

Application to become a licensed insolvency practitioner

Under the Insolvency Practitioners Regulation Act 2019

Please complete this form to apply for a licence under the Insolvency Practitioners Regulation Act 2019. In completing this form, please refer to the Guide.

Section 1 – Personal and business information (refer note 1 of Guide)

Full name	<input type="text"/>		
CA ANZ membership number (if applicable)	<input type="text"/>		
Residential address	<input type="text"/>	Suburb	<input type="text"/>
City	<input type="text"/>	Postcode	<input type="text"/>
Business name	<input type="text"/>		
Business street address	<input type="text"/>	Suburb	<input type="text"/>
City	<input type="text"/>	Postcode	<input type="text"/>
Business PO Box Address	<input type="text"/>		
City	<input type="text"/>	Postcode	<input type="text"/>
Business email address	<input type="text"/>		
Business telephone number	<input type="text"/>	<input type="text"/>	
Business website address	<input type="text"/>		
New Zealand Business Number (NZBN)	<input type="text"/>		

Section 2 – Licence membership requirements (refer note 2 of the Guide)

Are you a New Zealand resident CA ANZ member with a CPP? Yes No

Are you a registered liquidator under the Australian Corporations Act 2001 (Cth)? Yes No

If yes, please provide your Registered Liquidator Number

Are you a member of a *recognised body*? Yes No

Please provide the name of the recognised body, your membership number and attach evidence of your membership

Are you a member of a religious society or order that precludes membership of an organisation or body other than your society or order? Yes No

If yes, please provide details and attach evidence of the religious society or order. Please also refer to note 2.

Section 3 – Fit and proper person (refer note 3 of the guide)

- I am a fit and proper person to be licensed. Please complete and attach the form *IP 1 – Fit and proper person*.
- Please also attach a copy of your current criminal convictions record obtained from the Ministry of Justice or an equivalent overseas criminal convictions record.

Section 4 – Insolvency engagement experience (refer note 4 of the guide)

1. Practical experience pathway

- a) **CA ANZ member with a CPP** – I have completed at least **1,000** hours of practical experience on insolvency engagements at a senior level within the three years immediately prior to submitting this application, **and** have five years' experience undertaking work on insolvency engagements or sufficiently similar experience. Yes No
- b) **Other applicants** – I have completed at least **2,000** hours of practical experience on insolvency engagements at a senior level within the three years immediately prior to submitting this application **and** have five years' experience undertaking work on insolvency engagements or sufficiently similar experience. Yes No

All applicants relying on the practical experience pathway must complete the form *IP 2 – Practical Insolvency Experience* setting out their relevant practical experience on insolvency engagements and attach it to this form.

2. Alternative pathway – otherwise competent to act as an insolvency practitioner (for any applicant who cannot use the practical experience pathway above)

I am applying for a licence under the alternative pathway of being otherwise competent to act as an insolvency practitioner. Yes No

If yes, please provide supporting information, in any form, showing you are otherwise competent to be issued a licence.

Section 5 – Professional indemnity insurance arrangements (refer note 5 of the guide)

- I have professional indemnity insurance appropriate to the nature and scale of the insolvency services I am offering.
Please provide supporting information confirming your insurance arrangements.

Section 6 – Compliance Agreement for an applicant who is not a New Zealand resident CA ANZ member (refer note 6 of the guide)

- I have signed and attached my Compliance Agreement with NZICA.

