

ENGAGEMENT STANDARD  
 INSOLVENCY ENGAGEMENTS

*Issued by the Board of the New Zealand Institute of Chartered Accountants*

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**Compliance with this Standard is mandatory in terms of paragraph 130.1(b) [NZ R113.1(b)] of the *Code of Ethics*. This Insolvency Engagement Standard is to be read in the context of the Explanatory Foreword to Engagement Standards issued by the New Zealand Institute of Chartered Accountants and in conjunction with Professional Standard 1 *Quality Control*.**

**IMPORTANT NOTE:**

The NZICA Code of Ethics (effective from 15 June 2019) (“revised Code of Ethics”) replaces the NZICA Code of Ethics (application 07/2017) (“extant Code of Ethics”). Consequently, any references to provisions of the extant Code of Ethics in this Professional Standard should be read as references to the equivalent provisions in the revised Code of Ethics [*noted in square brackets – for ease of reference*]. Where the text of this Professional Standard is not consistent with the revised Code of Ethics, the revised Code of Ethics shall override the text of this Professional Standard.

## Introduction

### Scope

- 1 This Standard establishes mandatory requirements and provides explanatory guidance for members and firms undertaking *insolvency engagements*.
- 2 An *insolvency engagement* is an engagement in which a member or firm provides professional services in relation to an individual or entity that may in the future become insolvent or is currently insolvent, and services in relation to the liquidation of solvent entities. An insolvency engagement may be of either a *formal* or *informal* nature.
- 3 A *formal insolvency engagement* is an insolvency engagement where the member is appointed under the Companies Act 1993, the Insolvency Act 2006, the Insolvency (Cross- border) Act 2006, the Corporations (Investigations and Management) Act 1989, the Receiverships Act 1993, or other relevant statute or by a Court order.
- 4 An *informal insolvency engagement* is an insolvency engagement which is not a formal insolvency engagement. (Ref: Para. A1)
- 5 Members and firms shall comply with the requirements in this Standard in all cases where they are relevant in the circumstances of an insolvency engagement. The application and other explanatory material is an integral part of this Standard as it provides further explanation of, and guidance for carrying out the requirements, along with background information on the matters addressed in this Standard.
- 6 This Standard is confined to the professional aspects of insolvency engagements as distinct from any responsibilities which may be imposed by law. Members and firms also need to comply with all applicable laws, rules and regulations. In the event of any conflict between a member or firm's legal obligations and the requirements of this Standard then, to the extent the member or firm is unable to reasonably avoid or otherwise mitigate that conflict, the member or firm shall give priority to compliance with their legal obligations. (Ref: Para. A2)

### Effective Date

- 7 This Standard applies to insolvency engagements where a member or firm is appointed on or after 1 October 2011, and to a member's or firm's conduct after that date on any existing insolvency engagement.

### Objective

- 8 The objective of a member or firm when performing an insolvency engagement is to complete the insolvency engagement in accordance with the terms of the appointment and any legislative requirements applicable to the appointment.

### Definitions

- 9 For the purpose of this Standard, the following terms have the meanings specified:

*Conflict of interest* means any circumstance, relationship or other fact relevant to the member, firm or any partner, director or managerial employee of the firm's own financial, business, property or personal interests which will, or reasonably may, impair the rendering of objective insolvency services, in either reality or perception. (Ref: Para. A3)

*Continuing professional relationship* arises where, in the past two years, any member or anyone in the member's firm has provided professional services to the entity. This does not arise where the relationship is one which springs from the appointment of the member or the firm by, or at the instigation of, a creditor, or other party having an actual or potential financial interest in the entity, to investigate, monitor or advise on the affairs of the entity.

*Expert* means a person or firm possessing special skill, knowledge and experience in a particular field including accounting and insolvency.

*Firm* means a sole practitioner, partnership, corporate practice or other form of entity through which a member may undertake insolvency engagements.

