



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI



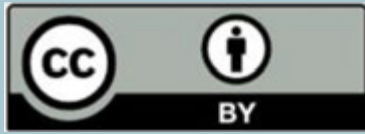
Implementation of the Insolvency Practitioners Regulation Act 2019: Proposed regulations

Discussion Paper

September 2019

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How to have your say

Submissions process

The Ministry of Business, Innovation and Employment (MBIE) is seeking written submissions on proposed regulations under the Insolvency Practitioners Regulation Act 2019.

This discussion paper includes questions you may like to respond to in your submission. Your submission does not need to answer all of these questions. Where possible, please include evidence to support your views, for example, references to facts and figures, or relevant examples.

MBIE will consult separately on proposed minimum standards for the licensing of insolvency practitioners and accreditation of bodies (to be set by the Registrar of Companies through notices in the *Gazette*).

Please send your submission before **5pm on 15 October 2019**. Please include your name, or the name of your organisation, and contact details. You can make your submission by:

- Completing the online form at www.mbie.govt.nz/insolvencypractitioners
- Completing the Submission Form www.mbie.govt.nz/insolvencypractitioners and attaching it as a Microsoft Word or PDF attachment and sending to practitioners@companies.govt.nz; or
- Mailing your submission to:

Anna Gibb
Service Design Policy
Ministry of Business, Innovation, and Employment
PO Box 1473
Wellington 6140
New Zealand

Please direct any questions that you may have in relation to the submission process to:
practitioners@companies.govt.nz

Information about implementation of the Act is available at
<https://www.companiesoffice.govt.nz/all-registers/insolvency-practitioners/news-and-updates/>

Use of information

The information provided in submissions will be used to inform MBIE's proposed option, and advice to Ministers. We may contact submitters directly if we require clarification of any matters in submissions.

Except for material that may be defamatory, MBIE may post PDF copies of submissions received to MBIE's website at www.mbie.govt.nz and/or the Companies Office website at companiesoffice.govt.nz. By making a submission, we will consider you to have agreed to us posting your submission, unless you clearly specify otherwise in your submission.

Release of information

Submissions are subject to the Official Information Act 1982. Please tell us as part of your submission if you have any objection to the release of any information in the submission, which parts you consider should be withheld, and include your reasons for withholding the information. MBIE will consider any objections you note and consult with you when responding to requests under the Official Information Act 1982.

Please indicate on the front of your submission if it contains confidential information and mark the text accordingly. If you wish to make a submission which includes confidential information, please send us a separate version excluding the relevant information for publication on our website.

Private information

The Privacy Act 1993 establishes certain principles with respect to the collection, use and disclosure of information about individuals by various agencies, including MBIE. Any personal information you supply to MBIE as part of your submission will only be used to help inform the implementation of the Insolvency Practitioners Regulation Act 2019. Please clearly indicate in your submission if you do not wish your name to be included in any summary of submissions that we may publish.

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Minister's foreword



Insolvency practitioners play an essential role in New Zealand's business environment. One of the main aims of corporate insolvency law is for businesses to be turned around if they are viable but if they are not, they should be wound up, the assets realised and distributed to creditors in accordance with clear rules and with a minimum of harm to both the insolvent party and their creditors.

Unfortunately, there is evidence that some practitioners do not meet acceptable standards of competence or professionalism.

Some may fail to protect the interests of creditors, for example, by turning a blind eye when directors have taken assets out of the company under value prior to liquidation.

The Insolvency Practitioners Regulation Act 2019 comes into force in June 2020, and introduces a robust scheme that will include rigorous competence, honesty and integrity criteria in relation to obtaining and retaining a licence to act as an insolvency practitioner, and provides effective ways for holding practitioners to account.

This discussion paper makes proposals to ensure the effective implementation of the new licensing scheme for insolvency practitioners. I encourage you to provide feedback on the proposals.