Section 7 – Types of insolvency engagements in respect of which a licence-holder is authorised to act

I am applying for a licence authorising me to act in respect of all types of insolvency engagements. Yes No

I am applying for a licence authorising me to act only in respect of an appointment as a trustee or provisional trustee under subpart 2 of Part 5 of the Insolvency Act 2006. Yes No

Section 8 – Privacy Collection Statement and Consents

Privacy is important to the New Zealand Institute of Chartered Accountants (NZICA, we, us or our). We collect, use and disclose the personal information you provide in this form for the purpose of assessing and processing your application to become a licensed insolvency practitioner in New Zealand, for the management and administration of your application and, if granted, your licence and to otherwise communicate with or manage our relationship with you. We collect your personal information pursuant to the Insolvency Practitioners Regulation Act 2019 (NZ) (Act) and will provide your information to the Registrar of Companies, the Ministry of Business Innovation, and Employment and any other competent government authorities as required or permitted under the Act. We may also provide your information to Chartered Accountants Australia and New Zealand. Providing us with the requested information is not required by law, but if you do not provide the information requested by us, we may not be able to process your application to become a licensed insolvency practitioner in New Zealand.

We will also use and disclose personal information (including sensitive information) as set out in our Privacy Policy, available at www.charteredaccountantsanz.com/privacy-policy. The Privacy Policy also contains the contact details of our Privacy Officer and information regarding your rights (including how to withdraw your consent, if applicable) and how you can seek to access and correct your personal information or raise a privacy concern with us and how it will be dealt with.

It is likely that personal information will be disclosed to overseas recipients (as provided in our Privacy Policy).

ADDITIONAL PROVISIONS FOR EU DATA SUBJECTS

The following additional provisions apply to you if the (EU) 2016/679 General Data Protection Regulation (GDPR) and/or the UK Data Protection Act 2018 (as amended from time to time) (together, the Data Protection Legislation) applies to you. GDPR will apply to you if you are or become a resident of the member states of the EU, Norway, Iceland and Liechtenstein (EU data subjects). The UK Data Protection Act 2018 (as amended from time to time) will apply to you if you are or become a resident of the United Kingdom (UK data subjects).

We are permitted to process your information for the above purpose, by relying on one or more of the following lawful grounds: (a) you have explicitly agreed to us processing such information for a specific reason; (b) the processing is necessary to perform the agreement we have with you or to take steps to enter into an agreement with you; (c) the processing is necessary for us to comply with our legal obligations; or (d) the processing is necessary for our legitimate interests, including to provide you with a smooth and efficient customer experience.

Where you have consented to our processing of such information (including any special categories of personal data) you may withdraw such consent at any time, by contacting us using the contact details in our Privacy Policy. In some cases we may lawfully continue to process your information even after you withdraw your consent, by relying on the legal bases described above. Other important information such as transferring your personal data outside the European Economic Area (or the United Kingdom, to the extent that it is no longer a territory within the European Economic Area and you are a UK data subject), your specific GDPR rights over your personal data under the Data Protection Legislation and how and when we retain and destroy your personal data is explained in our Privacy Policy.

I have read, understood and agree to the Privacy Policy and the important information contained in the Privacy Statement above.

Section 9 – Declaration

I _____, the applicant, declare that:

- (a) the information provided in this application, and any supporting documents, is true and correct; and
- (b) NZICA is authorised to obtain, at any time and from any person or entity, any information about me that it considers necessary or desirable to process this application and I authorised any such person or entity to release to NZICA the information it requests; and
- (c) I have read, understood, and accept the agreements required of me under this application including all information contained in the guide.

Section 10 – Fees and Payment details

NZICA application fee: \$NZ1,035.00 (GST inclusive)

Registrar of Companies licence registration fee: \$NZ189.75 (GST inclusive)

Total fee payable: **\$1,224.75**

Payable by:

Visa MasterCard Amex

Card number

Expiry date /

Cardholder name

Cardholder signature

Section 11 – Checklist

- 1. Completed all sections and signed the declaration
 - 2. Completed payment details
 - 3. Attached form *IP 1 – Fit and proper person*
 - 4. Attached form *IP 2 – Practical insolvency experience* (or other information showing you are otherwise competent to act as an insolvency practitioner for NZICA to issue a licence if applicant is applying under the otherwise competent pathway)
 - 5. Attached professional indemnity insurance information
 - 6. Attached a current (less than six months old) Ministry of Justice criminal convictions record or an equivalent overseas criminal convictions record
- And if you are not a New Zealand resident CA ANZ member**
- 7. Signed and attached a Compliance Agreement

