



Companies (Reporting by Insolvency Practitioners) Regulations 2020

Patsy Reddy, Governor-General

Order in Council

At Wellington this 29th day of June 2020

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 395(1)(cba) of the Companies Act 1993 on the advice and with the consent of the Executive Council.

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Regulations

1 Title

These regulations are the Companies (Reporting by Insolvency Practitioners) Regulations 2020.

2 Commencement

These regulations come into force on 1 September 2020.

3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

class of creditor,—

- (a) in respect of reports by administrators, means preferential creditors, secured creditors, unsecured creditors, and deferred creditors; and
- (b) in respect of reports by liquidators and receivers, means preferential creditors, secured creditors, and unsecured creditors

company number means the unique number assigned to a company registered under the Companies Act 1993

contact details means the information described in—

- (a) section 30(1)(a) and (j) of the Insolvency Practitioners Regulation Act 2019 (the insolvency practitioner’s full name, business address, and firm); and
- (b) regulation 5(a) and (b) of the Insolvency Practitioners Regulations 2020 (the insolvency practitioner’s business email address, Internet site address, and the practitioner’s firm’s email address and Internet site address, if any)

insolvent liquidation means the liquidation of a company to which section 243A of the Companies Act 1993 does not apply

New Zealand Business Number, in relation to a company, means the New Zealand Business Number provided under the New Zealand Business Number Act 2016

preferential creditors means preferential creditors referred to in Schedule 7 of the Companies Act 1993

registration number means the number assigned by the Registrar of Companies to a licensed insolvency practitioner

solvent liquidation means the liquidation of a company to which section 243A of the Companies Act 1993 applies.

(2) Unless the context otherwise requires, any term that is defined in the Companies Act 1993, the Receiverships Act 1993, or the Insolvency Practitioners

Regulation Act 2019 and that is used, but not defined, in these regulations has the same meaning as in the defining Act.

4 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in the Schedule have effect according to their terms.

5 Prescribed information for administrator's summary report

- (1) The summary report referred to in section 239ACZB(3) of the Companies Act 1993 in respect of a company in administration must state—
- (a) the company name; and
 - (b) the company number; and
 - (c) the company New Zealand Business Number; and
 - (d) the business industry classification code (*see* www.businessdescription.co.nz); and
 - (e) where the company principally operates, identified—
 - (i) by domestic region; or
 - (ii) as operating nationally; or
 - (iii) as operating internationally; and
 - (f) the date and time that the administration began and ended; and
 - (g) the date and time of appointment and vacation of office of the administrator, including any administrator who left office during the administration; and
 - (h) the registration number of the administrator, including any administrator who left office during the administration; and
 - (i) the contact details of the administrator; and
 - (j) the estimated total number of creditors of the company in administration at the commencement and at the end of the administration; and
 - (k) the estimated value of all claims at the commencement and at the end of the administration; and
 - (l) the estimated numbers of each class of creditor at the commencement and at the end of the administration; and
 - (m) the estimated value of claims of each class of creditor at the commencement and at the end of the administration; and
 - (n) for a summary report provided by the deed administrator, the total amount paid to, and the rate of payment (cents per dollar) for, each class of creditor; and

- (o) the amount owing under security agreements to secured lenders and the estimated value of property subject to security agreements with secured lenders—
 - (i) at the commencement of the administration; and
 - (ii) at the end of the administration; and
 - (p) the total amount of fees paid to the administrator, including any administrator who left office during the administration, since the commencement of the administration, including all allowances, reimbursements, and other benefits.
- (2) In this regulation,—
- (a) **administration** includes a period during which a company is subject to a deed of company arrangement:
 - (b) **administrator** includes a deed administrator.