Hon Kris Fafoi
Minister of Commerce and Consumer Affairs

Purpose of this document

1. This discussion document outlines proposals for regulations to implement the Insolvency Practitioners Regulation Act 2019.
2. We welcome your written submissions on the proposals included in this document. Once we have considered your submissions, we will develop final proposals. The proposals will then go to Cabinet for consideration, and be used as the basis for making regulations.
3. Proposed milestones for this process are:

Due date	Action
15 October 2019	Deadline for submissions to MBIE
November 2019	Report back to Minister on submissions and proposals for the regulations
December 2019	Seek policy approval from Cabinet for proposed regulations
May 2020	Regulations made
June 2020	The Insolvency Practitioners Regulation Act 2019 comes into force

How to use this document

4. Questions for your consideration and feedback can be found throughout the document. We welcome any other relevant comment or information that you wish to provide on the new scheme.
5. Information on how to make a submission is provided at the beginning of this document (see *How to have your say*).

Introduction

About this discussion document

6. The Insolvency Practitioners Regulation Act 2019 (the Act) has introduced a co-regulatory scheme to promote quality, expertise, and integrity in the profession of insolvency practitioners. The Act will come into force in June 2020. Regulations need to be made under the Act so it can be implemented.
7. This discussion document contains proposals to implement the Act, including setting the fees and levy under the scheme, and asks for your feedback and comments. Once we have considered your submissions, we will develop final proposals. If approved by Cabinet, these proposals will be given effect by making regulations under the Act.

The need to regulate insolvency practitioners

8. Corporate insolvency law aims to provide incentives for any assets of a failed company to be allocated to their most efficient use. A company should be rehabilitated if it is viable, but if not, it should be liquidated, the assets released and distributed to creditors in accordance with the law with a minimum of delay and expense.
9. Insolvency practitioners have a significant impact on whether those outcomes are achieved. The quality of a practitioner's advice can impact on whether a business is rehabilitated or liquidated. Insolvency practitioners make decisions which impact on the total amount available for distribution to creditors. All practitioners are placed in a position of managing and protecting other people's money and property. Consequently, insolvency practitioners must act honestly, fairly and impartially at all times.
10. Prior to the passage of the Act, insolvency practitioners were not regulated as a specialist profession. The Companies Act 1993 and Receiverships Act 1993 set out classes of people who were disqualified from acting as insolvency practitioners, such as an undischarged bankrupt or person under 18 years old. However, any person who was not disqualified could be appointed as a liquidator, administrator, or receiver, even if they did not have adequate skills or knowledge required to undertake an insolvency engagement.

Co-regulation

11. The Act introduces a co-regulatory scheme which will come into force in June 2020, under which:
 - accredited bodies will be responsible for carrying out the frontline regulation of insolvency practitioners, including licensing their entry and regulating ongoing competence, investigating complaints about them, and taking disciplinary action where appropriate; and
 - the Registrar of Companies (Registrar) will be responsible for oversight of the accredited bodies. Oversight includes accreditation of bodies, ongoing monitoring and reporting, and corrective action to ensure the quality and effectiveness of the accredited bodies' regulatory systems and processes. The Registrar will also maintain a register of insolvency practitioners, which will be publicly searchable.

12. The co-regulatory scheme aims to:
- establish a robust scheme that will include rigorous competence, honesty and integrity criteria for practitioners to obtain and retain a licence;
 - effectively hold practitioners to account; and
 - raise the standards of insolvency practitioners' practice over time.
13. The co-regulatory approach leverages off an existing voluntary non-statutory occupational regulation scheme that is jointly operated by Chartered Accountants Australia and New Zealand (CAANZ) and the Restructuring Insolvency and Turnaround Association of New Zealand (RITANZ) (the RITANZ/CAANZ scheme). The RITANZ/CAANZ scheme has around 110 "accredited" insolvency practitioners. We understand that this is the majority of insolvency practitioners practising in New Zealand.
14. In addition, the co-regulatory scheme is modelled on the co-regulatory scheme in the Auditor Regulation Act 2011, under which responsibility is split between CAANZ and CPA Australia as the frontline regulators and the Financial Markets Authority (FMA) as the oversight body. Many individual provisions in the Act are the same as or similar to provisions in the Auditor Regulation Act 2011.