Section 12 – Submitting your application

You can email your application (with accompanying attachments) to: regulation.nzica@charteredaccountantsnz.com

Alternatively, you can post your application to:

NZICA
NZ Regulation
PO Box 11342
Wellington 6142

Any questions

If you have any questions you can phone our Member Support Team on 0800 469 422 or email regulation.nzica@charteredaccountantsnz.com

Application to become a licensed insolvency practitioner

Guide to application form

Background information to the Insolvency Practitioners Regulation Act 2019 (the Act)

The Act introduced a co-regulatory scheme for the regulation of insolvency practitioners in New Zealand.

Under the Act, accredited bodies are responsible for carrying out frontline regulation of licensed insolvency practitioners, including licensing entry and regulating ongoing competence, investigating complaints, and taking disciplinary action where appropriate. A person who acts as an insolvency practitioner must be granted a licence under the Act by an accredited body to carry out insolvency engagements in New Zealand.

The Registrar of Companies (Registrar) has granted the New Zealand Institute of Chartered Accountants (NZICA) accredited body status under the Act and regulations to the Act (Regulations). Note that NZICA is the accredited body under the Act and not CA ANZ, because NZICA has the statutory responsibility under the New Zealand Institute of Chartered Accountants Act 1996 to regulate the practice of its members in New Zealand. An applicant will be a member of NZICA if the applicant is a CA ANZ member who resides in New Zealand.

The Registrar has responsibility for oversight of all accredited bodies. The Registrar also maintains a register of insolvency practitioners holding information about each licensed insolvency practitioner, such as their business address and licence details. The register will be publicly searchable.

You may apply to NZICA to become a licensed insolvency practitioner using this application form. Every licence issued under the Act will be subject to certain conditions and ongoing competence requirements. These will be set out in your licence.

NOTES TO APPLICATION FORM

Note 1 – Personal and business information

The Act and regulations requires NZICA to provide the Registrar with the business information to be included in the public register of licensed insolvency practitioners.

Note 2 – Licence membership requirements

To be eligible for a licence, an applicant must be *either*:

1. A New Zealand resident CA ANZ member holding a Certificate of Public Practice (CPP); or
2. An overseas insolvency practitioner; or
3. A member of a recognised body; or
4. A practising member of a religious society or order whose doctrines or beliefs preclude membership of any organisation or body other than the religious society or order of which the applicant is a member.

If an applicant does not meet any one of these requirements, then NZICA cannot issue a licence.

See below for further details in relation to these.

1. A New Zealand resident CA ANZ member holding a CPP

To be eligible under (1), the Act requires an applicant to be a member of an accredited body.

An applicant will be a member of NZICA (i.e. the accredited body) if they are a CA ANZ member who resides in New Zealand. A CA ANZ member residing outside New Zealand is not an NZICA member. Accordingly, to be eligible for a licence they must meet one of the other membership requirements (i.e. be an overseas insolvency practitioner).

An applicant should provide their CA ANZ membership number on the application form as there is no separate NZICA membership number.

The applicant must also hold a CPP.

For the purposes of the Act a non-member principal (as defined in the NZICA Rules) is not regarded as a New Zealand resident CA ANZ member. Accordingly, to be eligible for a licence they must meet one of the other membership requirements.

2. An overseas insolvency practitioner

An overseas insolvency practitioner is a person who is entitled to carry out insolvency work in Australia or in a jurisdiction recognised by the Registrar. The Registrar has not recognised any other jurisdictions under the Act, so Australian insolvency practitioners are the only overseas insolvency practitioners who can obtain a licence at this time.

To obtain a licence, an Australian insolvency practitioner must be a registered liquidator under Australian law and must provide, with their application, their Registered Liquidator number appearing on ASIC's Register of Liquidators. An overseas insolvency practitioner must apply for a licence within 10 days of being appointed to act in respect of an insolvency engagement in New Zealand.

