(t), **retirement scheme**—
- (a) means a retirement scheme within the meaning of section 6(1) of the Financial Markets Conduct Act 2013; and
 - (b) includes a scheme registered before 1 December 2014 in the KiwiSaver schemes register under the KiwiSaver Act 2006 or a scheme registered before that date under the Superannuation Schemes Act 1989.

Regulation 6(2)(a): amended, on 24 March 2016, by regulation 5(1) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 6(2)(ba): inserted, on 24 March 2016, by regulation 5(2) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 6(2)(c): replaced, on 24 March 2016, by regulation 5(3) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 6(2)(ca): inserted, on 24 March 2016, by regulation 5(3) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 6(2)(ha): inserted, on 24 March 2016, by regulation 5(4) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 6(2)(m): amended, on 24 March 2016, by regulation 5(5) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 6(2)(n)(ia): inserted, on 24 March 2016, by regulation 5(6) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 6(2)(n)(ib): inserted, on 24 March 2016, by regulation 5(6) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 6(2)(n)(ii): revoked, on 24 March 2016, by regulation 5(7) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 6(2)(n)(vi): revoked, on 24 March 2016, by regulation 5(7) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 6(2)(o): amended, on 24 March 2016, by regulation 5(8) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 6(2)(p): inserted, on 24 March 2016, by regulation 5(9) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 6(2)(q): inserted, on 24 March 2016, by regulation 5(9) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 6(2)(r): inserted, on 24 March 2016, by regulation 5(9) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 6(2)(s): inserted, on 24 March 2016, by regulation 5(9) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 6(2)(t): inserted, on 24 March 2016, by regulation 5(9) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 6(3): inserted, on 24 March 2016, by regulation 5(10) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 6(4): inserted, on 24 March 2016, by regulation 5(10) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 6(5): inserted, on 24 March 2016, by regulation 5(10) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 6(6): inserted, on 24 March 2016, by regulation 5(10) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

7 Application by debtor for automatic adjudication

- (1) An application form under section 49(1)(a) must—
 - (a) be addressed to the Assignee; and
 - (b) state that the debtor applies for automatic adjudication under section 47(1); and
 - (c) be signed by the debtor; and
 - (d) be dated.
- (2) The application must contain the following information:
 - (a) the debtor's full name;
 - (b) the debtor's current address, telephone number, and any other contact detail (such as a mobile telephone number or an email address);
 - (c) the debtor's date of birth;
 - (d) the debtor's occupation.
- (3) The fee that is payable for making the application is \$200 inclusive of goods and services tax.

8 Bankrupt's statement of affairs

- (1) For the purposes of section 67, a statement of affairs must comply with regulation 6 as if references to the debtor in that regulation were references to the bankrupt.
- (2) On the adjudication of a partnership, the bankrupts must submit a statement of affairs for the partnership affairs and each bankrupt must submit a separate statement of affairs for his or her separate affairs.

9 Notice to bankrupt to file statement of affairs

A notice under section 68(1) must be in form 1 of the Schedule.

Control of bankrupt

10 Bankrupt's application for Assignee's consent to enter into business

- (1) A bankrupt's application to the Assignee for consent under section 149(1) to enter into a business or employment must—
- (a) be in writing; and
 - (b) be signed by the bankrupt or the bankrupt's authorised representative; and
 - (c) be accompanied by an affidavit by the bankrupt verifying the information required under paragraph (d); and
 - (d) contain the following information:
 - (i) the bankrupt's full name;
 - (ii) the bankrupt's current address, telephone number, and any other contact detail (such as a mobile telephone number or an email address);
 - (iii) the reasons for the application;
 - (iv) whether the business is a new business;
 - (v) what capital (if any) it is intended that the bankrupt or any other person will contribute to the business;
 - (vi) any other information that the Assignee may require.
- (2) In deciding the application, the Assignee must have regard to the interests of the bankrupt, the bankrupt's creditors, and the community, but may otherwise decide it in his or her absolute discretion.
- (3) The Assignee may—
- (a) refuse the application; or
 - (b) grant it without conditions; or
 - (c) grant it subject to any conditions that the Assignee thinks fit.