*Formal insolvency engagement* means an insolvency engagement as defined in paragraph 3 above.

*Independence* means independence of mind and independence in appearance.

*Independence in appearance* means the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that an individual or firm's integrity, objectivity or professional scepticism has been compromised.

*Independence of mind* means the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgement, thereby allowing an individual to act with integrity and exercise objectivity and professional scepticism.

*Informal insolvency engagement* means an insolvency engagement as defined in paragraph 4 above.

*Insolvency engagement* means an engagement as defined in paragraph 2 above.

*Member* means a member of the New Zealand Institute of Chartered Accountants and the member's firm.

*Network* means a larger structure:

- (i) that is aimed at co-operation; and
- (ii) that is clearly aimed at profit or cost sharing or shares common ownership; control or management; common quality control policies and procedures; common business strategy; the use of a common brand-name; or a significant part of professional resources. (Ref: Para. A4)

*Network firm* means a firm or entity that belongs to a network.

*Professional services* means any services in which a member is required to use professional expertise on behalf of a client, irrespective of whether payment is received for this work.

## **Requirements**

### **Ethical Requirements**

10 A member shall comply with the *Code of Ethics* to the extent relevant to the circumstances of the insolvency engagement.

*Fundamental Principle: Objectivity* (Ref: Para. A5–A9)

11 A member shall be fair and not allow, or be seen to allow, prejudice or bias to override their objectivity except when the law requires.

12 In all phases of insolvency work, a member shall maintain their independence.

13 A member shall ensure that all personnel engaged on insolvency work adhere to the principles of objectivity and integrity.

### **Conflicts of Interest**

14 A member performing insolvency engagements shall be, and be seen to be, free from any conflicts of interest.

15 Firms shall ensure they have adequate internal policies and procedures to identify real and potential conflicts of interest, including documentation of conflicts of interest that occur and the way in which those conflicts are resolved. (Ref: Para. A10).

- 16 Where, at the time of appointment, a member is aware that a conflict of interest exists, or is aware that a conflict of interest may arise during the period of the appointment; the member shall not accept the appointment.
- 17 Prior to acceptance of an insolvency engagement, the member shall identify whether the member or anyone in the member's firm or network firm has, or has had, a continuing professional relationship with the entity. Where a continuing professional relationship is identified:
- (a) Neither the member, the member's firm, nor anyone within the member's firm shall accept appointment as liquidator, except where the liquidation is a liquidation of a solvent entity, or with the leave of the Court.<sup>1</sup> (Note that in this case a continuing professional relationship includes appointment as receiver). (Ref: Para. A11)
  - (b) Neither the member, the member's firm, nor anyone within the member's firm shall accept appointment as receiver or as receiver and manager of that entity. Conversely, where any member or anyone in the member's firm has been receiver or receiver and manager of an entity, neither the member nor the firm shall accept an assurance engagement for the entity within two years of the receiver ceasing to act.
  - (c) In all other cases, the member shall evaluate the significance of the relationship to the member's independence and take such action as is necessary to preserve the member's independence. Where it is not possible to resolve the conflict caused by the relationship, the member shall not accept the appointment.
- 18 If, during the course of an insolvency engagement, a member becomes aware of a conflict of interest or other threat to independence, the member shall take immediate steps to disclose the nature of the threat to all relevant parties to the insolvency engagement. The member shall take such action as may be necessary to preserve the member's independence and to resolve the conflict of interest. Where a member is unable to resolve a conflict of interest or is, or might be seen to be, unable to preserve the member's independence, the member shall withdraw from the insolvency engagement immediately.