Regulations

15. The Act will come into force in June 2020. Regulations need to be made under the Act so it can be implemented. Regulations are required to prescribe certain aspects of the new scheme, including:
- Fees (cost recovery) of the Registrar
 - Setting a levy on companies
 - The information that should be included and searchable on the register
 - Information and documents required for licensing and registration, their format and how they are to be supplied
 - Licence-related changes that accredited bodies must notify to the Registrar
 - Information included in the annual report of each accredited body, and
 - Conditions the Registrar may impose when approving accredited bodies.

Note: The Registrar will set minimum standards for the licensing of insolvency practitioners and accreditation of bodies. These will be made by the Registrar by notices in the *Gazette*, rather than through regulations. MBIE will consult on the proposed minimum standards separately.

Fee and levy proposals

16. The co-regulatory scheme will be funded as follows:
- the accredited bodies would be responsible for the costs of frontline regulation. These costs are likely to be passed onto practitioners by the accredited bodies (the nature and amount of their recovery of their costs is not yet known), and
 - the costs of performing or exercising the Registrar's functions, powers, and duties under the Act would be recovered through fees¹ and levies² set by regulations provided for by the Act.
17. The charges proposed in this paper relate only to the Registrar's costs.
18. When policy decisions were made to introduce insolvency practitioner regulation, the cost of operating the register was going to be met from existing baselines. As set out in this discussion paper, we now consider that it would be appropriate for the costs associated with the operation of the Register to be met by licensed insolvency practitioners.
19. In developing the funding model and considering which costs may be recovered through fees and levies, and the form of those, MBIE has been guided by principles set out in Treasury's Guidelines for Setting Charges in the Public Sector and the Auditor-General's Charging Fees for Public Sector Services.³

The Registrar's activities under the scheme

20. The scheme will require the Registrar to undertake the following key activities:

Maintaining the Register

- Add new licence information as received from accredited bodies
- Update with annual confirmation information received from the accredited body and ad hoc updates as required, and
- Ensure the register can be searched by the public.

Oversight of the scheme

- Approve bodies to be accredited to license insolvency practitioners as set out in the Act
- Prescribe minimum standards and conditions for the licensing of insolvency practitioners and accreditation of bodies
- Ensure compliance of the accredited bodies with the Act and regulations
- Promote the scheme through effective education and awareness
- Monitor and analyse data and information from accredited bodies, in order to assess their regulatory systems⁴

¹ Section 80(1)(g) authorises fees to be set in connection with the Registrar's exercise of his functions under the Act.

² Section 81 provides for companies to pay levies to cover a portion of the Registrar's costs in exercising his functions under the Act.

³ Available here: <https://treasury.govt.nz/sites/default/files/2017-04/settingcharges-apr17.pdf> and <https://www.oag.govt.nz/2008/charging-fees/docs/charging-fees.pdf>

⁴ Section 40 requires the Registrar to carry out monitoring of accredited bodies.

- Respond to non-compliance of the accredited body through enforcement action, such as carrying out investigations⁵ or giving directions to accredited bodies,⁶ and
- Develop the oversight plan which the Act requires to be published within six months of the Act coming into force in 2020.⁷ This will set out the Registrar's intentions in relation to insolvency practitioner regulation and oversight, including the specific effects, outcomes, or objectives that the Registrar seeks to achieve or contribute to. The Registrar must publish further oversight plans at intervals of not more than four years.

Cost of the Registrar's activities

21. In developing the costs of the scheme, consideration was given to MBIE's experience with similar schemes such as the auditors register, and MBIE's existing infrastructure and systems that can support the register and the Registrar's oversight functions.
22. The proposed costs, fees and levy in this paper are expressed as GST exclusive except where stated otherwise.
23. A full cost recovery model has been developed based on the time taken to complete updating activities on the register and an estimate on the level of staff required to have effective oversight of the scheme. We have estimated the annual cost to the Registrar to maintain the insolvency practitioner regulation scheme to be \$718,824. Annex One provides a detailed breakdown of costs by activity.

