

EXPOSURE DRAFT



EXPOSURE DRAFT

Corporations and Other Legislation Amendment (Insolvency Law Reform) Regulation 2016

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 2016

Peter Cosgrove
Governor-General

By His Excellency's Command

Kelly O'Dwyer [**DRAFT ONLY—NOT FOR SIGNATURE**]
Minister for Revenue and Financial Services

EXPOSURE DRAFT

EXPOSURE DRAFT

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules.....	2
Schedule 1—Amendments relating to the Insolvency Law Reform Act 2016		3
Part 1—Amendments commencing at same time as Schedule 1 to the Insolvency Law Reform Act 2016		3
	<i>Agricultural and Veterinary Chemicals (Administration) Regulations 1995</i>	3
	<i>Agricultural and Veterinary Chemicals Code Regulations 1995</i>	3
	<i>A New Tax System (Goods and Services Tax) Regulations 1999</i>	3
	<i>Australian Securities and Investments Commission Regulations 2001</i>	3
	<i>Bankruptcy Regulations 1996</i>	4
	<i>Civil Aviation Safety Regulations 1998</i>	5
	<i>Coal Mining Industry (Long Service Leave) Administration Regulations 1993</i>	5
	<i>Competition and Consumer (Industry Codes—Franchising) Regulation 2014</i>	5
	<i>Competition and Consumer (Industry Codes—Oilcode) Regulation 2006</i>	5
	<i>Corporations (Aboriginal and Torres Strait Islander) Regulations 2007</i>	6
	<i>Corporations Regulations 2001</i>	6
	<i>Dairy Produce Regulations 1986</i>	7
	<i>Migration Regulations 1994</i>	7
	<i>National Greenhouse and Energy Reporting Regulations 2008</i>	7
	<i>Product Stewardship (Televisions and Computers) Regulations 2011</i>	7
	<i>Renewable Energy (Electricity) Regulations 2001</i>	8
Part 2—Amendments commencing on 1 September 2017		9
	<i>Bankruptcy Regulations 1996</i>	9
	<i>Corporations (Aboriginal and Torres Strait Islander) Regulations 2007</i>	11
	<i>Corporations Regulations 2001</i>	12
Schedule 2—Transition to Part 3 of the Insolvency Practice Schedule (Corporations)		15
	<i>Corporations Regulations 2001</i>	15

EXPOSURE DRAFT

1 Name

This is the *Corporations and Other Legislation Amendment (Insolvency Law Reform) Regulation 2016*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	At the same time as the commencement of Schedule 1 to the <i>Insolvency Law Reform Act 2016</i> .	
2. Schedule 1, Part 1	At the same time as the commencement of Schedule 1 to the <i>Insolvency Law Reform Act 2016</i> .	
3. Schedule 1, Part 2	1 September 2017.	1 September 2017
4. Schedule 2	At the same time as the commencement of Schedule 1 to the <i>Insolvency Law Reform Act 2016</i> .	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the following:

- (a) the *Agricultural and Veterinary Chemicals (Administration) Act 1992*;
- (b) the *Agricultural and Veterinary Chemicals Code Act 1994*;
- (c) the *A New Tax System (Goods and Services Tax) Act 1999*;
- (d) the *Australian Securities and Investments Commission Act 2001*;
- (e) the *Bankruptcy Act 1966*;
- (f) the *Civil Aviation Act 1988*;
- (g) the *Coal Mining Industry (Long Service Leave) Administration Act 1992*;
- (h) the *Competition and Consumer Act 2010*;
- (i) the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*;
- (j) the *Corporations Act 2001*;
- (k) the *Dairy Produce Act 1986*;
- (l) the *Migration Act 1958*;
- (m) the *National Greenhouse and Energy Reporting Act 2007*;

EXPOSURE DRAFT

- (n) the *Product Stewardship Act 2011*;
- (o) the *Renewable Energy (Electricity) Act 2000*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

EXPOSURE DRAFT

Amendments relating to the Insolvency Law Reform Act 2016 **Schedule 1**
Amendments commencing at same time as Schedule 1 to the Insolvency Law Reform Act 2016 **Part 1**

Schedule 1—Amendments relating to the Insolvency Law Reform Act 2016

Part 1—Amendments commencing at same time as Schedule 1 to the Insolvency Law Reform Act 2016

Agricultural and Veterinary Chemicals (Administration) Regulations 1995

1 Subparagraph 3.315(1)(c)(ii)

Omit “an externally administered body corporate”, substitute “a Chapter 5 body corporate”.