*Fundamental Principle: Professional Competence and Due Care*

- 19 A member providing insolvency services shall ensure that they have adequate training, experience and technical competency to perform an insolvency engagement. (Ref: Para. A12–A13)
- 20 Members shall ensure that appropriate standards of professional competence are met by obtaining or maintaining the professional knowledge, skills and experience relevant to provision of high quality insolvency services. This includes undertaking ongoing continuing professional development relevant to performing insolvency engagements.
- 21 Where a member lacks the necessary knowledge or expertise to undertake particular aspects of an insolvency engagement in accordance with reasonably expected levels of technical competence, the member shall seek to obtain the services of suitably qualified experts, such as other chartered accountants, lawyers, actuaries, engineers and valuers, to assist with those aspects of the engagement. (Ref: Para. A14)
- 22 A member shall perform an insolvency engagement with due care, in a timely manner and in accordance with all relevant laws and regulations. A member shall ensure that insolvency

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<sup>1</sup> Section 280 (1) (ca) of the Companies Act 1993 provides that, unless the Court orders otherwise, a person who has, or whose firm has, within the two years immediately prior to the commencement of the liquidation, provided professional services to the company, may not be appointed as liquidator of a company, unless, within 20 working days before the appointment of the liquidator, the board of the company resolves that the company will, on the appointment of the liquidator, be able to pay its debts and a copy of the resolution is delivered to the Registrar for registration.

engagements are performed to a high quality by following a systematic process that properly addresses all stages of the engagement. (Ref: Para. A15–A16)

*Fundamental Principle: Confidentiality*

- 23 A member shall respect the confidentiality of information acquired in an insolvency engagement. A member shall not disclose such information to a third party without appropriate authority, unless there is a legal duty or professional obligation to disclose, including when the member considers that disclosure is necessary to facilitate the proper performance of the insolvency engagement. (Ref: Para. A17)
- 24 Where a member intends to disclose information to facilitate the proper performance of the insolvency engagement, the member shall ensure that there is no breach of a fiduciary relationship or duty. Where the member is in doubt as to whether a fiduciary relationship or duty will be breached, independent legal advice shall be obtained.

*Fundamental Principle: Professional Behaviour*

Professional Fees

- 25 A member shall not enter into an arrangement to receive a contingent fee for insolvency services if that arrangement:
- (a) impairs the member's independence;
  - (b) results in the receipt of a contingent fee for performing professional work that the member is required to complete under the relevant legislation governing an appointment;
  - (c) is inconsistent with the fiduciary obligations of the member; or
  - (d) results in the perception that the member is acting in the member's interests, rather than in the interests of the appointer.
- 26 Subject to paragraph 25, where a member enters into an arrangement to receive a contingent fee for insolvency services, the member shall obtain approval from the appointer prior to the commencement of the engagement after having disclosed the following information:
- (a) details of the arrangement, including the nature of the contingency and how achievement of the contingency will be assessed;
  - (b) the member's remuneration in the event the contingency is or is not achieved;
  - (c) when the member's remuneration is expected to be drawn; and
  - (d) why the arrangement to receive a contingent fee is in the best interest of the creditors.
- 27 A member, or any partner or employee of a member's firm, shall not directly or indirectly derive any pecuniary interest arising from any dealings for which the member is responsible or entrusted with other than through the member's legal entitlement to remuneration.
- 28 Except as expressly permitted by statute, remuneration shall not be drawn by a member unless any required resolution, order or authority has been obtained.
- 29 Where a member has obtained the prior written approval or appropriate resolution of the Court, liquidation committee, creditors' committee, creditors or shareholders of the appointer, to withdraw fees on a pre-arranged basis, the member shall, where appropriate, submit a copy of the fee account, or otherwise account for the fee, to the party concerned. This shall be done at the time such fees are withdrawn, or at agreed reporting times. Any fee account shall describe, with appropriate detail, the nature of the work performed to which the fee relates.

### Quality Control

- 30 A member shall implement appropriate and effective quality control policies and procedures, both at the level of the member's firm and for each insolvency engagement, in accordance with Professional Standard 1<sup>2</sup>.