11 Bankrupt's application for Assignee's consent to leave New Zealand

- (1) A bankrupt's application to the Assignee for consent to leave New Zealand must—
- (a) be in writing; and
 - (b) be signed by the bankrupt; and
 - (c) contain the following information:
 - (i) the bankrupt's full name;
 - (ii) the bankrupt's current address, telephone number, and any other contact detail (such as a mobile telephone number or an email address);

- (iii) the intended date of departure:
 - (iv) whether the departure is temporary or permanent:
 - (v) if the departure is temporary, the intended date of return:
 - (vi) the reasons for departure:
 - (vii) the bankrupt's address while overseas:
 - (viii) any other information that the Assignee may require.
- (2) In deciding the application, the Assignee must have regard to the interests of the bankrupt and the bankrupt's creditors, but may otherwise decide it in his or her absolute discretion.
- (3) The Assignee may—
- (a) refuse the application; or
 - (b) grant it without conditions; or
 - (c) grant it subject to any conditions that the Assignee thinks fit.

Creditors' claims

12 Creditor's claim form

- (1) A creditor's claim form under section 233 or 247 must—
- (a) be signed by the person completing the form; and
 - (b) be dated; and
 - (c) have attached to it evidence of the debt and any other evidence supporting the claim.
- (2) A creditor's claim form under section 233 or 247 must contain the following information:
- (a) the creditor's full name:
 - (b) the creditor's current address, telephone number, and any other contact detail (such as a mobile telephone number or an email address):
 - (c) the creditor's goods and services tax registration number (GST number), if any:
 - (d) if the form is completed on behalf of the creditor, the full name of the person completing the form:
 - (e) the full name of the bankrupt or debtor:
 - (f) the amount of the debt claimed:
 - (g) a description of how and when the debt was incurred:
 - (h) whether the debt is secured:
 - (i) if the debt is secured, a description of the security and the estimated value of the security.

Examinations

13 Expenses of attending examination

- (1) A person who is summoned for examination by the Assignee is entitled to be paid an allowance and travelling expenses as if that person were a witness for the purposes of the Witnesses and Interpreters Fees Regulations 1974.
- (2) A bankrupt who is required to attend a public examination is entitled to be paid travelling expenses as if the bankrupt were a witness for the purposes of the Witnesses and Interpreters Fees Regulations 1974.

Assignee

14 Assignee's records and accounts

- (1) The Assignee must keep accounting records in the following form:
 - (a) an estate ledger;
 - (b) a cash book;
 - (c) a register of unrealised assets.
- (2) The estate ledger must be balanced with the cash book at the end of each calendar month.
- (3) Subject to any directions of the Auditor-General as to trading accounts, all receipts and payments made by the Assignee must be entered in the cash book.

15 Assignee's bank account

The Assignee must pay all money received by him or her into a bank account to his or her own credit as Assignee.

16 Publication and advertisement of Assignee's final statement of receipts and payments

[Revoked]

Regulation 16: revoked, on 30 May 2017, by section 122(2) of the Regulatory Systems (Commercial Matters) Amendment Act 2017 (2017 No 12).

17 Assignee not required to incur expense if bankrupt has no available assets

- (1) The Assignee is not required to incur any expense in relation to the estate of a bankrupt who has no available assets.
- (2) However, the Assignee may incur expense in that case (but cannot be required to do so) if the Assignee has obtained a guarantee from the creditors or some of them.

18 Assignee's remuneration

- (1) Except when subclause (2) applies, the rates of remuneration for the Assignee and his or her staff are the following (in each case, exclusive of goods and services tax):

- (a) the Assignee and Deputy Assignee: \$230 per hour:
 - (b) legal and accounting staff: \$230 per hour:
 - (c) insolvency officers: \$160 per hour.
- (2) When the Assignee carries out his or her duties, and exercises his or her powers, under subpart 3 of Part 5 of the Act, the Assignee's rate of remuneration is 2.5% of the value of the assets of the debtor recovered by the supervisor.