6 Prescribed information for liquidator's initial report

- (1) The initial report referred to in section 255(2)(c)(ii)(A) of the Companies Act 1993 in respect of a company in liquidation must contain—
- (a) the company name; and
 - (b) the company number; and
 - (c) the company New Zealand Business Number; and
 - (d) the date and time that the company entered liquidation; and
 - (e) a statement of—
 - (i) who appointed the liquidator or, if the liquidator was appointed by the court, who applied to the court for the appointment; and
 - (ii) the subsection and paragraph (if applicable) of section 241 of the Companies Act 1993 under which the liquidation was commenced; and
 - (iii) the registration number (if any) and contact details of the liquidator; and
 - (f) a brief summary of the reasons for commencing the liquidation; and
 - (g) a summary of the actions the liquidator proposes to take in the liquidation and, if practicable, the estimated dates on which those actions will be taken; and
 - (h) if practicable, the estimated date of completion of the liquidation; and
 - (i) for an insolvent liquidation, the statement of the company's affairs set out in subclause (2); and
 - (j) for a solvent liquidation, a statement by the liquidator that, based on the information the liquidator has, —

- (i) the liquidation is a solvent liquidation and will remain a solvent liquidation for the period of the liquidation; and
 - (ii) all creditors will be paid in full within 12 months of the date of the commencement of liquidation.
- (2) The statement of the company's affairs must include, as at the date of the report,—
 - (a) a list of every known creditor of the company and, if known, each creditor's address for communications (which may be an electronic address); and
 - (b) a summary of the company's known assets that includes, for each asset or class of assets,—
 - (i) the estimated value; and
 - (ii) the related charges or encumbrances (if known); and
 - (c) a summary of the company's known debts and liabilities (including contingent liabilities), including the amount owed to each class of creditors; and
 - (d) if practicable, an estimate of the amounts likely to be available for payment of each class of creditor, and estimated rate of payment (cents in dollar); and
 - (e) any known current or pending proceedings to which the company is a party.
- (3) The liquidator may omit the following information from the initial report if the liquidator considers that the inclusion of those details in the report would materially prejudice the performance of the liquidator's functions:
 - (a) the estimated value of an asset or a class of assets;
 - (b) any known pending proceedings to which the company is a party.
- (4) The liquidator must omit from the initial report the address for communications of any creditor who, on the information available to the liquidator, may reasonably be assumed to be an individual (unless the individual has consented to the disclosure of the address in the report).

7 Prescribed information for liquidator's 6-monthly report

- (1) The 6-monthly report referred to in section 255(2)(d)(i) of the Companies Act 1993 in respect of a company in liquidation must contain—
 - (a) a summary of the actions the liquidator has taken in the liquidation since the commencement of the liquidation and since the previous report; and
 - (b) any material changes to the actions the liquidator proposes to take in the liquidation; and

- (c) the estimated date of completion of the liquidation and, if that is different from the estimated date of completion given in the liquidator's previous report, the reasons for the difference; and
 - (d) for an insolvent liquidation,—
 - (i) the statement of the company's affairs set out in regulation 6(2); and
 - (ii) the updated statement of the company's affairs set out in subclause (2); and
 - (e) for a solvent liquidation,—
 - (i) an update of the statement required by regulation 6(1)(j); and
 - (ii) a summary of amounts paid to each class of creditor since the commencement of the liquidation; and
 - (f) for a liquidation that was solvent at the time of the previous report but is insolvent at the time of this report,—
 - (i) the statement of the company's affairs set out in regulation 6(2), but completed as at the time of this report; and
 - (ii) the information required for an updated statement of the company's affairs set out in subclause (2)(b) to (d).
- (2) The updated statement of the company's affairs must include—
- (a) the reasons for any material differences between the information included in the updated statement and the information included in the previous statement; and
 - (b) a summary of each amount received and paid in respect of the liquidation since the liquidator's initial report and the previous report; and
 - (c) a summary of all fees, allowances, reimbursements, and other benefits paid since the commencement of the liquidation to—
 - (i) the liquidator; and
 - (ii) any former liquidator who left office during the liquidation; and
 - (d) a summary of all amounts received and paid in respect of the liquidation since the commencement of the liquidation.
- (3) Despite subclause (2)(b) and (d), a liquidator may omit from the report details of any amount received or paid if the liquidator considers that their inclusion would materially prejudice the performance of the liquidator's functions.
- (4) A summary of amounts received required by subclause (2)(b) or (d) must be categorised in a manner that assists creditors to understand the cash flow situation of the company.
- (5) A summary of amounts paid required by subclause (2)(b) or (d) must be categorised by payments made to each class of creditors.