### Acceptance of Insolvency Engagements

- 31 Before accepting an insolvency engagement the member shall be satisfied that they are not disqualified under any legislation, the *Code of Ethics* or professional standard from carrying out the insolvency engagement. (Ref: Para. A18)
- 32 Prior to the acceptance of any insolvency engagement, including insolvency engagements for entities for which the member has previously carried out an insolvency engagement, a member shall ensure that, to the best of the member's knowledge, they will be able to complete the engagement in accordance with the requirements of this Standard and any applicable laws or regulations. (Ref: Para. A19)
- 33 Where the member, after accepting an insolvency engagement, discovers that they are unable to meet the requirements of this Standard, the member shall advise the appointer and other relevant parties of the circumstances, and with their consent, seek further professional advice from other members specialising in insolvency, or withdraw from the insolvency engagement.

### *Agreeing the Scope and Basis of the Engagement*

- 34 Where the insolvency engagement is an informal appointment, such as an independent appraisal assignment, the member shall obtain the appointer's agreement on the terms of the engagement. The terms of the insolvency engagement shall be tailored to the nature of the insolvency issues under review and shall be recorded in an insolvency engagement letter, or other suitable form, and communicated to the appointer. (Ref: Para. A20–A22)
- 35 Where no statutory or other reporting requirements exist for a particular type of insolvency engagement, a member shall obtain agreement with the appointer on the regularity of the reporting.

### Engagement Performance

- 36 A member shall plan the insolvency engagement work so that the engagement will be performed in an effective manner.
- 37 A member shall plan and perform the insolvency engagement with an appropriately enquiring attitude.

### *Use of Experts*

- 38 If the member requires particular competencies, skills, expertise and related resources to assist with a particular aspect of an insolvency engagement, which are not available through the member or the member's firm, the member shall seek to obtain the services of a suitably qualified expert to provide those competencies, skills, expertise and related resources. (Ref: Para. A23)
- 39 When planning to use the work of an expert, the member shall assess the professional competence and objectivity of the expert. (Ref: Para. A24–A25)
- 40 The member shall consider the work undertaken by experts<sup>3</sup> to be satisfied that the work or services provided are appropriate and reasonable for the specific engagement(s) for which the expert's work is used.

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<sup>2</sup> Professional Standard 1 (*PS-1*) *Quality Control*.

<sup>3</sup> ISA (NZ) 620 *Using the Work of an Auditor's Expert* contains useful guidance on evaluating the adequacy of an expert's work in a professional engagement.

## Dealing with Property and Other Assets

- 41 Firms shall establish policies and procedures which prohibit the firm, partners and employees, and close and immediate family members, controlled and associated entities of the partners and employees from acquiring or deriving a benefit from dealing with any assets including property which come under the control of a partner or employee due to a formal insolvency engagement, without obtaining prior approval of the appointer or creditors, as appropriate, or, if necessary, the court.
- 42 Except as provided in paragraph 44, a member shall not purchase property or other assets of an entity the subject of a formal insolvency engagement without obtaining prior approval of the appointer or creditors, as appropriate, or, if necessary, the court.
- 43 Except as provided in paragraph 44, a member shall take all reasonable steps to ensure that the member does not knowingly sell property or other assets of an entity the subject of a formal insolvency engagement to the member's firm, its partners or its employees, or to the immediate and close families, controlled or associated entities of the member, the member's partners and employees without obtaining prior approval of the appointer or creditors, as appropriate, or, if necessary, the court.
- 44 Paragraphs 42 and 43 do not apply where the member has accepted a formal insolvency engagement, other than a liquidation<sup>4</sup>, available for sale to the general public and no special treatment or preference over and above that granted to the general public is offered.

