

Annual confirmation and report

Section 37 of the Insolvency Practitioners Regulation Act 2019 (the Act) requires that each accredited body provide an annual confirmation and report, as directed by the Registrar of Companies (the Registrar). This document sets out the Registrar's direction for an accredited body's annual confirmation and report.

This is version 1.0 of this document, published on 21 August 2020.

Contents of the register

The register contains the following information for each licensed insolvency practitioner:

- the insolvency practitioner's full name and business address
- the name of the relevant accredited body
- dates relevant to the insolvency practitioner's licensing, including the date of each licence that has been issued to the practitioner, and the expiry date of the insolvency practitioner's current licence
- the types of insolvency engagements in respect of which the insolvency practitioner is authorised
- the conditions on the insolvency practitioner's licence
- details of any suspension, cancellation or other disciplinary action against the insolvency practitioner in the last seven years
- details of any prohibition orders against the insolvency practitioner
- the insolvency practitioner's firm
- the insolvency practitioner's business email address and website
- the insolvency practitioner's firm's email address and website (if different to above)
- the insolvency practitioner's firm's New Zealand Business Number (NZBN)
- the country, state, or territory in which the insolvency practitioner is ordinarily resident
- the insolvency practitioner registration number assigned by the Registrar of Companies

See further Insolvency Practitioners Regulation Act 2019 section 30 and Insolvency Practitioners Regulations 2020, regulation 5.

Annual confirmation

Section 37(3) of the Act requires that each accredited body submit an annual confirmation, either confirming insolvency practitioner licence information on the register is correct, or updating it as required in accordance with the following process.

In early June each year, the Companies Office will provide each accredited body with machine-readable data from the register relating to that accredited body's licensed insolvency practitioner (for example, a CSV file or similar).

The accredited body will review that data and either confirm it is accurate or note any required updates.

The accredited body will update data as required using a secure online form (i.e. one submission per insolvency practitioner requiring updates) before 30 June each year.

In addition, regulation 10 of the Insolvency Practitioner Regulations provides that each accredited body must also supply a summary of:

- the number of licence applications received by the accredited body in the year
- the number and nature of complaints received by the accredited body
- any disciplinary actions taken by the accredited body.

We do not propose prescribing any other forms to be used or information to be supplied.

Fees

Fees payable by insolvency practitioners are set out in the Insolvency Practitioners Regulations 2020, Schedule 2. Each insolvency practitioner must pay an annual fee of NZD 105 per practitioner (plus GST). Insolvency practitioners will pay this to their relevant accredited body (typically as part of their other professional membership fees). The accredited body will remit the annual confirmation fee in accordance with processes put in place directly between the Registrar and accredited body.

There is no annual confirmation fee directly payable by accredited bodies.

Reports

Content

Section 37(2)(b) provides that each accredited body's report must contain:

- information relating to the accredited body's performance in carrying out its regulatory functions for the purposes of this Act;
- information relating to any material changes to the accredited body's regulatory systems that it has implemented, is in the process of implementing, or proposes to implement (including stating what it has done in response to any direction issued under section 42); and
- any other information prescribed in regulations (see below).

Regulation 9 of the Insolvency Practitioner Regulations provides that each accredited body report must also contain:

- the accredited body's most recent audited financial statements; and
- an assessment by the accredited body of the extent to which its regulatory systems are adequate and effective, and whether it has allocated sufficient resources to ensure that its regulatory systems are, and will continue to be, adequate and effective.

Reporting direction

In addition to the information required under the Act that is set out above, the Registrar directs that each accredited body's report include the following information for each calendar year covered by the report:

- (1) Membership and licensing:
 - (a) overview of how insolvency practitioner licensing requests have been assessed
 - (b) number of licence applications received
 - (c) total number of current licences
 - (d) a summary of any licence declines

(2) Monitoring and general oversight:

- (a) overview of the monitoring activities of the accredited bodies, especially in ensuring compliance with the following areas:
 - (i) codes of ethics
 - (ii) conditions of licence
 - (iii) minimum standards
 - (iv) insolvency and corporate laws
- (b) summary of the outcomes of the above monitoring activities and an overview as to how issues have been addressed
- (c) overview of current or emerging issues in the insolvency profession
- (d) summary of any new or developed strategies to address or mitigate issues of non-compliance or other matters of concern

(3) Education and training:

- (a) overview of how the accredited body promotes, monitors and reviews licensed insolvency practitioner on-going competence
- (b) number of licensed insolvency practitioners that have been reviewed/assessed for on-going competence
- (c) summary of any actions taken in response to non-compliance

(4) Complaints, enquiries, investigations and discipline:

- (a) overview of the complaint process
- (b) number of complaints or referrals received regarding licensed insolvency practitioners
- (c) number of investigations completed and underway based on complaints regarding licensed insolvency practitioners
- (d) summary of the nature of the investigations, and any identified non-compliance with professional conduct or other accredited body rules and/or statutory obligations
- (e) summary of the outcomes of the investigations (for example, no further action, referral to disciplinary committee, referral to Registrar etc.) and the results of any disciplinary action by the accredited body

(5) Confirmation of legal obligations:

- (a) confirmation that the accredited body has complied with its obligations under the conditions of accreditation, including on-going compliance with the minimum standards
- (b) for any identified issues of non-compliance, the nature of the non-compliance and the proposed remedial action.

Frequency and timing

Section 37(5) provides that reports must be supplied in accordance with the Registrar’s direction as to timing. This may be up to every 4 years.

The Registrar directs that each accredited body supplies:

What	Period covered	When	For example
A first report under the Act	Date of accreditation to 30 June in the calendar year following accreditation (“20YY”)	As soon as practicable after 30 June 20YY	A body is accredited on 1 August 2020. The first report must cover the period to 30 June 2021.
A second report under the Act	1 July 20YY to 30 June 20YY+2	As soon as practicable after 30 June 20YY+2	A body is accredited on 1 October 2021. The first report must cover the period to 30 June 2022, and the second report 1 July 2022 to 30 June 2024.
Subsequent reports under the Act	Two year periods between 1 July and 30 June	As soon as practicable after 30 June, in every second year.	

Method

The Registrar directs that reports be sent electronically, but does not propose setting a particular form or mechanism (for example, online filing) at this time.