Regulation 18(1)(a): amended, on 24 March 2016, by regulation 6(1) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 18(1)(b): amended, on 24 March 2016, by regulation 6(1) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Regulation 18(1)(c): amended, on 24 March 2016, by regulation 6(2) of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

Discharge

19 Time for creditor's notice of opposition to discharge on ground not specified in Assignee's report

For the purposes of section 297(1), a creditor must give notice not less than 5 working days before the application is to be heard.

Part 3 Compositions

20 Dispute as to claim under composition

- (1) This regulation applies if, under a composition, provision is made for the payment of any money to the creditors entitled to it, and a claim for which a creditor's claim form has been lodged is disputed.
- (2) The court may, if it thinks fit, order that the money that would be paid if the claim were established be secured as the court directs while the claim is determined, and on determination of the claim the money so secured must be paid as the court orders.

21 Creditor's claim after approval of composition

- (1) A person claiming to be a creditor under a composition who has not proved his or her debt before the approval of the composition must lodge a creditor's claim form with the trustee.
- (2) A creditor's claim form must comply with regulation 12.
- (3) A creditor cannot enforce payment of any sum or part of a sum payable under a composition unless the creditor has lodged a creditor's claim form with the trustee and the trustee has admitted the claim.

Part 4

Proposals

22 Resolution accepting proposal

The resolution of the creditors at a meeting accepting the proposal must be in the form of a statement that contains the following information:

- (a) the name of the insolvent; and
- (b) the date of the proposal; and
- (c) a statement that the meeting of creditors resolved that the insolvent's proposal annexed to the resolution be accepted; and
- (d) a copy of the proposal as an annexure; and
- (e) a record of any modifications to the proposal (if any) agreed at the meeting; and
- (f) the name of the person confirmed or appointed as trustee; and
- (g) the signature of the chairperson of the meeting of creditors; and
- (h) the number of creditors voting in favour of the resolution and the total amount of their proven claims; and
- (i) the number of creditors voting against the resolution and the total amount of their proven claims.

23 Notice of hearing of application for approval of proposal

A notice under section 333(1)(b) must be in form 2 of the Schedule.

Meetings

24 Chairperson

The chairperson of the meeting is the person elected by the creditors to be the chairperson.

25 Chairperson may adjourn meeting

The chairperson may adjourn the meeting from time to time and place to place.

26 Quorum at meetings

- (1) Two creditors or their representatives present at the meeting constitute a quorum.
- (2) A creditor is present at a meeting for the purposes of subclause (1) if the creditor is a person who has voted by postal vote in accordance with section 330(2).
- (3) If no quorum is present at the meeting, the proposal is deemed to be not accepted by the creditors.

27 Insolvent must attend meetings

- (1) The insolvent must attend every meeting of the creditors under subpart 2 of Part 5 of the Act.
- (2) However, subclause (1) does not apply to the extent that the insolvent is prevented from attending a meeting by illness or some other sufficient cause.
- (3) The insolvent must answer to the best of his or her knowledge and ability every question put to him or her by the chairperson or any creditor in respect of the insolvent's conduct, dealings, property, and affairs.
- (4) The failure of an insolvent to attend a meeting does not affect the validity of any resolution passed at the meeting.

28 Attendance by non-creditors

A person who is not a creditor may attend a meeting of creditors with the approval of the majority of the creditors.

29 Trustee must report to meeting

If the trustee attends a creditor's meeting or an adjournment of the meeting, the trustee must—

- (a) report on the conduct of the proposal to date; and
- (b) give any creditor any further information that the creditor may properly require; and
- (c) if reasonably required, produce for the meeting (or its adjournment) all accounting records, deeds, and papers in the trustee's possession that relate to the insolvent's property.