## Documentation

- 45 A member shall document matters which are necessary to substantiate any report or advice provided and to provide evidence that the insolvency engagement was carried out in accordance with this Standard and legislative requirements, as appropriate. (Ref: Para. A26–A27)

## Reporting

- 46 A member shall report as required by statute, and to their appointers and other relevant parties as either legally required or agreed, giving appropriate disclosure of all material matters. Any report issued by the member shall clearly state the extent of the member's responsibility for the accuracy and completeness of the information therein. (Ref: Para. A28–A30)

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## Application and Other Explanatory Material

### Scope (Ref: Para. 1–6)

- A1 An informal insolvency engagement may include advice to business entities or creditors of businesses (including investigating assignment reports) on business strategies so as to avoid insolvency, how best to organise the business to achieve and maintain viability or to reorganise/restructure the business, and advice of a similar nature.
- A2 Examples of legislation (and associated regulations) that will ordinarily be applicable to members undertaking insolvency engagements, depending on the nature and scope of particular engagements, are listed in Appendix 2.

### Definitions (Ref: Para. 9)

- A3 A conflict of interest may impair or be seen to impair the rendering of objective insolvency services if it can be shown that the circumstances are so significant that a reasonable and informed third party would be likely to conclude, weighing all the specific facts, that a firm's

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<sup>4</sup> Regulation 31 of the Companies Act 1993 Liquidation Regulations 1994 has restrictions on purchase of a company's assets by a liquidator or liquidation committee, with no exemption in respect of the situation described in paragraph 44.

or a member of the engagement team's, integrity, objectivity or professional scepticism has been compromised.

- A4 The judgement as to whether the larger structure is a network should be made in light of whether a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that the entities are associated in such a way that a network exists<sup>5</sup>.

### **Ethical Requirements**

*Fundamental Principle: Objectivity* (Ref: Para. 11–13)

- A5 In all aspects of professional work, a member should maintain their integrity and objectivity. A member performing an insolvency engagement is expected to perform their work in an unbiased and independent manner.
- A6 Independence and freedom from conflicts of interest are important in an insolvency engagement. A member should act, and be seen to act, in the interest of the various appropriate relevant parties without prejudice or bias towards any particular party, except to the extent that the law requires. A member should be free, and be seen to be free, from conflicts of interest that might imply that the member acted in their own self-interest.
- A7 In the first communication to creditors a member may consider providing a *Declaration of Independence and Relevant Relationships and Indemnities* in respect of a formal insolvency engagement, other than an engagement which is a solvent liquidation or receivership.
- A8 The *Declaration of Independence and Relevant Relationships and Indemnities* may include:
- (a) a declaration that the member has undertaken an evaluation of the significance of any threats to independence and that they have determined that they are independent for the purpose of accepting the appointment in accordance with the requirements of the relevant legislation and this Standard;
  - (b) a declaration setting out all relationships the member or the member's firm has had in the preceding two years with:
    - (i) the entity;
    - (ii) an associate or related entity of the entity;
    - (iii) a person who has a charge over the whole or substantially the whole of the entity's property and other assets

and the reasons why these relationships, if any, do not result in a conflict of interest or duty and therefore affect the independence of the member;
  - (c) a declaration that there are no other known prior relationships or other circumstances that require disclosure; and
  - (d) a declaration of indemnities (other than statutory indemnities) including the identity of each indemnifier and the extent and nature of each indemnity, including any indemnities in respect of the member's professional fees or expenses.
- A9 Where a member becomes aware that the *Declaration of Independence and Relevant Relationships and Indemnities* is out of date or inaccurate, the member should update the *Declaration* and provide it to the creditors with the next communication. Conflicts of Interest (Ref: Para 19 – 23)

Conflicts of Interest (Ref: Para 14–18)

- A10 A firm should design internal policies and procedures that are adequate to enable the firm to:

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<sup>5</sup> Further guidance on networks and network firms can be found in the *Code of Ethics*, paragraphs 290.13- 290.24 [400.50 A1 – 400.54 A1].