8 Prescribed information for liquidator's final report

- (1) The final report referred to in section 257(1)(a)(i) of the Companies Act 1993 in respect of a company in liquidation must contain—
 - (a) a summary of the actions the liquidator has taken in the liquidation; and
 - (b) for an insolvent liquidation,—
 - (i) a summary of amounts received and paid in respect of the liquidation since the liquidator's previous report; and
 - (ii) the total amount of fees, allowances, reimbursements, and other benefits paid to the liquidator, or any former liquidator who left office during the liquidation, since the commencement of the liquidation; and
 - (iii) a summary of all amounts received and paid in respect of the liquidation since the commencement of the liquidation; and
 - (iv) details of any material differences between the amounts referred to in subparagraph (iii) and the estimates in the liquidator's previous report in respect of those amounts, and the reasons for any differences; and
 - (v) a summary of any recoveries from creditors, shareholders, or directors of the company, including the amount and the nature of the recoveries; and
 - (vi) a summary of amounts paid to each class of creditors including the total amount paid and the rate of payment (cents per dollar); and
 - (vii) details of any company asset that has been disclaimed or distributed without realisation, and the reasons why it has been disclaimed or distributed without realisation; and
 - (viii) details of any company debt or liability, or class of company debt or liability, that has not been satisfied in full, and the reasons why it has not been satisfied in full; and
 - (c) for a solvent liquidation, a statement confirming that every creditor has been paid in full.
- (2) A summary required by subclause (1)(b) of amounts received must be categorised in a manner that assists creditors to understand the cash flow situation of the company.
- (3) A summary required by subclause (1)(b) of amounts paid must be categorised by payments made to each class of creditors.

9 Prescribed information for liquidator's summary report

The summary report referred to in section 257(1)(c) of the Companies Act 1993 in respect of a company in liquidation must contain—

- (a) the company name; and
- (b) the company number; and
- (c) the company New Zealand Business Number; and
- (d) the business industry classification code (*see* www.businessdescription.co.nz); and
- (e) where the company principally operates, identified—
 - (i) by domestic region; or
 - (ii) as operating nationally; or
 - (iii) as operating internationally; and
- (f) the date and time that the company entered liquidation and completed liquidation; and
- (g) the date and time of appointment of the liquidator, including any liquidator who left office during the liquidation, and the date of the vacation of office; and
- (h) the subsection and paragraph (if applicable) of section 241 of the Companies Act 1993 under which the liquidation was commenced; and
- (i) the registration number (if any) of the liquidator, including any liquidator who left office during the liquidation, and contact details of the current liquidator; and
- (j) a brief summary of the reasons for commencing the liquidation; and
- (k) for an insolvent liquidation, the following information relating to creditors of the company:
 - (i) a summary of any amount paid to each class of creditors including the total amount paid and the rate of payment (cents per dollar); and
 - (ii) the difference between the amounts paid to each class of creditor and the estimated amounts in the liquidator's initial report; and
 - (iii) the remaining amounts owed to each class of creditor; and
 - (iv) a summary of any recoveries from creditors, shareholders, and directors, including the amount and the nature of the recoveries; and
 - (v) the total amount of fees paid to the liquidator, including any liquidator who left office during the liquidation, since the commencement of liquidation, including all allowances, reimbursements and other benefits; and
- (l) for a solvent liquidation, a statement confirming that every creditor has been paid in full.