30 Minutes and record of meetings

- (1) The chairperson must ensure that minutes are kept of each meeting, and must sign the minutes.
- (2) The chairperson may record the meeting, but only with the consent of each creditor attending.

31 Who may vote at creditors' meeting

A creditor whose claim has been admitted may vote at creditors' meetings.

32 Admission or rejection of claims for purposes of voting

- (1) The provisional trustee has the power to admit or reject a claim for the purposes of voting at a creditors' meeting, but his or her decision is subject to appeal to the court.
- (2) If the provisional trustee is uncertain whether a claim may be admitted or rejected, he or she must allow the creditor to vote subject to that vote being declared invalid in the event of the claim being rejected for purposes of voting.

33 Voting by preferential creditors

- (1) This regulation applies when it is necessary to compute the requisite majority of creditors for passing a resolution accepting a proposal that contains an offer to compromise at less than 100 cents in the dollar.
- (2) The preferential creditors must not be counted either in number or value except as to any part of their claim that is not preferential.

34 Form of postal vote

For the purposes of section 330(1)(e), the prescribed form of postal vote is form 3 of the Schedule.

Creditors' claims

35 Creditor must submit claim form

- (1) A creditor's claim form for a claim under a proposal must comply with regulation 12.
- (2) A creditor may amend a claim form if the trustee agrees.
- (3) A creditor who has submitted a claim form may, at any reasonable time, inspect the claim form of any other creditor.

36 Trustee must notify creditor whether claim accepted or rejected

The trustee must notify in writing each creditor who has submitted a claim form whether the claim has been accepted or rejected, with reasons in writing if the claim has been rejected.

Trustee

37 Summary of receipts and payments

- (1) A summary of receipts and payments under section 338(3)(a) must be in form 4 of the Schedule.
- (2) The Registrar may direct that the summary, once filed, must be audited by a chartered accountant.

38 Audit of trustee's accounts and records

- (1) The Registrar must obtain an audit by a chartered accountant of the trustee's accounts and records relating to the insolvent if the Registrar considers that an audit is desirable.
- (2) The Registrar may act on his own initiative or on the application for an audit by a creditor.

39 Trustee must produce accounts, etc, for purposes of audit

- (1) For the purposes of an audit under regulation 37(3) or 38, the trustee must produce to the auditor the trustee's accounts, records, documents, and other information relating to the insolvent as and when the auditor requires them.
- (2) The cost of an audit under regulation 37(3) or 38 must be paid out of the money available under the proposal.

40 Trustee's fee

- (1) The trustee is entitled to a fee, in addition to payment of the trustee's reasonable expenses, for the work of the trustee after acceptance of the proposal by the creditors.
- (2) The fee must be paid at the following rates on the net value of the property realised by the trustee after deducting any sums paid to secured creditors out of the proceeds or in respect of their securities:
 - (a) 20% of the first \$3,000 or part of it, with a minimum of \$200:
 - (b) 10% of the next \$7,000 or part of it:
 - (c) 5% of any amount in excess of \$10,000.

41 Appointment of new trustee by creditors

- (1) The creditors may appoint a new trustee to replace a trustee who has died, or is incapable of acting, or wishes to be replaced.
- (2) The appointment must be made by a resolution of the creditors at a meeting of the creditors convened to appoint a new trustee.
- (3) A meeting to appoint a new trustee may be called by the existing trustee (if capable) or any creditor.

42 Replacement of trustee by court

The court may, on the application of the insolvent or any creditor, remove a trustee and appoint another trustee in his or her place.

43 Effect of appointment of new trustee

- (1) Any property vested in the first trustee appointed, whether vested under the proposal or under any deed entered into in terms of the proposal, vests in a trustee appointed under regulation 41 or 42 without the necessity of any conveyance, assignment, or transfer.
- (2) A trustee appointed under regulation 41 or 42 must complete all matters and transactions left uncompleted by the previous trustee.
- (3) Any payment made, any thing done, any transaction entered into, and any liability incurred by a trustee in good faith and in exercise of his or her powers is binding on every subsequent trustee.