3. A member of a recognised body

A recognised body is a body recognised as such by the Registrar and notified in the *Gazette*. The Registrar has recognised Restructuring Insolvency & Turnaround Association New Zealand Incorporated (RITANZ) as a recognised body.

A non-member principal must be a member of a recognised body to be eligible for a licence.

An applicant relying on recognised body membership must provide the name of the recognised body, membership number and proof of membership with their application.

4. A practising member of a religious society or order whose doctrines or beliefs preclude membership of any organisation or body other than the religious society of order of which you are a member

The Act provides that an accredited body can licence certain members of a religious society or order whose beliefs prevent them from being a member of that body, provided certain conditions are met (refer to sections 57 and 58 of the Act). There are similar provisions in the Financial Reporting Act 2013 relating to NZICA recognising a practising member of a religious society or order as a qualified statutory auditor.

Before applying for a licence, a member of a religious society or order who consider they may be eligible for a licence should contact NZICA to discuss their eligibility. Contact details are provided below.

Note 3 – Fit and proper person

NZICA can only licence an applicant where it is satisfied that the applicant is a fit and proper person to hold a licence.

All applicants must complete form *IP 1 – Fit and proper person* and attach it to their application.

An applicant will need to consider if any of the matters set out in Appendix 1 of the form *IP 1 – Fit and proper person* apply. If any such matter applies then the applicant must provide full details to NZICA of the event, their conduct in relation to the event, any findings in relation to the event, and any penalty or sanction imposed. NZICA will then consider these circumstances and the applicant's overall history and determine if they are fit and proper.

The presence of such a matter does not automatically disqualify an applicant from being licensed. However, it will require the applicant to provide information in order to satisfy NZICA as to the applicant's suitability to have a licence. NZICA expects that more serious events will require an applicant to provide more extensive evidence to satisfy NZICA that the applicant is now a fit and proper person to be a licensed insolvency practitioner.

NZICA may also consider any other matter it considers appropriate when undertaking a fit and proper assessment. For example, the applicant's standing in the community, membership of community organisations, and references and certificates of standing from work colleagues and/or licensed insolvency practitioners. Any such references should not be from persons reporting to the applicant. Any references should also attest to the applicant's experience and competence as an insolvency practitioner.

An applicant should also disclose whether they are subject to any professional disciplinary processes at the time of their application and the nature of these.

All applicants must also submit a current (i.e. less than six months old) criminal conviction record obtained from the Ministry of Justice. The appropriate Ministry of Justice form (*Priv/F1*) can be found on the Ministry of Justice's website (www.justice.govt.nz).

If you are applying as an overseas insolvency practitioner (i.e. you are a registered liquidator under the Australian Corporations Act 2001 (Cth)) you will need to provide a national criminal history check from the Australian Federal Police (AFP), a state or territory police service, or a broker organisation accredited by the Australian Criminal Intelligence Commission. The criminal history check must not be more than 6-months old.

Disclosure of any matters will not necessarily preclude you from holding a licence.

Note 4 – Insolvency engagement experience

The insolvency engagement experience requirement can be met by either:

1. an applicant meeting the practical experience requirements; or
2. an applicant satisfying NZICA that they are otherwise competent to act as a licensed insolvency practitioner (the alternative pathway).

a) Practical experience requirements

An applicant who is CA ANZ member with a CPP must have completed at least 1,000 hours of work on insolvency engagements at a senior level (refer to definition below) within the three years immediately prior to applying for a licence. In addition, they must have at least five years experience undertaking work on insolvency engagements (or work sufficiently similar to work on insolvency engagements), which can include the senior level work experience above. These requirements also apply to an Australian resident CA ANZ member with a CPP.

Other applicants relying on the practical experience pathway must have completed at least 2,000 hours of work on insolvency engagements at a senior level (refer to definition below) within the three years immediately prior to applying for a licence. In addition, an applicant must have at least five years experience undertaking work on insolvency engagements (or work sufficiently similar to work on insolvency engagements), which can include the senior level experience above.

