

Summary of transitional arrangements¹ for the Insolvency Practice Schedule (Bankruptcy) to the *Bankruptcy Act 1966*

Reference key

Commenced 1 March 2017

Commenced 1 September 2017

| Description of transitional arrangement | ILRA reference ¹ |
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| Registering trustees | |
| A trustee registered under the old Act before 1 March 2017 (old Act registrant) is deemed to be registered under the new Act ² on that date. | Item 105(1) |
| The registration period for an old Act registrant is 3 years from date of first registration or last extension under old Act (whichever is later). The registration of an old Act registrant can be renewed under the new Act . | Item 107 |
| A condition may be imposed on an old Act registrant (or class including an old Act registrant) under the new Act . | Item 108 |
| A condition imposed on an old Act registrant ³ in force before 1 March 2017 is deemed a current condition under the new Act . An old Act registrant can apply to vary such a condition under the new Act ⁴ as if it was imposed by a committee under the new Act. | Item 109 |
| An old Act registrant who does not renew his/her registration under the new Act before expiry is deemed to be registered under the new Act ⁵ after expiry subject to a current condition not to accept further appointments. The registration continues until the day after all administered estates have ended, when it is deemed to be cancelled by the Inspector-General under the new Act ⁶ . | Item 112 |
| Annual returns and statements | |
| The duty of a trustee to lodge an annual trustee return with the Inspector-General under the new Act ⁷ includes an old Act registrant who was registered during all or part of a trustee return year that began on or after 1 March 2017. | Item 113 |
| Notice requirements | |
| An old Act registrant must lodge a notice of significant events with the Inspector-General under the new Act ⁸ (if the event occurred within 2 years before 1 March 2017 and was not already disclosed) within one month after: <ul style="list-style-type: none"> • 1 March 2017 if he/she was (or could reasonably be) aware of it before that date; or otherwise • the first day on which he/she was (or could reasonably be) aware of it. Intentionally or recklessly failing to comply is an offence – 100 penalty units ⁹ . | Item 114 |
| Suspension, cancellation and disciplinary action under the Insolvency Practice Schedule (Bankruptcy) | |
| A written direction given to a trustee by the Inspector-General under the new Act ¹⁰ to comply with a duty to lodge a document with or give information to the Inspector-General applies whether or not the duty arose before, on or after 1 March 2017. | Item 119 |
| The Inspector-General may suspend the registration of a trustee under the new Act ¹¹ on various grounds whether or not those events occur before, on or after 1 March 2017 – except if it was for cancellation/suspension as a liquidator under the <i>Corporations Act 2001</i> in force before that date. | Item 120 |
| The Inspector-General may cancel the registration of a trustee under the new Act ¹² on various grounds whether or not those events occur before, on or after 1 March 2017 – except if it was for cancellation/suspension as a liquidator under the <i>Corporations Act 2001</i> in force before that date. | Item 121 |
| The Inspector-General may give a registered trustee a show-cause notice under the new Act ¹³ on various grounds whether or not those events occur before, on or after 1 March 2017 – except a failure to comply with a standard before that date refers to the old Act ¹⁴ standard. | Item 122 |
| An industry body may lodge a notice with the Inspector-General under the new Act ¹⁵ of possible grounds for disciplinary action against a registered trustee whether or not it relates to an action, a failure to act or circumstance that occurred before, on or after 1 March 2017. | Item 123 |
| The Court may exercise its powers under the new Act ¹⁶ to make orders against a registered trustee, whether or not they relate to an action or failure to act which occurred before, on or after 1 March 2017. | Item 124 |
| Remuneration and other benefits | |
| The entitlement of a registered trustee to receive remuneration under the new Act ¹⁷ applies to a trustee of an estate under administration that started before 1 September 2017 (an ongoing administration) who was appointed, or consented to act, on or after that date. | Item 128 |
| The entitlement of a registered trustee to receive remuneration under the old Act ¹⁸ continues to apply to a trustee of a bankrupt estate who was appointed, or consented to act, before 1 September 2017. | Item 129 |
| The duties of a trustee under the new Act ¹⁹ relating to deriving profit or advantage from the administration of the estate or giving inducements for appointment apply to a trustee of an ongoing administration whether or not he/she was appointed, or consented to act, before 1 September 2017 – but only to arrangements made on or after that date. Otherwise the old Act ²⁰ applies. | Item 130 |
| The duty of a trustee under the new Act ²¹ in respect of payments to third parties for performance of his/her ordinary duties applies to a trustee of an ongoing administration whether or not he/she was appointed, or consented to act, before 1 September 2017 – but only to payments made on or after that date. The old Act ²² applies to payments before that date. | Item 131 |
| If one trustee of an estate is replaced by another and both were appointed, or consented to act, before 1 September 2017, the old Act ²³ continues to apply to their entitlement to remuneration. If the new trustee was appointed, or consented to act, on or after that date, then the new Act ²⁴ applies and the trustees may agree on their respective entitlement for creditors to endorse. | Item 132 |
| Funds handling | |
| The funds handling duties of a trustee under the new Act ²⁵ apply to an ongoing administration of an estate. | Item 133 |
| An estate account held by a trustee before 1 September 2017 which complied with the old Act is deemed to be an administration account under the new Act ²⁶ for estate on or after that date. | Item 134 |
| The duties of a trustee to pay all estate money (and no other money) into the administration account under the new Act ²⁷ only applies to money received on or after 1 September 2017. The old Act ²⁸ continues to apply to money received before that date. | Item 135 |
| The duty of a trustee when paying money out of the administration account under the new Act ²⁹ only applies to payments made on or after 1 September 2017. | Item 136 |
| The duty of a trustee to reconcile the administration account under the new Act ³⁰ only applies to money received, or payments made, on or after 1 September 2017. | Item 137 |
| The duty of a trustee to give and obtain receipts under the old Act ³¹ continues to apply to payments into, or out of, an estate of a bankrupt before 1 September 2017. | Item 138 |
| The duty of a trustee to deposit securities with a bank under the new Act ³² only applies to negotiable instruments and other securities received on or after 1 September 2017. | Item 139 |
| The Inspector-General may review a bill of costs for services relating to an estate under the new Act ³³ whether or not the service was provided before, on or after 1 September 2017 – except if the review was started before that date, then the old Act ³⁴ continues to apply. | Item 140 |
| Information | |