Maintaining the Register

24. The annual cost of maintaining the register is estimated to be \$16,930. This was determined from the time taken to complete the key activities of updating new licence information and annual confirmations multiplied by the forecast number of practitioners. We have used a conservative forecast of 100 licensed practitioners being impacted by the fee; a slightly lower volume than the approximately 110 practitioners currently accredited under the RITANZ/CAANZ scheme, to account for a level of possible attrition resulting from the introduction of a formal accreditation scheme. Volumes multiplied by time taken per activity determined a requirement of 0.053 FTE. This was multiplied by the average FTE salary, with an allowance for superannuation and ACC, giving an annual personnel cost of \$3,544. Additional costs include corporate support costs of \$3,386 (25 per cent of total direct costs).

Oversight of the scheme

25. The annual cost of conducting the oversight activities is estimated to be \$701,894. In consideration of an analysis of the resources required in the first two years of the Act's implementation and drawing on the experience of the FMA in discharging its comparable functions under the auditor regulation scheme, the staff requirements were determined to be: 1 FTE manager, 1.75 FTE for monitoring, analysis and enforcement and 0.15 FTE for education and awareness. This resulted in a total personnel cost of \$396,265. Additional

⁵ Part 2 Subpart 5 of the Act

⁶ Section 42

⁷ Sections 38

costs include professional services of \$100,000, other expenses of \$65,250 and corporate support costs of \$140,379.

Establishment costs

26. The proposed fees and levy will not contribute to the recovery of costs to set up the scheme. This will be funded from existing Crown-funded baselines in the 2019/20 financial year.

Review of annual costs

27. As part of MBIE's periodic reviews of the Companies Office costs and fees, the insolvency practitioner regulation scheme will be reviewed in two years' time to ensure that it is operating efficiently and that over-recovery or under-recovery of costs is minimised. Any changes to fees or the levy would be implemented at the beginning of 2022/23.

Proposed funding model

Who pays for the costs of the Registrar's activities?

28. In deciding on the Registrar's cost recovery, we considered who will benefit and to what extent (ie. equity across those who benefit) from regulation of insolvency practitioners under the Act. The efficiency of the cost of collection of any charges was also considered - the costs of collection of revenue should be balanced against the other considerations and minimised where possible.
29. We determined that the primary direct beneficiaries of the scheme are insolvency practitioners and companies.
30. Insolvency practitioners will benefit from holding a licence as they cannot otherwise be engaged as insolvency practitioners. Public registration will make them easier to find for insolvency engagements. Additionally, having a licence and its verifiability through registration builds confidence in practitioners' services as they will be recognised as having a certain level of expertise.
31. All companies will benefit from the oversight provided by the scheme. All businesses benefit from improving and maintaining the integrity of the insolvency scheme. Furthermore, many businesses are creditors of other businesses and so would benefit from improved practices in the way businesses are liquidated and the way creditors are paid.
32. Under the Treasury and Office of the Auditor-General principles⁸ for setting public sector charges, the Crown provides funding only where it is considered there is a more general public benefit without a clearly attributable benefit to individual users or a defined group. As the primary direct benefits of the scheme accrue to insolvency practitioners and companies we consider that the operation of the scheme should not be funded by the Crown ie. it should be fully third party cost recovered. We note that the Crown is funding the Registrar's costs of the scheme's establishment.

⁸ Treasury's Guidelines for Setting Charges in the Public Sector and the Auditor-General's Charging Fees for Public Sector Services.

