

Remuneration Approval

<i>Insolvency Law Reform Act 2017 – post 1 September 2017</i>	<i>Bankruptcy Law Amendment Act 2010 – post 1 December 2010</i>	<i>Before Bankruptcy Law Amendment Act 2010 – before 1 December 2010</i>
<p>Creditors:</p> <ul style="list-style-type: none"> • By ordinary resolution passed at a meeting of creditors on a proposal relating to remuneration • If there is a committee of inspection appointed, by the committee of inspection where a determination is not made under a meeting of creditors • By ordinary resolution passed by creditors on a proposal considered without a meeting of creditors <p>Legislation: <i>Rule 60-5 and 60-10 of the Insolvency Practice Schedule</i> <i>Section 75-40 of the Insolvency Practice Schedule</i></p> <p>A determination made by the Inspector-General</p> <ul style="list-style-type: none"> • By application from registered trustee to the Inspector-General <p>Legislation: <i>Section 60-11 and 60-12 of the Insolvency Practice Schedule</i></p>	<p>Creditors:</p> <ul style="list-style-type: none"> • By ordinary resolution passed at a meeting of creditors on a proposal relating to remuneration • If there is a committee of inspection appointed, by the committee of inspection where a determination is not made under a meeting of creditors • By ordinary resolution passed by creditors on a proposal considered without a meeting of creditors <p>Legislation: <i>Former section 64U of the Bankruptcy Act 1966</i> <i>Former section 64ZBA of the Bankruptcy Act 1966</i> <i>Former section 70 of the Bankruptcy Act 1966</i></p> <p>A determination made by the Inspector-General</p> <p>Legislation: <i>Former Regulations 8.09 – 8.11 of the former Bankruptcy Regulations 1966</i> <i>Former section 162(4) of the Bankruptcy Act 1966</i></p>	<p>Creditors:</p> <ul style="list-style-type: none"> • By ordinary resolution passed at a meeting of creditors on a proposal relating to remuneration • If there is a committee of inspection appointed, by the committee of inspection where a determination is not made under a meeting of creditors • By ordinary resolution passed by creditor on a proposal considered without a meeting of creditors <p>Legislation: <i>Former section 64U of the Bankruptcy Act 1966</i> <i>Former section 64ZBA of the Bankruptcy Act 1966</i> <i>Former section 70 of the Bankruptcy Act 1966</i></p> <p>IPAA Scale:</p> <p>In accordance with the scale of charges set by the IPAA Guide to Hourly Rates published by IPAA (as ARITA was known then) at the level of 85% of those charges</p> <p>Legislation: <i>Former Regulations 8.08 of the former Bankruptcy Regulations 1996 [before 1 December 2010]</i></p>

<i>Insolvency Law Reform Act 2017 – post 1 September 2017</i>	<i>Bankruptcy Law Amendment Act 2010 – post 1 December 2010</i>	<i>Before Bankruptcy Law Amendment Act 2010 – before 1 December 2010</i>
<p><u>Application:</u></p> <p>Where administration of the regulated debtor's estate commences on or after 1 September 2017;</p> <p>Ongoing administrations as at 1 September 2017 (i.e. administrations commenced before 1 September 2017 and continuing after that date), but only in respect of trustees who were appointed or consented to act in those administrations on or after 1 September 2017.</p> <p>Legislation:</p> <p><i>Items 127 and 128 of Part 3 of Schedule 1 to the Insolvency Law Reform Act 2016 – Transition to the Insolvency Practice Schedule (Bankruptcy) (the Transitional Provisions)</i></p>	<p><u>Application:</u></p> <p>Where the commencement of the administration is before 1 September 2017 and is <i>not</i> ongoing on or after 1 September 2017.</p> <p>Ongoing administrations as at 1 September 2017, in respect of trustees who were appointed or consented to act in those administrations before 1 September 2017.</p> <p>Legislation:</p> <p><i>Item 128 of the Transitional Provisions</i></p>	<p><u>Application:</u></p> <p>Where the commencement of the administration is before 1 December 2010.</p>