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| The duties of a trustee to provide information under the new Act ³⁵ apply on an ongoing administration of an estate. | Item 141 |
| The duty of a trustee to lodge an annual administration return with the Inspector-General under the new Act ³⁶ applies to the financial year starting on 1 July 2018 (and later financial years). The duty of a trustee to lodge an annual estate return with the Inspector-General under the old Act ³⁷ continues to apply to financial years before that date. | Item 142 ³⁸ |
| The duty of a trustee to keep proper books under the new Act ³⁹ applies to events that occurred on or after 1 September 2017 while the old Act ⁴⁰ continues to apply to events before that date. | Item 143 |
| The duty of a trustee to keep trading books under the new Act ⁴¹ applies to events that occurred on or after 1 September 2017 while the old Act ⁴² continues to apply to events before that date. | Item 144 |
| An audit of an annual administration return, administration books or trading books of a trustee by the Inspector-General, and duty of the trustee to comply with the audit, under the new Act ⁴³ applies to an ongoing administration. | Item 145(1) |
| The duty of a former trustee to transfer administration books to a new trustee under the new Act ⁴⁴ applies to a trustee who ceased on or after 1 September 2017. | Item 146 |
| The duties relating to retention, return or destruction of administration books by a trustee under the new Act ⁴⁵ apply to an ongoing administration, whether or not the books are kept under a provision of the new or old Act. If an administration ended before 1 September 2017, the old Act ⁴⁶ continues to apply subject to the retention period being 7 years (instead of 15 years ⁴⁷). | Item 147 |
| The duty of a trustee to give information, a report or document to creditors under the new Act ⁴⁸ applies whether or not the information, report or document was prepared, or relates to actions/events that occurred before, on or after 1 September 2017. | Item 148 |
| The duty of a trustee to give specific information, a report or document to the Commonwealth under the new Act ⁴⁹ applies whether or not the information, document or report was prepared, or relates to actions/events that occurred before, on or after 1 September 2017. | Item 149 |
| The duty of a trustee to give information, a report or document to a debtor under the new Act ⁵⁰ applies whether or not the information, document or report was prepared, or relates to actions/events that occurred before, on or after 1 September 2017. | Item 150 |
| The duty of a trustee to give information, a report or document to the Inspector-General under the new Act ⁵¹ applies whether or not the information, document or report was prepared, or relates to actions/events that occurred before, on or after 1 September 2017. | Item 151 |
| Meetings | |
| The general rules for meetings under the new Act ⁵² apply to an ongoing administration, but not to meetings convened or held before 1 September 2017. | Item 152 |
| The duty of a trustee to convene a meeting under the new Act ⁵³ only applies to directions given or resolutions passed on or after 1 September 2017. | Item 153 |
| If a meeting had to be (or was already) convened by a trustee under the old Act and was not held as at 1 September 2017, then the old Act continues to apply to the meeting on and after that date. | Item 154 |
| Committees of inspection | |
| The rules for committees of inspection under the new Act ⁵⁴ apply to a committee of inspection for an ongoing administration of an estate appointed on or after 1 September 2017, but not to meetings of a committee of inspection convened or held before that date. | Item 155 |
| A committee of inspection appointed under the old Act ⁵⁵ before 1 September 2017 is deemed to be a committee of inspection under the new Act ⁵⁶ (continued committee): <ul style="list-style-type: none"> on 1 September 2017, if it was appointed on or before that date; or on the relevant date, if appointed after 1 September 2017 | Item 156 |
| The members of a continued committee under the new Act are the members appointed under the old Act. The eligibility, qualification and resignation rules for committees of inspection under the old Act ⁵⁷ continue to apply to members of a continued committee. The rules for committees of inspection under the new Act ⁵⁸ relating to appointment, removal and procedures do not apply to a continued committee. | Item 157 |
| A direction given by a committee of inspection or creditors under the new Act ⁵⁹ applies whether or not it was given before, on or after 1 September 2017. | Item 158 |
| The duty of a trustee to give information, a report or document to a committee of inspection under the new Act ⁶⁰ applies whether or not the information, document or report was prepared, or relates to actions/events that occurred before, on or after 1 September 2017. | Item 159 |
| The duties of members of a committee of inspection and creditors relating to deriving a profit or advantage from the administration of the estate under the new Act ⁶¹ applies to arrangements made on or after 1 September 2017. | Item 160 |
| Review of the administration of the estate | |
| The power of the Court to inquire and make orders relating to an administration, the Inspector-General to review trustee remuneration, and creditors to remove a trustee under the new Act ⁶² , applies to an ongoing administration of an estate, whether or not the matter to be reviewed occurred before, on or after 1 September 2017. | Item 161 |
| The Inspector-General may review trustee remuneration under the new Act ⁶³ whether or not the remuneration, costs or expenses were paid or funds withdrawn (or were payable/to be withdrawn) before, on or after 1 September 2017. The old Act ⁶⁴ continues to apply to a review started before that date. | Item 162 |
| An order made by the Court under the old Act (old Act order) continues to have effect despite the provision under which it was made being amended/repealed by the ILRA. A provision of the new Act or ILRA ⁶⁵ which is inconsistent with an old Act order does not apply, to the extent of the inconsistency. | Item 163 |
| If proceedings ⁶⁶ are brought in a court under the old Act before 1 September 2017 (or on or after that date under a transitional provision of the ILRA ⁶⁷) relating to the administration of an estate, the old Act continues to apply to those proceedings on and after that date. | Item 164 |
| The power of the Court to under the new Act to: <ul style="list-style-type: none"> require a trustee to give information, a report or document⁶⁸ make an order relating to trustee remuneration⁶⁹; or consider trustee actions/failures⁷⁰ applies whether or not the information/report/document was prepared by, remuneration was paid/payable to, or action/failure of the trustee occurred before, on or after 1 September 2017. | Item 165 |
| The right of creditors to remove a trustee and appoint another person to an estate under the new Act ⁷¹ applies whether or not the trustee was appointed before, on or after 1 September 2017. | Item 166 |
| Administrative review | |
| If an application is made to the Administrative Appeals Tribunal under the old Act for a reviewable decision before 1 September 2017 (or on or after that date under a transitional provision of the ILRA ⁷²) relating to the administration of an estate, the old Act continues to apply to the application on and after that date. | Item 167 |
| Other consequential amendments | |
| The definition of resolution and special resolution under the new Act ⁷³ apply on or after 1 September 2017 to: <ul style="list-style-type: none"> proposals put to creditors at a meeting required to be held; and | Item 168 |

