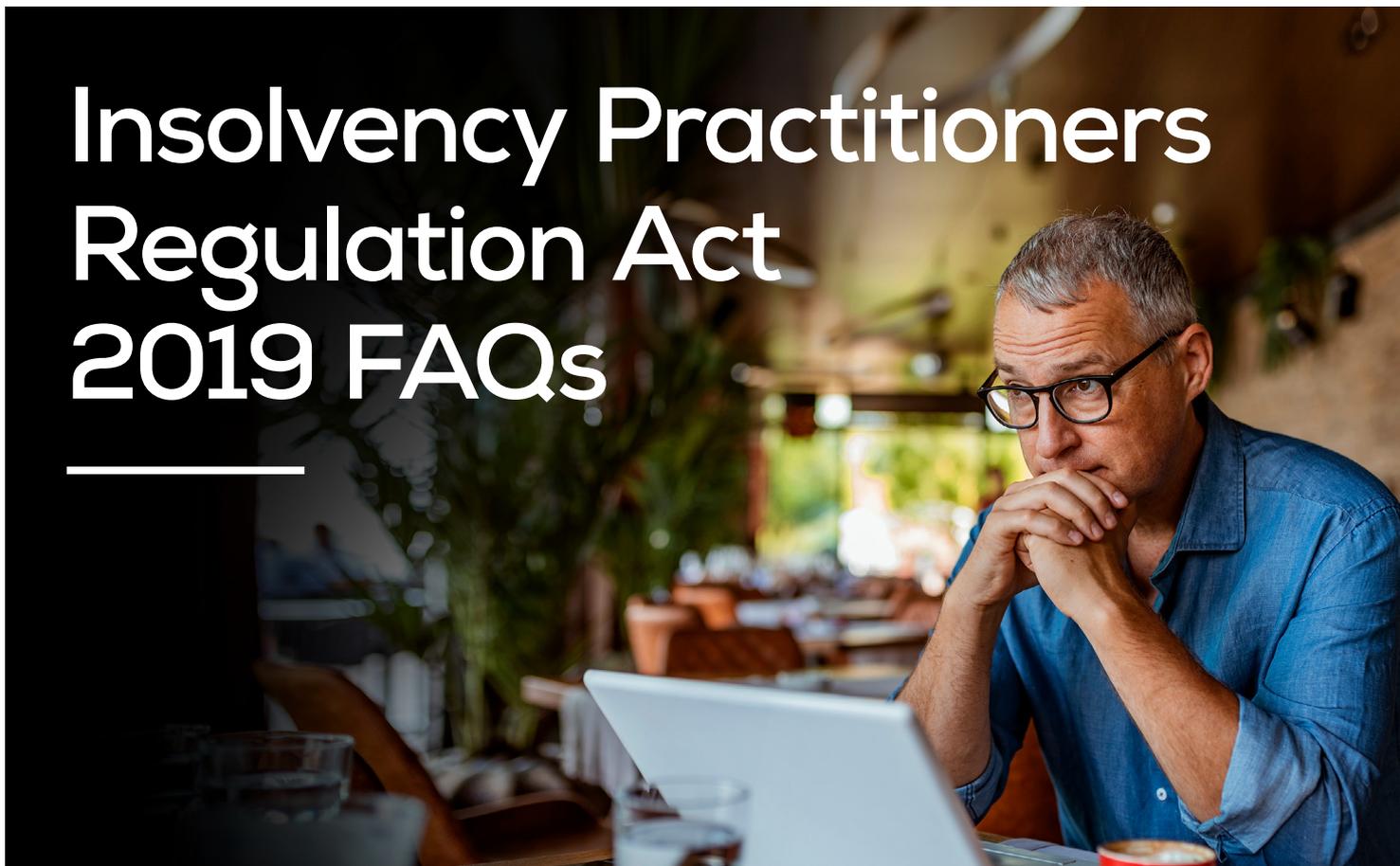


Insolvency Practitioners Regulation Act 2019 FAQs



When does the Insolvency Practitioners Regulation Act 2019 (the Act) commence?

The Act commences on 1 September 2020.

What are the main implications of the Act?

The Act introduces a co-regulatory scheme to promote quality, expertise, and integrity in the profession of insolvency practitioners in NZ. It means that from 1 September 2020, all practitioners undertaking insolvency engagements must comply with the requirements of the Act, and if undertaking specific types of engagements, must hold a licence to do so.

Under the Act:

- Accredited bodies are responsible for carrying out the frontline regulation of licensed insolvency practitioners in NZ, including licensing, regulating ongoing competence, investigating complaints about them, and taking disciplinary action where appropriate.
- The New Zealand Institute of Chartered Accountants is an accredited body under the Act and can issue insolvency practitioner licences from 1 September 2020.
- The Registrar has responsibility for oversight of 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.

Who issues licences?

An accredited body, such as NZICA, can issue a licence upon application.

Who can get an insolvency licence?

A person holding a licence is a licensed insolvency practitioner and can carry out insolvency engagements as defined in the Act. Subject to some transitional rules, it is an offence to carry out insolvency engagements without a licence or a transitional licence.

NZICA members with a Certificate of Public Practice (CPP) can apply for a licence.

For the purposes of the Act, an NZICA member is a CA ANZ member who is resident in New Zealand. It does not include a non-member principal or resident of another country (e.g. Australia).

I'm not a NZICA member, can I still get a licence?

Yes. If you are not an NZICA member you can still get a licence if you are:

- An overseas practitioner as defined in section 5 of the Act. Currently, only an Australian Registered Liquidator qualifies as an overseas insolvency practitioner; or
- A member of a "recognised body" such as the Restructuring, Insolvency and Turnaround Association of NZ (RITANZ); or

- 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 they are a member; or
- A member of an accredited body, other than NZICA.