Senior level means work at a senior level based on an assessment of the kind of work completed rather than by reference to the applicant's position or title, including whether the applicant:

- Managed or supervised the insolvency engagement;
- Formed opinions and made recommendations as an insolvency practitioner or to an insolvency practitioner about strategic and tactical matters, and the financial and potential legal position of the company;
- Was directly involved in planning and managing the conduct of the insolvency engagement (including conducting appropriate investigations of the company's business, property, affairs and financial dealings) as an insolvency practitioner or on behalf of the insolvency practitioner;
- Prepared draft reports to creditors as an insolvency practitioner or on behalf of the insolvency practitioner;
- Instructed lawyers and evaluated legal advice as an insolvency practitioner or as directed by the insolvency practitioner;
- Supervised staff in respect of insolvency engagements, and had responsibility for allocating these resources; and
- Led material negotiations with stakeholders in an insolvency engagement.

An *insolvency engagement* is defined in section 5 of the Act to include "any work or function that is part of acting as an insolvency practitioner". Insolvency practitioner means any of the following:

1. An administrator or a deed administrator (as those terms are defined in section 239B of the Companies Act 1993);
2. An insolvent company liquidator;
3. A receiver (as defined in section 2(1) of the Receiverships Act 1993); and
4. A trustee or provisional trustee appointed under subpart 2 of Part 5 of the Insolvency Act 2006

NZICA's expectation is that to meet the five year experience requirement, the applicant will generally need to be working full time, or close to full time hours, with most of the applicant's time focussed on insolvency work. If the applicant has only worked part time or their work has been divided between insolvency and work in other accountancy disciplines, NZICA may require the applicant to complete an additional period of insolvency work experience so the applicant can develop the required experience necessary before issuing a licence.

An applicant may have completed some insolvency experience while working overseas. Overseas experience can be used to meet the experience requirements. In assessing any overseas experience, NZICA will require that an applicant's overall experience gained to be at least of an equivalent standard to experience gained in New Zealand.

An applicant will need to fill out form *IP 2 – Practical insolvency experience* (or an equivalent form) setting out their relevant insolvency experience. The information you provide should support the type of insolvency engagements you wish to undertake and be licensed for.

If an applicant is unsure about whether they have enough practical experience to obtain a licence, they should contact NZICA before applying.

b) Alternative pathway – otherwise competent to act as an insolvency practitioner

There may be circumstances where an applicant is unable to meet the practical experience requirements above, but considers they are otherwise competent to act as an insolvency practitioner.

In these circumstances, an applicant can still meet the experience requirements when they can show they are *otherwise competent* to act as an insolvency practitioner.

To demonstrate that an applicant is otherwise competent, an applicant will need to provide NZICA with enough information to allow it to assess competency. An applicant should provide at a minimum:

- Evidence of their general education, qualifications and any relevant professional body memberships;
- Evidence of specific insolvency experience including hours worked;
- Evidence of specific insolvency roles;
- Evidence of insolvency training and courses undertaken;
- Written confirmation from an experienced insolvency practitioner (preferably a licenced insolvency practitioner) that they consider the applicant to be competent to hold a licence. Confirmations from a person reporting to the applicant are, generally, not suitable;
- Written confirmation from an experienced banker or lawyer specialising in the field of insolvency and restructuring that they consider the applicant to be competent to hold a licence; and
- Any relevant reviews.

NZICA's expectation is that an applicant relying on this pathway will be able to demonstrate an extensive record of work as an insolvency practitioner at a senior level.

There is no prescribed form for providing this information. However, the applicant should ensure they provide enough information to allow NZICA to determine whether they are otherwise competent to hold a licence.

Note 5 – Professional indemnity insurance arrangements

Applicants are required to confirm they have professional indemnity insurance cover appropriate to the nature and scale of insolvency services they are offering. Applicants should provide:

- A general description of the insurance (or reinsurance) arrangements;
- The limit of indemnity for any claims (in the aggregate and per claim); and
- Details of insurance coverage, exclusions, costs covered, cancellation and any reinstatement arrangements, preferably supported by a current certificate/policy for professional indemnity cover.