- (a) identify conflicts of interest and other threats to independence as they arise in the context of insolvency engagements;
  - (b) assess and evaluate those conflicts, including their significance in terms of the likely effect(s) on the quality of advice or services provided, or to be provided; and
  - (c) decide upon, and implement, an appropriate response to those conflicts.
- A11 Even in the liquidation of a solvent entity, such an appointment should not be accepted without careful consideration being given to any conflict of interest that may or may be seen to exist in that particular case. Members should also be aware that there may be specific requirements relating to conflicts of interest in legislation<sup>6</sup>.

*Fundamental Principle: Professional Competence and Due Care (Ref: Para. 19–21)*

- A12 The Fundamental Principle of Professional Competence and Due Care in the *Code of Ethics* states that members must only undertake work which they or their firms have the necessary competence to perform to the technical and professional standards expected.
- A13 In order to perform an insolvency engagement, a member requires specialised skills and technical knowledge which are gained through study and formal courses related to insolvency, and from practical experience on insolvency engagements under proper supervision. The member requires a continuing awareness of developments in insolvency practice, including changes to relevant pronouncements on insolvency matters and other regulatory and statutory requirements.
- A14 Where relevant, appropriate legal advice should be sought in relation to any aspect of an insolvency assignment. The member may also use the services of an expert in circumstances other than those identified in paragraph 21 where the member considers this to be appropriate.
- A15 A member should apply the same degree of skill and competence and the exercise of due care in the performance of insolvency work as in any other type of professional engagement. The exercise of due care implies the application of the member's professional expertise in the performance of the insolvency engagement.
- A16 Due care also implies the careful planning of the insolvency engagement, its performance in an efficient and effective manner, and assurance on the quality of the work performed.

*Fundamental Principle: Confidentiality (Ref: Para. 23)*

- A17 A member has a professional responsibility to respect the confidentiality of their client's or entity's affairs. In an insolvency engagement, a member has access to confidential information, disclosure of which may be necessary for the performance of the engagement. Such information should only be used for the purpose of furthering the proper performance of the insolvency engagement and should not be used for the personal gain of the member or any other party.

**Acceptance of Insolvency Engagements (Ref: Para. 31–33)**

- A18 Prior to the acceptance of any appointment, consideration should be given to whether, bearing in mind the nature of the insolvency engagement, the member is capable at that time of bringing to bear the degree of specialised skill, knowledge, judgement and competence required to perform that type of work in a timely manner.
- A19 Prior to the acceptance of an insolvency engagement the member should consider the:

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<sup>6</sup>For example, in relation to the liquidation of a solvent company, section 280 (1) (c) of the Companies Act 1993 provides that a member who has been a shareholder, director, auditor, or receiver of a company or of a related company within 2 years preceding the commencement of a liquidation of a company may not serve as a liquidator unless a Court orders otherwise.

- (a) professional and legal requirements concerning the acceptance of insolvency engagements;
- (b) member’s practical experience in relation to the nature of the insolvency engagement;
- (c) currency of the member’s technical knowledge and experience in the type of industry and engagement; and
- (d) size of the insolvency engagement and the member’s ability to allocate adequate and appropriate resources to the insolvency engagement including the provision of sufficient trained and experienced staff.

*Agreeing the Scope and Basis of the Engagement* (Ref: Para. 34–35)

- A20 Formal appointments do not require a letter of engagement; however, most formal insolvency engagements require written consent to act before commencing the engagement.
- A21 In an informal appointment it is in the interests of both the appointer and member that the member sends an engagement letter. The engagement letter should be sent before the commencement of the insolvency engagement, to help avoid misunderstandings with respect to the engagement. This is particularly important in the case of a corporate investigation engagement where the engagement letter should clearly convey that the member is not appointed as, and will not act in a manner that could be construed as being, an officer of the company, thereby avoiding implications of carrying on a business while the entity is insolvent.
- A22 The engagement letter documents and confirms:
- (a) the member’s acceptance of the appointment;
  - (b) the objective and scope of the insolvency engagement;
  - (c) the extent of the member’s responsibilities to the appointer and others, if any;
  - (d) the nature and extent of any reporting; and
  - (e) the basis on which the member shall be remunerated and draw fees.

