

IP 1 – Fit and proper person

Fit and proper person

This form is required to allow NZICA to assess whether you are a fit and proper person to be issued a licence under section 9 of the Insolvency Practitioners Regulation Act 2019.

Please read the Guide to the form (overleaf) carefully before completing this form.

Please complete this form and return it with your licence application.

Declaration

I, _____ (Name of applicant) confirm that

1. I have reviewed the matters set out in Appendix 1 of the Guide to this form, and: (please select one only)

None of those matters apply to me

One or more matters apply to me (please provide full details to NZICA if this applies)

2. No other matter exists that could impact on whether I am a fit and proper person. If such a matter does apply I have fully disclosed, it to NZICA

3. I consider I am a fit and proper person to be issued with a licence under the Insolvency Practitioners Regulation Act 2019 and to undertake insolvency engagements in New Zealand.

I confirm that the above information is true to the best of my knowledge.

Signature

Date

Fit and proper person

Guide to the form

Every applicant making an application must complete this declaration.

Should any matter in Appendix 1 below apply you must provide full details to NZICA of the event, your conduct in relation to the event, any findings made in relation to the event, and any penalty or sanction imposed.

NZICA expects that more serious events (for example, the matters identified in the first three bullet points in Appendix 1 below) 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.

Every applicant must also consider whether any other matter exists that could impact on whether or not they are fit and proper. Should any other such matter exist you must provide full details of the event, your conduct in relation to the event, any findings made in relation to the event, and any penalty or sanction imposed.

Disclosure of any matter does not necessarily prohibit you from holding a licence as each matter will be considered on its own merits. However, failure to make any relevant disclosure may result in your application being declined.

In addition, NZICA will consider any other matter it considers to be appropriate in the circumstances. This includes but is not limited to:

- Standing in the community;
- Membership of professional organisations and associations;
- Membership of community organisations (sports clubs, religious groups, and other voluntary groups);
- References, or certificates of standing, from work colleagues and/or licenced insolvency practitioners or professional organisation;
- Membership of community organisations (sports clubs, religious groups, and other voluntary groups);
- Litigation history, for example commercial disputes;
- Current proceedings by a professional or other body (see below);
- Credit history;
- Actions taken by an applicant to address any of the matters raised by a Court or findings by a professional body; and
- Publicly available information about an applicant.

Ongoing proceedings

If you are subject to any professional disciplinary process or proceedings at the time of your application, you must also disclose the nature of these proceedings.

Appendix 1

The following matters will be considered when NZICA is considering whether an applicant is fit and proper:

- Convictions involving dishonesty. A crime of dishonesty includes:
 - any offence under sections 99 to 106, 108 to 117, and 217 to 266 of the Crimes Act 1961;
 - any offence under sections 15 to 20 of the Summary Offences Act 1981; or
 - any offence under any overseas law which is equivalent to any of the Crimes Act or Summary Offences Act offences set out above.
- The person has served or been sentenced to a term of imprisonment.
- The person has been convicted of any offence under sections 130 to 141, or section 144 A – C of the Crimes Act 1961.
- Convictions, sanctions, penalties, fines, declarations, orders, reprimands or undertakings for any offence under any provision of the financial markets legislation (as defined in the Financial Markets Authority Act 2011) or any offence under any provision of any overseas enactment governing auditors, financial markets or financial services, corporations, financial reporting, or requirements for preventing money laundering or financing of terrorism or similar.
- Convictions, sanctions, penalties, fines, declarations, orders, reprimands or undertakings that the person has been subject to under any provisions of legislation that apply to insolvency practitioners (e.g. the Insolvency Practitioners Regulation Act 2019) or any offence under any provision of any overseas Act governing insolvency practitioners or similar.
- Being banned from acting as a director of a company or other incorporated body, or from being involved in the management of any class of incorporated or unincorporated entity.
- Having been subject to disciplinary action by any professional body or disciplinary tribunal, or court where those actions resulted in penalties, sanctions, fines, declarations, orders, reprimands or undertakings being imposed or censure.
- Having been the subject of an adverse court ruling in respect of a civil case relating to the quality of their professional work or professional judgement.
- Having been declined membership of any professional body, or had their membership suspended or cancelled or has been declined any registration, licence, authorisation or accreditation required in relation to any profession by any public body, self-regulatory organisation or exchange, or has had any such membership, registration, licence, authorisation or accreditation revoked or withdrawn.
- Having been dismissed, or asked to resign, from a position of trust, fiduciary appointment or similar position.
- Having been placed into statutory management or having been a director of a company which has been placed into statutory management.
- Having, in the last 10 years, been made bankrupt, or filed for bankruptcy, or made the subject of an official assignment for the benefit of their creditors or been admitted to the no asset procedure under the Insolvency Act 2006.

- Having, in the last 10 years, been a director or senior manager of an entity, or other incorporated or unincorporated entity, which has:
 - been placed into insolvent liquidation, administration or receivership (or any overseas equivalent status); or
 - entered into any compromise agreement, moratorium or other restructuring to avoid insolvent liquidation, administration or receivership.
- The person is subject to pending proceedings which, if any adverse finding is reached, will result in one or more of the matters set out in the paragraphs above applying to the person.
- Having been convicted of an offence under the Tax Administration Act 1994.

If such a matter is disclosed, then the applicant is required to provide full details. NZICA will then make a final assessment as to whether it considered, in its sole discretion, the applicant to be fit and proper to hold a licence.

For the avoidance of doubt, NZICA may, in exceptional circumstances, in its sole discretion, take into account any other matter it considers relevant in assessing whether an applicant is fit and proper to hold a licence.