10 Prescribed information for receiver's further report

- (1) The further reports referred to in section 24(1) and (2) of the Receiverships Act 1993 in respect of a company in receivership must contain—
 - (a) the company name; and
 - (b) the company number; and
 - (c) the company New Zealand Business Number; and
 - (d) the date and time that the receiver was appointed; and
 - (e) the registration number and contact details of the receiver; and
 - (f) if not provided in a previous report, a brief summary of the reasons for commencing the receivership; and
 - (g) a summary of amounts received and paid in respect of the receivership—
 - (i) since the previous report; or
 - (ii) if no previous report has been prepared, since the commencement of the receivership; and
 - (h) details of any proposals for the disposal of property in receivership, and details of any property disposed of since—
 - (i) the date of any previous report; and
 - (ii) the commencement of the receivership; and
 - (i) a summary of all fees, allowances, reimbursements, and other benefits paid to the receiver, including any receiver who left office during the receivership, since the commencement of the receivership; and
 - (j) a summary of all amounts received and paid in respect of the receivership since the commencement of the receivership; and
 - (k) details of amounts owing, as at the date of the report,—
 - (i) to any person in whose interests the receiver was appointed; and
 - (ii) to preferential creditors; and
 - (l) details of the amounts likely to be available for payment to creditors, as at the date of the report, categorised by amounts available for payment—
 - (i) to preferential creditors; and
 - (ii) to all other creditors.
- (2) A summary required by subclause (1)(g) and (j) of amounts received must be categorised in a manner that assists creditors to understand the cash flow situation of the company.
- (3) A summary required by subclause (1)(g) and (j) of amounts paid must be categorised by payments made to each class of creditors.
- (4) A further report referred to in section 24(2) of the Receiverships Act 1993 in respect of a company in receivership must, in addition to the information pre-

scribed in subclause (1), contain a statement recording the outcome of the receivership, including a summary of the assets available to be—

- (a) returned to the directors; or
 - (b) distributed to creditors through liquidation of the company; or
 - (c) sold as a going concern.
- (5) A receiver preparing a report under subclause (1) may exclude from the report details of any proposals for disposal of property in receivership if the receiver considers that their inclusion would materially prejudice the performance of the receiver's functions.

11 Prescribed information for receiver's summary report

The summary report referred to in section 24A(2) of the of the Receiverships Act 1993 in respect of a company in receivership must contain—

- (a) the company name; and
- (b) the company number; and
- (c) the company New Zealand Business Number; and
- (d) the business industry classification code (*see* www.businessdescription.co.nz); and
- (e) where the company principally operates, identified—
 - (i) by domestic region; or
 - (ii) as operating nationally; or
 - (iii) as operating internationally; and
- (f) the date and time that the company entered receivership and the receivership was complete; and
- (g) the date and time of appointment of the receiver, including any receiver who left office during the receivership, and the date of the vacation of office; and
- (h) the registration number of the receiver and any receiver who left office during the receivership; and
- (i) the contact details of the receiver; and
- (j) a statement recording the outcome of the receivership, including a summary of the assets available to be—
 - (i) returned to the directors; or
 - (ii) distributed to creditors through liquidation of the company; or
 - (iii) sold as a going concern.
- (k) the total amount of fees, allowances, reimbursements, and other benefits paid since the commencement of the receivership to—
 - (i) the receiver; and

- (ii) any former receiver who left office during the receivership; and
- (l) the total amount paid to any person in whose interests the receiver was appointed; and
- (m) a summary of the amounts paid to each class of creditor since the commencement of the receivership; and
- (n) the total amount owing at the commencement and at the end of the receivership to—
 - (i) any person in whose interests the receiver was appointed; and
 - (ii) preferential creditors; and
- (o) the amount available at the end of the receivership for payment to creditors, categorised by payment—
 - (i) to preferential creditors; and
 - (ii) to all other creditors.

Schedule

Transitional, savings, and related provisions

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Part 1

Provisions relating to these regulations as made

There are no transitional, savings, or related provisions relating to these regulations as made.

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 come into force on 1 September 2020. The regulations prescribe the content of specified reports required to be provided to the Registrar of Companies by administrators, deed administrators, and liquidators under the Companies Act 1993 and by receivers under the Receiverships Act 1993.

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Regulations 2020**

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