33. The form of the charges and who might be charged is determined by two things; who benefits from the activity, and who's activities give rise to the regulatory action. A fee is a charge that relates to specific goods or services provided to an individual. A levy is a charge to a certain group for a particular purpose or function (ie. where the benefit of the activity does not benefit any particular individual but benefits all in that group, for example, promotion of the scheme through information and education).
34. We therefore propose that the Registrar's operational costs be fully recovered under the insolvency practitioner regulation scheme through:
- Fees to be paid by all licensed practitioners to recover the cost of updating and maintaining the register with licence information, and
 - A levy on all registered companies (payable in the new registration fee or the annual return fee as applicable) to cover the costs of oversight.
35. As seen in other occupational regulatory schemes, an option for recovering the costs of the oversight activities is through a levy on all insolvency practitioners, as oversight provides integrity to the scheme. However, recovering these costs (\$702,000) with an annual levy of about \$7,000 per practitioner would not be feasible as a levy of this level would drive some practitioners out of the market, reducing access to insolvency services, or be passed on to businesses and creditors. Another option would be to apportion oversight costs between practitioners and companies, but even if the portion to practitioners is about 25 per cent, the levy per practitioner would still be a burden disproportionate to the general benefit of those costs.
36. We also considered adding the register costs (\$17,000) to the oversight costs and thus to the levy on all companies. However, being on the register provides direct benefits to the practitioner. The cost of collecting this fee will be minimal as it will be collected by the accredited bodies at the same time as their fees (and then passed on to the Registrar).
37. Table 1 below provides a summary of the proposed cost and people/businesses affected by the proposed fees and levy under the insolvency practitioner regulation scheme.
38. The proposed fees and levy are based on the costing described under *Cost of the Registrar's Activities* section above.

Table 1 – Proposed cost of insolvency practitioner regulation scheme

Function	Activities	Cost \$m	Impacted by fee	Cost recovered through
Register	Maintaining and updating the register	0.017	100 insolvency practitioners licences and annual confirmation in subsequent years	Proposed fees on insolvency practitioners
Oversight of the scheme	Accreditation assessment Scheme compliance: <ul style="list-style-type: none"> • Education/awareness • Monitoring/data analytics/reporting • Enforcement General management	0.702	560,000 companies filing annual returns and 55,000 new company registrations (per annum)	Proposed levy on companies
Total cost		0.719		

Proposed fee on licensed practitioners

39. It is proposed to recover the cost to the Registrar of maintaining the register through two fees charged to insolvency practitioners; a new licence registration fee and then a subsequent annual licence registration confirmation fee. This results in a proposed fee of \$170 for licence registration, and \$105 for the annual confirmation. When a licence is renewed, the practitioner will pay the licence registration fee. Accredited bodies can issue licences for up to five years.

40. Through the annual confirmation process, practitioners will confirm that the information on the register is correct. This is to ensure that the register contains up-to-date information.

41. The fee will be collected by accredited bodies and passed on to the Registrar.

Proposed levy on companies

42. It is proposed to recover the forecast cost of oversight through a levy on all companies. This results in a proposed levy of \$1.15 on all companies to be collected alongside fees for the registration of new companies and annual return fees for all companies.

43. The current company annual return fee is \$36 and the current fee for registration of a new company is \$105 (both figures include levies of \$9 for the FMA and \$6 for the External Reporting Board). The addition of a levy of \$1.15 on these fees would result in only a small increase in each fee.

44. The proposed levy would cover 97.6 per cent of the costs of the scheme.

45. The levy is based on analysis of the resources required to undertake the functions set out in the Act and has drawn on the experience of the FMA in discharging its comparable functions under the auditor regulation scheme.

46. Table 2 shows how much it costs to cover each of the activities (cost to service), calculated by total cost divided by forecast volumes, compared to the proposed fees. The proposed fee accounts for rounding. The fee in the regulations will be stated as exclusive of GST.