Part 5

Summary instalment orders

44 Application for summary instalment order

- (1) An application for a summary instalment order under section 341 must be—
 - (a) signed by the person making the application; and
 - (b) dated.
- (2) If the application is made by the debtor, the application must state whichever of the following applies:
 - (a) that the debtor proposes to pay the creditors in full; or
 - (b) the amount in the dollar that the debtor proposes to pay.
- (3) In all cases, whether the application is made by the debtor or a creditor, the application—
 - (a) must—
 - (i) state the name and address of the debtor’s proposed supervisor and annex the written consent of that person to be supervisor; or
 - (ii) if the debtor considers that a supervisor is not necessary, state the debtor’s reasons; and
 - (b) must be accompanied by a statement of affairs.
- (4) In all cases, whether the application is made by the debtor or a creditor, the application must contain the following information:
 - (a) the debtor’s full name;
 - (b) the debtor’s current address, telephone number, and any other contact details (such as a mobile telephone number or an email address);
 - (c) the debtor’s occupation;
 - (d) the debtor’s date of birth;
 - (e) a detailed statement of the debtor’s property;
 - (f) each creditor’s current address, telephone number, and any other contact detail (such as a mobile telephone number or an email address);
 - (g) the amount and nature of each of the creditors’ debts;
 - (h) whether any of the debts are secured and the value of the security;
 - (i) whether any of the debts are guaranteed by any person;
 - (j) a statement of the debtor’s earnings;
 - (k) if the debtor is employed, the employer’s name, current address, telephone number, and any other contact detail (such as a mobile telephone number or an email address).

- (5) The fee that is payable for making the application is \$100 inclusive of goods and services tax.

45 Notice of application for order

- (1) The applicant for a summary instalment order must, as soon as practicable, notify the following persons that an application for a summary instalment order has been made:
- (a) the debtor, unless the debtor is the applicant; and
 - (b) each known creditor.
- (2) The notice must—
- (a) state—
 - (i) the name of the applicant; and
 - (ii) the name of the debtor; and
 - (iii) the amount proposed to be paid under the order; and
 - (iv) the name of the proposed supervisor; and
 - (b) state that the debtor and the creditors have the right to make representations opposing or supporting the order to the Assignee in writing within 10 working days after the date of the notice.

46 Time for debtor or creditor to make representations to Assignee

For the purposes of section 343(2), the time for the debtor or a creditor to make representations to the Assignee is 10 working days after the date of the notice under regulation 45.

47 Time for sending notice of summary instalment order

For the purposes of section 353, the supervisor must send the notice of the summary instalment order within 15 working days of the order being made.

Creditors' claims

48 Creditor must submit claim form

- (1) A creditor who wishes to make a claim must submit a claim form to the supervisor within 15 working days after receiving notice that the summary instalment order has been made.
- (2) The claim form must comply with regulation 12.
- (3) A creditor may amend a claim form if the supervisor agrees.
- (4) A creditor whose claim has been admitted may, at any reasonable time, inspect,—
- (a) if the debtor applied for the summary instalment order, the debtor's application; and
 - (b) the debtor's statement of affairs; and

(c) the claim form of any other creditor.

49 Late claim in respect of debt incurred before summary instalment order

- (1) This regulation applies if, after a summary instalment order has been made, a person (A) claims that the debtor has incurred a debt before the order was made.
- (2) The supervisor may accept A's late claim for the debt and in that event the debt is included in the administration of the debtor's estate.
- (3) If the claim is not accepted, A may apply to the Assignee under regulation 53.
- (4) A creditor whose claim is admitted late under this regulation is entitled to be paid a dividend from the date of the order, but this regulation must not affect the distribution of any dividend declared before the date on which the claim is admitted.