Agricultural and Veterinary Chemicals Code Regulations 1995

2 Subregulation 61(10)

Omit “an externally-administered body corporate” (wherever occurring), substitute “a Chapter 5 body corporate”.

A New Tax System (Goods and Services Tax) Regulations 1999

3 Subregulation 33-15.03(2)

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate (within the meaning of by section 9 of the *Corporations Act 2001*)”.

4 Dictionary (definition of *externally-administered body corporate*)

Repeal the definition.

Australian Securities and Investments Commission Regulations 2001

5 Regulation 8AA

Repeal the regulation, substitute:

8AA Prescribed professional disciplinary and other bodies

- (1) For the purposes of subparagraph 127(4)(d)(i) of the Act, the following professional disciplinary bodies are prescribed:
 - (a) The Institute of Chartered Accountants in Australia;
 - (b) CPA Australia;
 - (c) Institute of Public Accountants;
 - (d) Australian Restructuring, Insolvency and Turnaround Association;
 - (e) a State or Territory law society that has disciplinary functions recognised under a law regulating legal practitioners in the State or Territory.

EXPOSURE DRAFT

Amendments relating to the Insolvency Law Reform Act 2016 **Schedule 1**
Amendments commencing at same time as Schedule 1 to the Insolvency Law Reform Act 2016 **Part 1**

Civil Aviation Safety Regulations 1998

18 Sub-subparagraph 11.072(1)(g)(i)(A)

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

Coal Mining Industry (Long Service Leave) Administration Regulations 1993

19 Paragraph 3(3)(a)

Omit “an externally administered body corporate”, substitute “a Chapter 5 body corporate”.

Competition and Consumer (Industry Codes—Franchising) Regulation 2014

20 Subclause 4(2) of Schedule 1

Insert:
Chapter 5 body corporate

21 Subclause 4(2) of Schedule 1

Omit:
externally-administered body corporate

22 Paragraph 17(3)(g) of Schedule 1

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

23 Paragraph 29(1)(b) of Schedule 1

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

24 Paragraph 4.2(c) of Annexure 1 of Schedule 1

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

Competition and Consumer (Industry Codes—Oilcode) Regulation 2006

25 Subsection 4(2) of Schedule 1

Insert:
Chapter 5 body corporate

26 Subsection 4(2) of Schedule 1

Omit:
externally-administered body corporate

EXPOSURE DRAFT

Schedule 1 Amendments relating to the Insolvency Law Reform Act 2016

Part 1 Amendments commencing at same time as Schedule 1 to the Insolvency Law Reform Act 2016

27 Paragraphs 29(2)(j) and 36(1)(b) of Schedule 1

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

28 Paragraph 4.2(c) of Annexure 1 of Schedule 1

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

29 Paragraph 3.2(c) of Annexure 2 of Schedule 1

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

Corporations (Aboriginal and Torres Strait Islander) Regulations 2007

30 Part 4 of Schedule 2 (table item 19, column headed “Information or document”)

Omit “Deed of corporation arrangement”, substitute “Notice of execution of the deed of company arrangement”.

Corporations Regulations 2001

31 Subregulation 1.0.02(1) (paragraph (c) of the definition of *registration number*)

Repeal the paragraph, substitute:

- (c) for an auditor—the number allotted to a person on registration of that person as an auditor.

32 Regulation 1.0.03A (table item 16)

Repeal the item.

33 Regulation 5.2.01 (second occurring)

Renumber regulation as 5.2.02.

34 Regulations 5.3A.04 and 5.3A.05

Repeal the regulations.

35 Paragraphs 9.1.01(k) and (l)

Repeal the paragraphs.

36 Paragraphs 9.1.02(k) and (l)

Repeal the paragraphs.

37 Part 9.2 (heading)

Repeal the heading, substitute:

EXPOSURE DRAFT

Amendments relating to the Insolvency Law Reform Act 2016 **Schedule 1**
Amendments commencing at same time as Schedule 1 to the Insolvency Law Reform Act 2016 **Part 1**

Part 9.2—Registration of auditors

38 Regulation 9.2.02 (heading)

Repeal the heading, substitute:

9.2.02 Prescribed universities and institutions (Act ss 1280(2A))

39 Regulation 9.2.02

Omit “and subparagraph 1282(2)(a)(ii)”.

40 Subparagraph 9.2A.01(c)(v)

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

41 Schedule 10D (second occurring) (heading)

Repeal the heading, substitute:

Schedule 11—Persons who are not covered by section 1433 of the Act

42 Schedule 10D (second occurring) (table item 2, column headed “Person”)

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

Dairy Produce Regulations 1986

43 Paragraph 2.01(2)(b)

Omit “an externally administered body corporate”, substitute “a Chapter 5 body corporate”.