The Act talks about an accredited body and a recognised body. Are these the same?

No. An accredited body, such as NZICA has regulatory functions under the Act. Only an accredited body can issue licences. Membership of an accredited body is also an avenue by which a person can obtain a licence.

A recognised body has no regulatory functions under the Act. However, membership of a recognised body is one avenue by which a person can obtain a licence. The person would still have to apply to an accredited body for a licence.

What type of insolvency engagements does the Act apply to?

The Act provides that a person acting as an “insolvency practitioner” must be a licensed insolvency practitioner (e.g. hold a licence) under the Act. Broadly, an insolvency practitioner means any of the following:

- 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); or
- A trustee or provisional trustee appointed under subpart 2 of Part 5 of the Insolvency Act 2006

What about solvent liquidations?

An insolvency practitioner does not include a person undertaking solvent liquidations. However, to undertake a solvent liquidation a person must be one of the following:

- A licensed insolvency practitioner
- A lawyer; or
- A qualified statutory accountant (e.g. an NZICA member with a CPP)

What are the criteria to be granted a licence?

To be granted a licence, a person must meet the prescribed minimum standards, which you can find [here](#). They must also be “fit and proper” to hold a licence.

A person who is not a member of an accredited body (e.g. NZICA) must also enter a Compliance Agreement with NZICA. By signing the Compliance Agreement, the non-member agrees to abide by NZICA’s Code of Ethics, Rules, and disciplinary process.

Are there any conditions on a licence?

Yes. A licence holder must comply with:

- NZICA’s rules; and
- NZICA’s code of ethics; and
- any relevant standard relating to insolvency engagements; and
- any other relevant standards including those relating to quality control.

In addition, a licence holder must meet any practice review requirements set by NZICA, provide reports and notifications to NZICA as NZICA specifies, and be covered by professional indemnity insurance that is adequate and appropriate to the nature and scale of the services the person offers to the public.

Each licence must also include a condition specifying the types of insolvency engagements in respect of which the person is authorised to act under their licence.

What are the Continuing Professional Development (CPD) obligations of a licence-holder?

Persons licensed by NZICA are required to complete at least 120 hours of CPD in any 3-year period with:

- i at least 60 of the 120 hours being verifiable training; and
- ii at least 20 of the 60 hours of verifiable training being related to insolvency practice; and
- iii at least 2 hours of verifiable training being in ethics; and
- iv at least 20 of the 120 hours being completed in any 1-year period.

Will licence and practitioner information be made public?

Yes. The Companies Office Registrar is required to maintain a public register of licensed insolvency practitioners.

An accredited body is required to provide the Registrar with information relating to licensed insolvency practitioners at various times to ensure the register is up to date.

Information appearing on the public register will include the full name and business address of the insolvency practitioner, the expiry date of the licence and the types of insolvency engagements that the practitioner is authorised to undertake.

Do any transitional provisions apply?

The Act includes transitional provisions allowing individuals to complete insolvency engagements (as defined in the Act) accepted prior to 1 September 2020 but they must be completed by the end of 1 September 2021. However, a person cannot undertake any new insolvency engagements from 1 September 2020, unless they qualify for a transitional licence.

An accredited insolvency practitioner (AIP) under the CA ANZ/ NZICA/RITANZ scheme can take advantage of transitional licensing provisions. Broadly, the Act can deem an AIP to have a transitional licence from 1 September 2020 which allows the AIP to accept new appointments.

The transitional licence provisions automatically apply to a NZICA member who is an AIP. For an AIP who is not a NZICA member, the transitional licence provisions only apply when the AIP has entered an agreement under the Act with NZICA to be bound by its Rules and Code of Ethics. NZICA must also consider the AIP to be fit and proper and have qualifications and experience to act as an insolvency practitioner. AIP status must be maintained during the transitional licence period.

Do I need to do anything once I have a transitional licence?

Yes. A transitional licence-holder has up to the end of 5 January 2021 to apply for a full licence.

Upon applying for a licence, the transitional licence-holder will keep their transitional licence and continue to be a licensed insolvency practitioner under the Act while NZICA considers the application.

A transitional licence subsequently expires:

- On the date NZICA issues a licence; or
- If NZICA declines to issue a licence, 20 working days after NZICA has advised the AIP of this; or
- If NZICA has not decided on the licence application, 1 September 2021.

If a transitional licence-holder does not apply for a full licence before the end of 5 January 2021 the transitional licence expires at the end of 5 January 2021. The person would no longer be deemed to hold a licence under the Act and it would be an offence to accept any appointment from after that date.

Will a person have to pay to apply and maintain an insolvency licence?

Yes. There are a range of fees associated with the regime as follows:

Service	Payment and collection process	Fee	
Licence application	Registrars licence registration fee	NZICA collects this fee on behalf of the Companies Office to cover the Registrar's costs administering the register and its other regulatory functions	\$189.75 (GST inclusive)
	NZICA application fee	Payable to NZICA at the time of submitting a licence application to cover costs associated with processing the licence application	\$1,035 (GST inclusive)
Annual fee	Annual Registrar's licence registration confirmation fee	NZICA collects this fee annually from insolvency practitioners on behalf of the Companies Office to cover its costs administering the regime	\$120.75 (GST inclusive)
	Annual fee for non-members of NZICA who hold an Insolvency licence (excluding NMPs)	Payable to NZICA annually at 1 July to cover costs of establishing and operating regime. The fee is the equivalent of the annual fee paid by NZICA CA's with a CPP and non-member principals. Note that this is subject to change.	\$1,409.80 (GST inclusive)

For further information

charteredaccountantsanz.com/member-services/technical/insolvency-and-restructuring/insolvency-practitioners-regulation-act-2019

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