50 Claim in respect of debt incurred after summary instalment order made

- (1) This regulation applies if, after a summary instalment order has been made, a person (A) becomes a creditor of the debtor.
- (2) A may submit a claim form to the supervisor in respect of the debt and the supervisor may accept the claim.
- (3) If the supervisor accepts the claim, A may be included as a creditor in the administration of the debtor's estate, but must not be paid a dividend under the order until all creditors included in the administration as creditors before the making of the order have been paid.
- (4) If the claim is not accepted, A may apply to the Assignee under regulation 53.

51 Variation of order as result of admission of claim under regulation 49 or 50

The supervisor, or the debtor if no supervisor has been appointed, may apply to the Assignee for a variation of the order if the admission of a claim under regulation 49 or 50 would substantially affect the performance of the order.

52 Supervisor must notify creditors as to acceptance or rejection of claim

- (1) The supervisor must as soon as practicable notify each creditor in writing whether that person's claim has been accepted or rejected.
- (2) If the supervisor rejects a creditor's claim, whether in whole or in part, the supervisor must also, in the same notice,—
 - (a) give that person the reasons for rejecting it; and
 - (b) advise that person of the right to apply to the Assignee to modify or reverse the supervisor's decision concerning the claim.

53 Assignee may modify or reverse supervisor's decision to reject creditor's claim

- (1) A creditor whose claim has been rejected by the supervisor may apply to the Assignee for the Assignee to modify or reverse the supervisor's decision.
- (2) The creditor must make the application within 15 working days after the date of a notice given under regulation 52.
- (3) The Assignee must, as soon as practicable, notify the supervisor, the debtor, and the creditor that—
 - (a) the application has been received by the Assignee; and
 - (b) each of the supervisor, the debtor, and the creditor has the right to make submissions to the Assignee concerning the claim within 15 working days after the date of the notice that the application has been made.
- (4) The Assignee may, in his or her absolute discretion after considering any submissions made in accordance with subclause (3)(b), modify or reverse the supervisor's decision.

54 Advice to creditors of dividend

The supervisor must ensure that remittances of dividends to creditors are accompanied by an advice note identifying the payment and the period to which it relates.

55 Notice to employer to pay debtor's earnings to supervisor

A direction by a supervisor to the debtor's employer to pay all or part of the debtor's earnings to the supervisor must—

- (a) be in writing; and
- (b) state the date on which payment to the supervisor must begin; and
- (c) be served on the employer personally or posted to the employer's place of business.

56 Notice of default under order

The supervisor must as soon as practicable notify in writing the Assignee and each creditor of a default by the debtor under a summary instalment order.

57 Variation or discharge of summary instalment order

- (1) An application under section 350 to vary or discharge a summary instalment order must—
 - (a) be in writing; and
 - (b) state the reasons why the order should be varied or discharged.
- (2) The applicant must send a copy of the application to every person who will be adversely affected by the variation or discharge.

58 Notice by supervisor of variation or discharge of order

The supervisor must, as soon as practicable, give the debtor and each creditor written notice of any variation, or the discharge, of the order.

Supervisor

59 Supervisor's obligations

The supervisor must perform diligently and competently the duties of a supervisor set out in the Act, these regulations, and the terms of the order appointing the supervisor.

60 Supervisor and debtor must render accounts

- (1) The Assignee may require the supervisor or, if no supervisor has been appointed, the debtor to file 6-monthly accounts.
- (2) The first 6-month period begins on the date of the order.
- (3) The accounts must—
 - (a) be filed not later than 20 working days after the end of each 6-month period; and
 - (b) record the receipts and payments under the order during that period; and
 - (c) be accompanied by the relevant bank statements.
- (4) The Assignee may inspect the accounts filed under this regulation and may appoint an auditor to audit the accounts.
- (5) For the purposes of an audit, the supervisor or debtor must, as and when required, produce to an auditor appointed under subclause (4) all accounts and relevant documents relating to the administration of the debtor's affairs.