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| <ul style="list-style-type: none"> proposals put to creditors without a meeting on or after that date. | |
| A document required to be in an approved form under the new Act ⁷⁴ applies to documents made, given or lodged on or after 1 March 2017. | Item 169 |
| The power of the Inspector-General under the new Act ⁷⁵ to disclose information to a Commonwealth entity or prescribed professional disciplinary body applies whether or not it was obtained or related to events that occurred before, on or after 1 September 2017. | Item 170 |
| The duty of a trustee of a bankrupt estate under the new Act ⁷⁶ to give the Official Receiver such information, access and facilities to inspect books and generally assist, applies whether or not the books were made before, on or after 1 September 2017. | Item 171 |
| The increase to 50 penalty units under the new Act ⁷⁷ for failure to file a statement of affairs applies to offences committed on or after 1 September 2017. | Item 172 |
| The old Act ⁷⁸ continues to apply to infringement notice penalties on or after 1 September 2017 for certain offences committed before that date. | Item 176 |
| The protection of certain reports of a committee under the old Act ⁷⁹ relating to: <ul style="list-style-type: none"> an application for trustee registration⁸⁰ application for change of conditions on registration⁸¹ decision on involuntary termination of registration⁸² continue to apply despite amending/repealing provisions under the ILRA. | Item 177 |