Table 2 – Proposed fees and levy

Proposed fees/levy \$	Cost to service	Cost to service	Proposed fee and levy - Regulations	Proposed fee and levy - Regulations
		GST incl		GST incl
License registration fee	\$169.30	\$194.70	\$170.00	\$195.50
License registration confirmation fee (annual)	\$108.66	\$124.95	\$105.00	\$120.75
Levy on new incorporation and company annual return	\$1.14	\$1.31	\$1.15	\$1.32

Fees review

47. We expect to commence a fees review in 2021/22, in line with the next review of the Companies Office fees. At this time the fees and levy can be adjusted to ensure they cover the actual and ongoing costs of the scheme and are based on actual volumes. Thereafter, the fees and levy would be reviewed every four to five years, in line with Companies Office's periodic fees reviews and consistent with Treasury guidelines.

Q1	The annual cost to the Registrar to maintain the insolvency practitioner regulation scheme is estimated to be \$718,824. The annual cost of maintaining the register is estimated to be \$16,930 and the annual cost of conducting oversight activities is estimated to be \$701,894. What are your views on the total cost of the scheme?
Q2	The proposed fee for insolvency practitioners is \$170 for licence registration, and \$105 for the annual confirmation. What are your views on the proposed fees?
Q3	The proposed levy on all companies to be collected alongside fees for the registration of new companies and annual return fees for all companies of \$1.15. What are your views on the proposed levy?
Q4	Do you agree with the proportion of the cost that the levy will cover (97.6 per cent of the costs of the scheme)?
Q5	What impact would the proposed fees or levy have on you or your business?

Other proposed regulations

48. The Act allows for regulations to be prescribed relating to accreditation. Accredited bodies will carry out the frontline regulation of insolvency practitioners.
49. It is the Registrar's role to monitor the performance of accredited bodies, to ensure that they are meeting their responsibilities under the Act. The Registrar needs to be provided with adequate information to assist his performance of his monitoring functions.
50. The Act also allows for regulations to be prescribed to ensure the operational requirements of the register are met.
51. We propose that regulations are made to cover the following matters.

Conditions the Registrar may impose when approving accredited bodies

52. The Registrar may grant accreditation to professional bodies to perform regulatory functions for the purposes of the Act.
53. Accreditation may be subject to conditions,⁹ which may relate to:
 - the procedure that an accredited body must follow when performing regulatory functions
 - ensuring that the accredited body's regulatory systems are adequate and effective, and
 - requiring the accredited body to seek consent from the Registrar before making material changes to its rules in relation to the licensing of insolvency practitioners.
54. Other conditions may be prescribed in the regulations.
55. The imposition of conditions of accreditation should allow the Registrar to make clear to applicants what changes, if any, they will need to make to their systems and processes in order to obtain accreditation. The ability to impose conditions also assists the Registrar to ensure that accredited bodies retain the on-going ability to discharge their regulatory responsibilities efficiently and effectively. We consider that it may be necessary to impose further conditions in order to ensure that accredited bodies can properly discharge their responsibilities.
56. We propose that the Registrar may set conditions relating to:
 - the accredited body's ongoing compliance with any minimum standards for accreditation prescribed by the Registrar¹⁰
 - the accredited body's resources, financial position, and financial stability, and
 - ensuring that the accredited body's governance and organisational structure is adequate and effective.

⁹ Section 35

¹⁰ The Registrar may set minimum standards under section 22(1)(d) of the Act by notice in the Gazette. MBIE will consult separately on proposed minimum standards for the accreditation of bodies.

57. The ability to impose these conditions would ensure the Registrar can collect this information, which will assist the Registrar to carry out his performance of his monitoring functions.

58. This would be in line with the conditions that may be placed on accredited bodies under the Auditor Regulation Act 2011, given the similarities between the accreditation schemes.

Q6	Do you agree with the additional conditions on accreditation we have proposed?
Q7	Should any other additional conditions be considered?

Accredited bodies' annual report to the Registrar

59. Accredited bodies are required to provide an annual report to the Registrar. The information provided in these annual reports will assist the Registrar to monitor the adequacy and effectiveness of the accredited bodies' regulatory systems.

60. The Act sets out matters that must be included in the report, including information relating to the body's performance of its regulatory functions, and any material changes to its regulatory systems.