It is important that the terms of the insolvency engagement be tailored to the nature of the insolvency issues under review.

**Engagement Performance**

*Use of Experts* (Ref: Para. 38–40)

- A23 A member, where appropriate, and with the knowledge of the appointer, should be prepared at all times to seek advice from a more experienced fellow practitioner on any matter that the member is personally unable to resolve.
- A24 Assessing the professional competence of an expert will involve considering the expert’s:
- (a) professional certification or licensing by, or membership of, an appropriate professional body; and
  - (b) experience and reputation in the field in which the member is seeking technical advice.
- A25 The risk that an expert’s objectivity will be impaired increases when the expert is:
- (a) employed by the entity; or
  - (b) related in some other manner to the entity, for example, by being financially dependent on or having an investment in the entity.

In some cases it may be appropriate for the member to obtain a written representation from the expert about any interests or relationships with the entity of which that expert is aware.

If the member concludes that the expert's objectivity has been or may be significantly impaired, the member should not use the work of that expert.

**Documentation** (Ref: Para. 45)

- A26 A member should retain records of work performed that will provide sufficient evidence to justify decisions made in the conduct of the insolvency engagement and as required by applicable laws and regulations.
- A27 Documentation should include sufficient detail about decisions on the manner of realisation of assets, where relevant, and other major decisions.

**Reporting** (Ref: Para. 46)

- A28 A member should report regularly, to ensure that appropriate parties remain properly informed on the progress of the insolvency engagement. Such reports should contain disclosure of all material matters relating to the insolvency engagement. Unless legislation otherwise requires, a member is not obliged to disclose commercially sensitive information which might prejudice the outcome of the insolvency engagement.
- A29 When reporting to creditors, a member should ensure that estimates on likely distributions are presented in such a manner as to avoid any implication of greater accuracy than in fact exists. A member should satisfy themselves that the estimates are not unreasonable in the particular circumstances.
- A30 The extent of the member's responsibility for the accuracy of any report issued by the member should be clearly stated in the report. A member should not imply in any statement that an audit or review has been performed where such an engagement has not been performed.

## Appendix 1

### Comparison of IES with International and Australian Standards

This appendix, which was prepared as at 1 March 2011 and deals only with significant differences, is produced for information purposes only and does not form part of the standards in IES.

There is no corresponding International Standard on the performance of an insolvency engagement.

IES is consistent in all material respects with APES–330 *Insolvency Services* issued by the Australian Accounting Professional and Ethical Standards Board except for the following matters:

- (a) IES provides for both formal and informal insolvency engagements, whereas APES 330 provides for insolvency appointments made under legislation.
- (b) IES therefore includes requirements for agreeing the scope and basis on appointments for informal insolvency engagements.
- (c) APES 330 provides restrictions on marketing and advertising in statutory advertisements.
- (d) APES 330 requires that a member in public practice provide a *Declaration of Independence and Relevant Relationships and Indemnities* in respect of an insolvency service (excluding an appointment as a controller). This declaration is to be provided in the first communication to creditors. IES states that members may consider providing such a Declaration.
- (e) APES 330 has a section relating to obligations of a member in public practice who during the course of a formal insolvency engagement acts as an expert witness.

## **Appendix 2**

(Ref: Para. A2)

### **Examples of Legislation that may Affect Insolvency Practitioners**

The information in this Appendix is for information only, and does not form part of the Engagement Standard.

The following statutes, as amended from time to time, and as supplemented by accompanying regulations, are among those laws often relevant to performance of insolvency engagements.

- Companies Act 1993.
- Companies Act 1993 Liquidation Regulations 1994.
- Companies (Voluntary Administration) Regulations 2007.
- Corporations (Investigations and Management) Act 1989.
- Insolvency Act 2006.
- Insolvency (Cross-border) Act 2006.
- Personal Property Securities Act 1999.
- Receiverships Act 1993.