¹ All references are to Items in Schedule 1 of the *Insolvency Law Reform Act 2016* (ILRA).

² Subdivision B of Division 20 of the Schedule to the Act.

³ Former sections 155E, 155F or 155I of the Act.

⁴ Subdivision C of Division 20 of the Schedule to the Act.

⁵ Subdivision B of Division 20 of the Schedule to the Act.

⁶ Paragraph 40-30(1)(g) of the Schedule to the Act.

⁷ Section 30-1 of the Schedule to the Act.

⁸ Section 35-1 of the Schedule to the Act.

⁹ Subitem 114(3) of Schedule 1 to the ILRA.

¹⁰ Subdivision B of Division 40 of the Schedule to the Act.

¹¹ Section 40-25 of the Schedule to the Act.

¹² Section 40-30 of the Schedule to the Act.

¹³ Subdivision E of Division 40 of the Schedule to the Act.

¹⁴ Former subsection 155H(5) of the Act and Schedule 4A to the Bankruptcy Regulations 1996.

¹⁵ Section 40-100 of the Schedule to the Act.

¹⁶ Section 45-1 of the Schedule to the Act.

¹⁷ Subdivision B of Division 60 of the Schedule to the Act.

¹⁸ Former sections 161B and 162 of the Act (other than subsections 162(5A), (6) and (6A)).

¹⁹ Sections 60-20 and 60-21 of the Schedule to the Act.

²⁰ Former section 165 of the Act.

²¹ Section 60-26 of the Schedule to the Act.

²² Former subsection 162(6) of the Act.

²³ Former section 164 of the Act.

²⁴ Section 60-10 of the Schedule to the Act.

²⁵ Division 65 of the Schedule to the Act.

²⁶ Section 65-5 of the Schedule and subsection 280(5) of the Act.

²⁷ Sections 65-5 and 65-15 of the Schedule to the Act.

²⁸ Former subsection 169(2) of the Act.

²⁹ Section 65-25 of the Schedule to the Act.

³⁰ Section 65-32 of the Schedule to the Act.