Note 6 – Compliance Agreement – for applicants who are not New Zealand resident CA ANZ members

If an applicant is not a New Zealand resident CA ANZ member, they are required to enter a Compliance Agreement with NZICA under section 58 of the Act.

By signing a Compliance Agreement, an applicant agrees to be subject to the following matters as if they were a member of NZICA:

- NZICA's Code of Ethics; and
- NZICA Rules relating to:
 - The investigation of complaints;
 - The hearing of complaints and any other matters by an NZICA disciplinary body;
 - Appeals against decisions of any disciplinary body;
 - The kinds of conduct for which a member or former member of NZICA may be disciplined;
 - The actions that may be taken in respect of, and the penalties that may be imposed on, a member or former member of NZICA for such conduct; and
 - Eligibility to carry out insolvency engagements.

The Code of Ethics and NZICA Rules can be found at www.charteredaccountantsanz.com

In addition, the Compliance Agreement may provide for any other matters that NZICA thinks fit relating to an applicant's circumstances, including matters relating to ongoing competence requirements, reports and access to information, the promotion of compliance with any enactment or other relevant standard relating to insolvency engagements and the promotion of reasonable care and diligence in carrying out such engagements, the payment of fees, and the term of the agreement.

The Compliance Agreement must be attached to the application. NZICA will not consider an application if a Compliance Agreement is not attached, when one is required. However, if an applicant is covered by the transitional provisions of the Act and has already entered into a Compliance Agreement with NZICA, no further Compliance Agreement is required.

A New Zealand resident CA ANZ member is not required to sign a Compliance Agreement as they are already subject to the Code of Ethics and NZICA Rules through their membership.

A non-member principal is required to sign a Compliance Agreement as they do not meet the definition of "member of the accredited body" under the Act.

Note 7 – Types of insolvency engagements in respect of which a licence-holder is authorised to act

Each licence NZICA issues must be subject to a condition relating to the types of insolvency engagements in respect of which a licence-holder is authorised to act.

An applicant should specify the types of insolvency engagement in respect of which they want to be authorised to act under the licence, which will either be:

1. All types of insolvency engagement provided for in the Act; or
2. A trustee or provisional trustee appointed under subpart 2 of Part 5 of the Insolvency Act 2006

Under the Act, all types of insolvency engagement includes any work or function that is part of acting as:

- An administrator or a deed administrator (as those terms are defined in section 239B of the Companies Act 1993);
- An insolvent company liquidator;
- A receiver (as defined in section 2(1) of the Receiverships Act 1993); and
- A trustee or provisional trustee appointed under subpart 2 of Part 5 of the Insolvency Act 2006

Note 8 – Fees

Two fees are payable with this application.

An NZICA application fee of \$NZ1,035.00 (GST inclusive) to cover NZICA's costs associated with considering the application and undertaking its regulatory functions.

A fee of \$189.75 (GST inclusive) to cover some of Registrar of Companies registry costs. NZICA collects this fee and passes it on to MBIE.

There are also other fees associated with the regime.

The Registrar of Companies charges all licence holders an annual confirmation of \$120.75 (GST inclusive) which NZICA collects and passes on to the Registrar of Companies.

In addition, if you are not a CA ANZ member and your application is approved, you will also be subject to an annual licencing fee. On commencement of the scheme this fee will be equivalent to the annual fee payable to CA ANZ by a CPP holder. This fee will be pro-rated to 30 June in the first year of licensing.

How to apply for a licence

You can email your application (with accompanying attachments) to: regulation.nzica@charteredaccountantsanz.com

Alternatively, you can post your application to:

NZICA
NZ Regulation PO Box 11342
Wellington 6142

Questions

If you have any questions you can phone our Member Support Team on 0800 469 422 or email regulation.nzica@charteredaccountantsanz.com