61 Supervisor must provide Assignee with statement of receipts and payments after discharge of order

- (1) Within 20 working days after the discharge of the summary instalment order, the supervisor must provide the Assignee with a statement of receipts and payments.
- (2) This regulation does not apply if the supervisor has used the Assignee's trust account for receipts and payments under the order.

62 Money received by supervisor

- (1) For the purposes of section 351, instalments paid to the supervisor under a summary instalment order must be paid into—
 - (a) the Assignee's trust account; or
 - (b) a bank account in the names of the debtor, the supervisor, and any other person that the supervisor thinks appropriate.

- (2) All payments out of the trust account or bank account must be by cheque or electronic funds transfer.
- (3) If the supervisor elects not to use the Assignee's trust account for payments to the supervisor, the supervisor must personally bear the cost of the fees and other expenses incurred in maintaining the bank account that is used for the purpose.

63 Payments to creditors

- (1) Unless the order provides otherwise, payments to creditors must be made as follows while the summary instalment order is operative:
 - (a) every 4 months, if the order is made before 24 March 2016:
 - (b) every 6 months, in any other case.
- (2) However, if a dividend (other than a final dividend) is less than \$20, the supervisor may hold that and subsequent dividends over until the accumulated dividend to be paid exceeds \$20.
- (3) Despite anything in these regulations, the supervisor may, if he or she thinks fit, liquidate a debt if the total of the debt payable to the creditor under the order is less than \$200, in preference to other admitted debts of greater amount.

Regulation 63(1): replaced, on 24 March 2016, by regulation 7 of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

64 Supervisor's remuneration

For the purposes of section 346(2), the amount that the supervisor may charge the debtor is 7.5% of the value of the assets of the debtor that are recovered by the supervisor.

Part 6 No asset procedure

65 Application for entry to no asset procedure

- (1) An application for entry to the no asset procedure under section 362(1) must—
 - (a) be addressed to the Assignee; and
 - (b) state that the debtor applies for entry to the no asset procedure; and
 - (c) be signed by the debtor; and
 - (d) be dated.
- (2) The application must contain the following information:
 - (a) the debtor's full name:
 - (b) the debtor's current address, telephone number, and any other contact details (such as a mobile telephone number or an email address):
 - (c) the debtor's occupation:

- (d) the debtor's date of birth.
- (3) The application must be accompanied by a statement of affairs that complies with regulation 6.

66 Means test for entry to no asset procedure

The prescribed means test for the purposes of section 363(1)(e) is whether, taking into account the income of the debtor personally and that of any relative with whom the debtor lives, the debtor has a surplus of money after paying the household's usual and reasonable living expenses.

67 Assignee's notice to debtor of admission to no asset procedure

A notice under section 367(1) must—

- (a) be signed by the Assignee; and
- (b) state that the debtor has been admitted to the no asset procedure; and
- (c) be dated; and
- (d) contain the following information:
 - (i) the debtor's full name and address;
 - (ii) the debtor's date of birth;
 - (iii) the date of admission to the no asset procedure;
 - (iv) a summary of the debtor's obligations under the provisions of the Act relating to the no asset procedure.

68 Assignee's notice to debtor of termination of debtor's participation in no asset procedure

A notice of termination under section 373(2) must—

- (a) be signed by the Assignee; and
- (b) state that the debtor's participation in the no asset procedure has been terminated; and
- (c) be dated; and
- (d) contain the following information:
 - (i) the debtor's full name and address;
 - (ii) the debtor's date of birth;
 - (iii) a unique identifying number;
 - (iv) the date of the debtor's admission to the no asset procedure;
 - (v) the date of termination;
 - (vi) a summary of the effect of termination.

Part 7

Miscellaneous

69 Additional reasons for refusing access to public register or suspending operation of public register

The Assignee may refuse access to a public register maintained under section 62, 354, or 368, or suspend the operation of it, for any of the following additional reasons:

- (a) for the maintenance of the register:
- (b) in response to technical difficulties in the maintenance or operation of the register:
- (c) to ensure the security or integrity of the register.