Maximum Default Remuneration

<i>Insolvency Law Reform Act 2017 – post 1 September 2017</i>	<i>Bankruptcy Law Amendment Act 2010 – post 1 December 2010</i>	<i>Before Bankruptcy Law Amendment Act 2010 – before 1 December 2010</i>
<p>\$5,388 indexed (exclusive of GST)</p> <p>*as at August 2020, updated every financial year.</p> <p>Legislation:</p> <p><i>s60-15 of Schedule 2 of the Bankruptcy Act 1966</i></p>	<p>\$5000 plus 8.4% i.e. \$5420 inclusive of GST</p> <p>Legislation:</p> <p><i>Former section 161B of the Bankruptcy Act 1966 [as it was from 1 December 2010 to 31 August 2017]</i></p>	<p>\$1,938 exclusive of GST*</p> <p>*as at August 2020, amount updated quarterly</p> <p>Legislation:</p> <p><i>Former section 161B of the Bankruptcy Act 1966 [before 1 December 2010]</i></p>
<p><u>Application:</u></p> <p>Where the trustee is appointed, or consents to act, on or after 1 September 2017 onwards regardless of when the administration commenced.</p> <p>The amount (as indexed) in the financial year in which the trustee is appointed applies regardless of when the administration commenced Legislation:</p> <p><i>Item 129 of the Transitional Provisions</i></p>	<p><u>Application:</u></p> <p>Where the trustees is appointed, or consented to act before 1 September 2017 for an administration which commenced on or after 1 December 2010.</p> <p>Legislation:</p> <p><i>Item 129 of the Transitional Provisions</i></p>	<p><u>Application:</u></p> <p>Where the trustee is appointed or consents to act before 1 September 2017 for an administration which commenced before 1 December 2010.</p>

Determining Remuneration for Trustees Acting in Succession

<i>Insolvency Law Reform Act 2017 – post 1 September 2017</i>	<i>Bankruptcy Law Amendment Act 2010 – post 1 December 2010</i>	<i>Before Bankruptcy Law Amendment Act 2010 – <u>before</u> 1 December 2010</i>
<ul style="list-style-type: none"> • The former and new trustee agreeing on remuneration that the former trustee is entitled to receive for necessary work properly performed; and • Creditors, by resolution, endorse that agreement, and are taken to have made a determination under section 60-10 of the Insolvency Practice Schedule <p>Legislation: <i>Item 132 of the Transitional Provisions</i> <i>Section 60-10 of the Insolvency Practice Schedule</i></p> <p><u>Application:</u> Where the former trustee was appointed, or consented to act, before 1 September 2017 and the new trustee is appointed, or consents to act, on or after 1 September 2017</p> <p>Legislation: <i>Item 132(2) of the Transitional Provisions</i> Where both trustees are appointed post 1 September 2017, trustees can still agree between themselves and put a proposal to creditors</p>	<p>To be divided between the trustees, if necessary, on a basis:</p> <ul style="list-style-type: none"> • That they agree on; and • That is endorsed by a resolution passed at a meeting of creditors. <p>Legislation: <i>Former section 164 of the Act [as it was before 1 September 2017]</i></p> <p><u>Application:</u> Where both the former and new trustee was appointed, or consented to act, before 1 September 2017</p> <p>Legislation: <i>Item 132(1) of the Transitional Provisions</i></p>	<p>To be divided between the trustees, if necessary, on a basis:</p> <ol style="list-style-type: none"> 1. That they agree on; and 2. That is endorsed by a resolution passed at a meeting of creditors. <p>Legislation: <i>Former section 164 of the Act [as it was before 1 September 2017]</i></p> <p><u>Application:</u> Where both the former and new trustee was appointed, or consented to act, before 1 September 2017</p>