61. In addition to these matters, we propose that an accredited body's annual reports should also include information relating to the body's organisational structure, governance systems and financial stability. This will provide the Registrar with more information about the accredited body's systems, so that the Registrar can remain satisfied that the accredited body retains the ability to discharge its responsibilities.

62. We also propose that annual reports should include information relating to the number and nature of licence applications, complaints, and disciplinary processes. It will be important for the Registrar to gather such information so it can assess the sector and monitor the effectiveness of an accredited body's systems over time.

Q8	Do you agree that accredited bodies' annual reports should include the following information: a. information relating to the body's organisational structure and governance systems; b. information relating to the body's financial stability; c. information relating to the number and nature of licence applications, complaints, and disciplinary processes?
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Content of the Register

63. The Act sets out the minimum information that must be included on the register of insolvency practitioners.¹¹ Details currently include matters such as the practitioner's name and business address, as well as details relating to disciplinary matters against the insolvency practitioner. Accredited bodies will be required to provide this information to the Registrar.¹² Regulations may prescribe further information to be held on the register. The proposed additional information to be held is set out below.

Practitioner information

64. The information on the register should allow the users of the register, including the Registrar, to contact the practitioner. This enables the Registrar to carry out his functions, as it may be necessary for the Registrar to contact practitioners. Accordingly, we propose that the register includes the practitioner's business email address and business website address (if any). It is appropriate to hold this information on the public register, as the presumption is that most information held on the register will be public, and because one of the purposes of the register is to enable people to choose a suitable person to carry out an insolvency engagement. The Registrar is able to omit information about a practitioner from the publicly available register due to privacy or safety concerns in certain circumstances.¹³

Firm information

65. If the practitioner works for a firm, the register will include the name of the firm.
66. The information on the register should also allow users of the register to contact those firms. We propose that if the practitioner works for a firm, the register includes the firm's business email address and business website address (if any). Again, this assists the Registrar or any person to contact the practitioner, which may be necessary to enforce the Act, or to help a person to choose a practitioner.
67. The register should also include the firm's New Zealand Business Number (NZBN) if that firm has an NZBN. This will ensure that the register of insolvency practitioners is consistent with changes that have or will be made to other registers that the Companies Office maintains to include NZBNs where relevant.

Home jurisdiction

68. The register should also include details of the practitioner's home jurisdiction. Australian insolvency practitioners may carry out insolvency work in accordance with the Act, and practitioners from other jurisdictions could be recognised in the future. The home jurisdiction is that country, state, or territory in which the practitioner ordinarily resides and is entitled to operate. This information will allow users of the register to know if a particular practitioner is regulated in an overseas jurisdiction.

¹¹ Section 30

¹² Section 11

¹³ Section 30(4)

Searching the register

69. The register may be searched in accordance with criteria set out in the Act or regulations.¹⁴ We propose that the register should also be searchable by the firm's NZBN allowing searching by firm and in preparation for future functionality as the NZBN system develops. We also propose that the register be searchable by home jurisdiction to enable all practitioners from a certain jurisdiction to be identified.

Q9	<p>Do you agree that the register should contain the following information (in addition to that set out in the Act):</p> <ol style="list-style-type: none">a. the practitioner's business email address and business website address (if any);b. if the practitioner works for a firm, the name of the firm, the firm's business email address, website address, and NZBN (if any);c. the practitioner's home jurisdiction?
Q10	<p>Do you agree that the register should be able to be searched by:</p> <ol style="list-style-type: none">a. a firm's NZBN;b. home jurisdiction?

Notifying changes to registered information

70. The Act requires the accredited body to notify the Registrar of certain changes to information held on the register within 10 working days of becoming aware of the change.¹⁵ This information needs to be prescribed in the regulations. The purpose of this provision is to ensure that information on the register of insolvency practitioners is accurate and up to date. The integrity of the register is important, as members of the public will place reliance on it. Accredited bodies would provide this information to the Registrar.

