



Insolvency (Personal Insolvency) Amendment Regulations 2016

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 22nd day of February 2016

Present:

The Right Hon John Key presiding in Council

These regulations are made under sections 407 and 441 of the Insolvency Act 2006 on the advice and with the consent of the Executive Council.

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Regulations

1 Title

These regulations are the Insolvency (Personal Insolvency) Amendment Regulations 2016.

2 Commencement

These regulations come into force on 24 March 2016.

3 Principal regulations

These regulations amend the Insolvency (Personal Insolvency) Regulations 2007 (the **principal regulations**).

4 Regulation 5 amended (List of documents)

- (1) In regulation 5(2)(a), replace “65(4)” with “65(3)”.
- (2) In regulation 5(2)(j), replace “23(2)” with “23”.
- (3) In regulation 5(2)(k), replace “34(2)” with “34”.
- (4) In regulation 5(2)(r), replace “67(2)” with “67”.

5 Regulation 6 amended (Debtor’s statement of affairs)

- (1) In regulation 6(2)(a), after “full”, insert “legal”.
- (2) After regulation 6(2)(b), insert:
 - (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:
- (3) Replace regulation 6(2)(c) with:
 - (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):
- (4) After regulation 6(2)(h), insert:
 - (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:
- (5) In regulation 6(2)(m), replace “36 months” with “5 years”.
- (6) After regulation 6(2)(n)(i), insert:

- (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):
- (7) Revoke regulation 6(2)(n)(ii) and (vi).
- (8) In regulation 6(2)(o), replace "36 months." with "3 years:".
- (9) After regulation 6(2)(o), insert:
- (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.
- (10) After regulation 6(2), insert:
- (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.

6 Regulation 18 amended (Assignee’s remuneration)

- (1) In regulation 18(1)(a) and (b), replace “\$200” with “\$230”.
- (2) In regulation 18(1)(c), replace “\$140” with “\$160”.

7 Regulation 63 amended (Payments to creditors)

Replace regulation 63(1) with:

- (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.

8 Regulation 70 amended (Additional information in public registers)

In regulation 70, after “year”, insert “and month”.

9 Regulation 71 amended (How Assignee must advertise document, proceeding, or other step)

In regulation 71(1)(b), after “Service”, insert “website”.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 24 March 2016, amend the Insolvency (Personal Insolvency) Regulations 2007 (the **principal regulations**), which were made under the Insolvency Act 2006 (the **2006 Act**).

Regulation 4 corrects some cross-referencing errors in regulation 5 of the principal regulations.

Regulation 5 amends regulation 6 of the principal regulations, which prescribes the contents of statements of affairs.

Regulation 6 amends regulation 18 of the principal regulations so as to increase the hourly rates of remuneration prescribed for the Official Assignee and his or her staff for the purposes of section 406 of the 2006 Act.

Regulation 7 amends regulation 63 of the principal regulations so as to require, while a summary instalment order is operative in relation to a debtor under subpart 3 of Part 5 of the 2006 Act, payments to the debtor’s creditors to be made every 6 months (instead of the current 4 months).

Regulation 8 amends regulation 70 of the principal regulations so as to require a public register maintained under section 62, 354, or 368 of the 2006 Act to contain a debtor’s month of birth. This is in addition to the current requirement that the register contain the debtor’s year of birth.

Regulation 9 corrects an omission in regulation 71 of the principal regulations.

Issued under the authority of the Legislation Act 2012.

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