70 Additional information in public registers

In addition to the information specified in section 449(1), a public register maintained under section 62, 354, or 368 must contain the year and month of birth of the person who is or has been bankrupt or who is subject to a current summary instalment order or currently admitted to the no asset procedure.

Regulation 70: amended, on 24 March 2016, by regulation 8 of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

71 How Assignee must advertise document, proceeding, or other step

- (1) When, under the Act or these regulations, the Assignee must advertise a document, proceeding, or other step to be taken, the Assignee must advertise it by publishing it—
 - (a) once in the *Gazette*; and
 - (b) on the Insolvency and Trustee Service website maintained by the Ministry for 4 years after the date of discharge.
- (2) An advertisement by the Assignee may advertise a document, proceeding, or other step in relation to more than 1 bankruptcy or other administration of an estate.

Regulation 71(1)(b): amended, on 24 March 2016, by regulation 9 of the Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34).

72 How document or notice must be filed or lodged with, or submitted to, the Assignee

- (1) This regulation applies when a person (A) must file, lodge, or submit a document or notice with or to the Assignee.
- (2) In the case of an application under section 49 (debtor's application for automatic adjudication), 341 (application for a summary instalment order), or 362 (application for admission to no asset procedure), A must either—

- (a) complete the application online at the website of the Insolvency and Trustee Service, except that A must also sign and return the printed version of the application generated by the Insolvency and Trustee Service website; or
 - (b) print off a blank application form from the Insolvency and Trustee Service website, and take or post that form after completion to the Assignee.
- (3) In all other cases, A must take, fax, or post the document or notice to the Assignee.

73 Service of document or notices by Assignee

A notice or document that must, under the Act or these regulations, be served on or sent to any person by the Assignee, and is not by the Act or these regulations directed to be served personally, may be sent by ordinary letter post addressed to the last known place of business or abode of the person.

Schedule Forms

rr 9, 23, 34, 37

Form 1 Notice to bankrupt

Section 68(1), Insolvency Act 2006

Date:

Name and address of bankrupt:

Estate name: [*name of bankrupt*]

Estate number:

On [*date of adjudication*] you were adjudicated bankrupt by the High Court at [*place*]
on the application of [*name of applicant*].

You must complete a statement of affairs and file it with the Assignee within 10
working days after receiving this notice.

Official Assignee:

Form 2

Notice to insolvent and creditors of hearing of trustee's application to court for
approval of proposal

Section 333(1)(b), Insolvency Act 2006

Name of insolvent:

Date:

The application of the trustee to the High Court at [*place*] for the approval of the proposal accepted by creditors on [*date of resolution*] will be heard on [*date and time*].

Signature of trustee:

Form 3

Postal vote for use in voting on proposal

Section 330(1)(e), Insolvency Act 2006

To: [*name of the provisional trustee*]

Name of insolvent:

Date:

Name of creditor:

Amount of the creditor's proven claim:

Vote in favour of proposal dated [*date of proposal*]: Yes/No*

*Delete whichever does not apply.

Signature of creditor:

Signature of person witnessing creditor's signature:

Form 4
Trustee's summary of receipts and payments
Section 338(3)(a), Insolvency Act 2006

Name of insolvent:

Date of approval of proposal:

Period covered by this summary:

Details of receipts, including date received, from whom received, nature of receipt, and amount:

Details of payments, including date paid, to whom paid, nature of payment, and amount:

Total receipts during period of summary:

Total payments during period of summary:

Total receipts:

Total payments:

Date of summary:

Signature of trustee:

Diane Morcom,
Clerk of the Executive Council.

Reprints notes

1 *General*

This is a reprint of the Insolvency (Personal Insolvency) Regulations 2007 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Regulatory Systems (Commercial Matters) Amendment Act 2017 (2017 No 12): section 122
Insolvency (Personal Insolvency) Amendment Regulations 2016 (LI 2016/34)