71. We consider that it would be important for the Registrar to be notified within 10 working days of the following changes:

- Any change to the legal name of any insolvency practitioner
- Any change to a practitioner's business address, email address and business website address (if any)
- Change in the firm that a practitioner works for
- Any change in the conditions placed on a licence
- If a practitioner's licence will continue after its expiry date under section 13(4) of the Act (which provides that if a licensed insolvency practitioner applies for a new licence before the expiry date of an existing licence that the new licence is intended to replace, and the application is not resolved before the expiry date, the existing licence continues in force until the application is resolved), and
- Any disciplinary action (other than suspension or cancellation of a licence)¹⁶ that has been issued against the practitioner by an accredited body or disciplinary body.

Q11	<p>Do you agree that the changes to licence-related information we have identified should be notified to the Registrar?</p>
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¹⁴ Section 33

¹⁵ Section 31

¹⁶ Under section 20 of the Act, the Registrar must be notified within 5 days of any cancellation or suspension of a licence.

Requirements for information to be provided to the Registrar

72. The Act allows for requirements to be prescribed in relation to information that is provided to the Registrar under the Act.

Information that the Registrar may specify

73. We propose that a regulation is made which authorises the Registrar to specify the information that must be provided to him.¹⁷ The Registrar would be able to specify certain requirements for information supplied or made available under the Act in relation to:

- what information is to be supplied or made available
- the format and medium of the information
- requirements with which information must comply (for example, that a document be signed by a specified person), and
- requirements on information or documents supplied for the register.

74. This would enable the Registrar to require that information is provided in a certain manner for operational efficiency reasons, or for compliance reasons.

Information to be provided electronically

75. The Registrar may refuse to accept a document for registration if it is not in the prescribed form.¹⁸ All information included on the register will be supplied by accredited bodies, as they will collect this information in the process of carrying out their licensing function.

76. We propose that documents and information provided to the Registrar for the purposes of registration are supplied electronically through the register website, or as the Registrar otherwise directs. By requiring information to be provided electronically, the operational efficiency of the register will be improved, which will help reduce the costs to practitioners of registration.

Q12	Do you agree with the proposed regulation to authorise the Registrar to specify the information that must be provided to him?
Q13	Do you agree with the proposed requirement that documents and information provided to the Registrar for the purposes of registration are supplied electronically through the register website, or as the Registrar otherwise directs?

¹⁷ Section 80(1)(d)

¹⁸ Section 78

Next steps and implementation

77. We welcome your written submissions on the proposals discussed in this document. Please provide your feedback to MBIE before 5pm, 15 October 2019. Please see [How to have your say](#) for instructions on how to submit your submission.
78. Once we have considered the submissions we will develop final proposals, which, if approved, will form the basis of new regulations under the Act. Please see [Purpose of this document](#) for a proposed timeline of key milestones.

Annex One - Proposed cost of insolvency practitioner regulation scheme

Cost of scheme to MBIE	Annual cost total	Register - maintain & update	Oversight			
			Accreditation	Compliance - Monitoring/ analysis/reporting/ enforcement	Compliance - Education & awareness ¹⁹	General management ²⁰
FTE	3.0	0.053	0.05	1.747	0.15	1.0
Category of cost						
Personnel ²¹	399,809	3,544	7,733	221,510	12,372	154,650
Professional services ²²	110,000	10,000	-	100,000	-	-
Other expenses ²³	65,250	-	-	5,250	60,000	-
Corporate support - 25% of total direct costs ²⁴	143,765	3,386	1,933	81,690	18,093	38,663
TOTAL COSTS	718,824	16,930	9,666	408,450	90,465	193,313

¹⁹ Education and awareness is an element of ensuring compliance with the scheme.

²⁰ General management costs represent the cost of one FTE manager for the scheme.

²¹ Personnel costs represent the estimated cost of staff salaries.

²² Professional services include the estimated cost of services such as external legal support.

²³ Other expenses include the estimated cost of internal operating expenses such as IT.

²⁴ Corporate support costs represents overhead costs charged by MBIE, including office space and support from central services such as HR.