Remuneration Notification Reports

Insolvency Law Reform Act 2017 – post 1 September 2017	Bankruptcy Law Amendment Act 2010 – post 1 December 2010	Before <u>Bankruptcy Law Amendment Act 2010</u> – before 1 December 2010
<p>Initial Remuneration Notice</p> <p>An IRN is sent:</p> <ul style="list-style-type: none"> For Bankruptcy – within 20 business days after receipt of the statement of affairs. Where the statement of affairs has not been received, within 7 days after 60 days after the date of bankruptcy For PIA where trustee was not CT – within 20 business days after the day the agreement is executed <p>Legislation: <i>Rule 70-35 of the Insolvency Practice Rules</i></p> <p>Remuneration Approval Report</p> <p>An RAR is sent if the trustee’s remuneration is to be approved by creditors (or a committee of inspection):</p> <ul style="list-style-type: none"> where a proposed remuneration determination is put to creditors at a meeting - at same time as notice of meeting given where a proposed remuneration determination is put to creditors without a meeting – at the same time as notice of the intention to put the proposal without a meeting is given <p>Legislation: <i>Rule 70-45 of the Insolvency Practice Rules</i></p> <p>Remuneration Claim Notice</p> <p>An RCN is sent when a regulated debtor or creditor elects to receive an RCN (election must be made within 20 business days after receiving an RAR). The RCN then sent before finalising the administration.</p> <p>Legislation: <i>Rule 70-47 of the Insolvency Practice Rules</i></p>	<p>Initial Remuneration Notice</p> <p>An IRN is sent:</p> <ul style="list-style-type: none"> For bankruptcy - within 28 days receipt of the statement of affairs. Where the statement of affairs has not been received, within 7 days after 60 days after the date of bankruptcy For PIA where trustee was not CT – within 28 days after the day the PIA is executed <p>Legislation: <i>Former Regulation 8.12A of the former Bankruptcy Regulations 1996 [as it was from 1 December 2010 but before 1 September 2017]</i></p> <p>Remuneration Approval Notice</p> <p>An RAN is sent if the trustee’s remuneration is to be approved by creditors (or a committee of inspection) at the same time as seeking that approval (but note RAN not required if PIA trustee was also controlling trustee for the debtor who executed the PIA)</p> <p>Legislation: <i>Former Regulation 8.12B of the former Bankruptcy Regulations 1996</i></p> <p>Remuneration Claim Notice</p> <p>An RCN is sent within 14 days of occurrence of any of the following events:</p> <ul style="list-style-type: none"> When the remuneration claimed reaches the amount approved pursuant to the RAN for the relevant time period; or Where the remuneration has not reached the approved amount: <ul style="list-style-type: none"> at the time the trustee declares a final dividend; or 	<p>No title given to the notices required to be given, and no time period specified in which notices must be given. However, trustees must give notices that include:</p> <ul style="list-style-type: none"> The basis and the method on which the trustee seeks to be remunerated, and, if appropriate, an estimate of the expected level of the trustee’s remuneration; If the trustee claims remuneration calculated by reference to an hourly rate, a notice to include type of work, hours, hourly rate, total remuneration— a notice that includes: A notice advising the bankrupt and creditors of their right, within 28 days of receiving notice of a trustee’s claim for remuneration, to request the claim be taxed. <p>Legislation: <i>Former Regulation 8.12 of the former Bankruptcy Regulations 1996 [before 1 December 2010]</i></p>

Insolvency Law Reform Act 2017 – post 1 September 2017	Bankruptcy Law Amendment Act 2010 – post 1 December 2010	Before Bankruptcy Law Amendment Act 2010 – <u>before</u> 1 December 2010
	<ul style="list-style-type: none"> ○ at the time the administration of the estate is finalised and the trustee determines that no final dividend will be declared; or ● When the trustee claims the statutory minimum or less under former section 161B. <p>Legislation: <i>Former Regulation 8.12C of the former Bankruptcy Regulations 1996</i></p>	
<p><u>Application</u></p> <p>Administrations of a regulated debtor’s estate commencing on or after 1 September 2017, and ongoing administrations at this date, regardless of the date the trustee was appointed or consented to act.</p> <p>Legislation: <i>Item 129 and 141 of the Transitional Provisions</i></p>	<p><u>Application:</u></p> <p>Where the commencement of the administration is before 1 September 2017 and on or after 1 December 2010.</p> <p>However, for ongoing administrations, any notices relating to remuneration given on or after 1 September 2017 must comply with the regime established under the ILRA.</p> <p>Legislation: <i>Item 129 of the Transitional Provisions which provides that former 162(6A) of the Act (relating to notices required to be given by the trustee in relation to remuneration) does <u>not</u> continue to apply in relation to the remuneration where the trustee is appointed, or consents to act, before 1 September 2017.</i></p>	