³¹ Former section 171 of the Act.

³² Section 65-40 of the Schedule to the Act.

³³ Section 65-20 of the Insolvency Practice Rules (Bankruptcy) 2016 made under section 65-46 of the Schedule to the Act.

³⁴ Former subsection 167(2) of the Act and Subdivision 5 of Division 4 of Part 8 of the Bankruptcy Regulations 1996.

³⁵ Division 70 of the Schedule to the Act.

³⁶ Section 70-5 of the Schedule to the Act.

³⁷ Former section 170A of the Act.

³⁸ To be read with Items 7-8 of Schedule 1 to the Insolvency Law Reform (Transitional Provisions) Regulation 2016.

³⁹ Section 70-10 of the Schedule to the Act.

⁴⁰ Former section 173 of the Act.

⁴¹ Section 70-11 of the Schedule to the Act.

⁴² Former section 174 of the Act.

⁴³ Sections 70-15 to 70-25 of the Schedule to the Act.

⁴⁴ Section 70-30 of the Schedule to the Act.

⁴⁵ Sections 70-35 to 70-36 of the Schedule to the Act.

⁴⁶ Former section 312 of the Act.

⁴⁷ Former subsection 312(4) of the Act.

⁴⁸ Subsections 70-40(1), 70-45(1) or 70-50(1) of the Schedule to the Act.

⁴⁹ Subsection 70-55(2) of the Schedule to the Act.

⁵⁰ Subsection 70-56(1) of the Schedule to the Act.

⁵¹ Subsection 70-60(1) of the Schedule to the Act.

⁵² Division 75 of the Schedule to the Act.

⁵³ Section 75-15 of the Schedule to the Act.

⁵⁴ Division 80 of the Schedule to the Act.

⁵⁵ Former section 70 of the Act.

⁵⁶ Section 80-10 of the Schedule to the Act.

⁵⁷ Former subsections 70(3) and (4) and section 71 of the Act.

⁵⁸ Sections 80-15 to 80-25 of the Schedule to the Act and sections 80-5 to 80-10 of the Insolvency Practice Rules (Bankruptcy) 2016

⁵⁹ Section 80-35 and 85-5 of the Schedule to the Act.

⁶⁰ Subsection 80-40(1) of the Schedule to the Act.

⁶¹ Sections 80-55 and 80-60 of the Schedule to the Act.

⁶² Division 90 of the Schedule to the Act.

⁶³ Subdivision C of Division 90 of the Schedule to the Act.

⁶⁴ Former section 167(1) and Subdivision 4 of Division 4 of Part 8 of the Bankruptcy Regulations 1996.

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- ⁶⁵ Of an application, saving or transitional nature.
- ⁶⁶ Includes civil and criminal actions, inquires by the court, enforcement and any other processes.
- ⁶⁷ Division 3 of Part 3 of Schedule 1 to the ILRA.
- ⁶⁸ Sections 90-5 and 90-10 of the Schedule to the Act.
- ⁶⁹ Paragraph 90-15(3)(f) of the Schedule to the Act.
- ⁷⁰ Subsection 90-15(4) of the Schedule to the Act.
- ⁷¹ Section 90-35 of the Schedule to the Act.
- ⁷² Division 3 of Part 3 of Schedule 1 to the ILRA.
- ⁷³ Subsection 5(1) of the Act; paragraphs 75-40(5)(b) and (2)(k) of the Schedule to the Act; and sections 75-115, 75-130, 75-132 and 75-137 of the Rules.
- ⁷⁴ Section 6D of the Act.
- ⁷⁵ Subsection 12(4) of the Act.
- ⁷⁶ Section 19B of the Act.
- ⁷⁷ Subsections 54(1), 54(2) and 56F(1) of the Act.
- ⁷⁸ Former table items 6-11 in subsection 277B(2) of the Act.
- ⁷⁹ Section 306B(1) of the Act.
- ⁸⁰ Former subsection 155A(6) of the Act.
- ⁸¹ Former subsection 155F(2) of the Act.
- ⁸² Former subsection 155I(4) of the Act.