Migration Regulations 1994

44 Subparagraph 2.84(3)(k)(iv)

Omit “an official”, substitute “a registered”.

National Greenhouse and Energy Reporting Regulations 2008

45 Subparagraph 2.28(2)(f)(i)

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

Product Stewardship (Televisions and Computers) Regulations 2011

46 Paragraph 2.04(g)

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

EXPOSURE DRAFT

Schedule 1 Amendments relating to the Insolvency Law Reform Act 2016

Part 1 Amendments commencing at same time as Schedule 1 to the Insolvency Law Reform Act 2016

47 Paragraph 5.06(2)(f)

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

Renewable Energy (Electricity) Regulations 2001

48 Subparagraph 3L(1)(f)(ii)

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

EXPOSURE DRAFT

Amendments relating to the Insolvency Law Reform Act 2016 **Schedule 1**
Amendments commencing on 1 September 2017 **Part 2**

Part 2—Amendments commencing on 1 September 2017

Bankruptcy Regulations 1996

49 At the end of Part 2

Add:

2.05 Disclosure of information by the Inspector-General

For the purposes of paragraph 12(4)(b) of the Act, the following professional disciplinary bodies are prescribed:

- (a) The Institute of Chartered Accountants in Australia;
- (b) CPA Australia;
- (c) Institute of Public Accountants;
- (d) Australian Restructuring, Insolvency and Turnaround Association;
- (e) a State or Territory law society that has disciplinary functions recognised under a law regulating legal practitioners in the State or Territory.

50 Regulations 4.15 to 4.19

Repeal the regulations.

51 Part 8

Repeal the Part, substitute:

Part 8—Trustees

Division 1—Consent to act, and appointment, as trustee of estate

8.01 Consent to act as trustee—subsection 156A(1) of the Act

A trustee who signs an instrument under subsection 156A(1) of the Act in relation to a debtor must file the instrument with the Official Receiver:

- (a) if the Court makes a sequestration order against the debtor's estate—not later than 2 business days after the day on which the order is made; or
- (b) otherwise—as soon as practicable after signing it.

8.02 Certificate of appointment under subsection 156A(3) of the Act

Where a registered trustee becomes, under subsection 156A(3) of the Act, the trustee of an estate or of joint and separate estates, the Official Receiver may give the registered trustee a certificate to that effect.

EXPOSURE DRAFT

Schedule 1 Amendments relating to the Insolvency Law Reform Act 2016

Part 2 Amendments commencing on 1 September 2017

Division 2—Controlling trustees other than Official Trustee or registered trustees

8.35 Eligibility of controlling trustees, other than Official Trustee or registered trustees

- (1) For the purposes of subsection 188(2A) of the Act, a person (other than the Official Trustee or a registered trustee) is not eligible to act as a controlling trustee if the person:
 - (a) is convicted of a criminal offence involving fraud or dishonesty, or was so convicted within the 10 years before the proposed authorisation; or
 - (b) is not insured against the liabilities the person may become subject to as a controlling trustee; or
 - (c) is a solicitor who no longer holds a practising certificate; or
 - (d) is an undischarged bankrupt or insolvent under administration, or became a party (as debtor) to a debt agreement or a Part X administration within the 10 years before the proposed authorisation; or
 - (e) is a person who the Inspector-General decides under subregulation (3) has failed to properly exercise powers or carry out duties or to cooperate with an inquiry or investigation, or in relation to whom such a decision was made within the 3 years before the proposed authorisation; or
 - (f) either:
 - (i) is not a full member of the Insolvency Practitioners Association of Australia; or
 - (ii) has not satisfactorily completed a course in insolvency approved by the Inspector-General.
 - (2) The Inspector-General may approve a course in insolvency by notice published on the Insolvency and Trustee Service Australia's website.
 - (3) In addition to subregulation (1), a person who is, or has been, a controlling trustee is not eligible to act as a controlling trustee if the Inspector-General determines that the person:
 - (a) has failed to properly exercise the powers, or carry out the duties, of a controlling trustee; or
 - (b) has refused, or failed to cooperate with the Inspector-General in an inquiry or investigation under paragraph 12(1)(b) of the Act.
 - (4) If the Inspector-General forms an opinion of the kind mentioned in paragraph (3)(a) or (b), the Inspector-General must:
 - (a) by written notice, tell the person; and
 - (b) invite the person to respond within 28 days or such longer time as is specified in the notice.
 - (5) After the expiry of the time mentioned in paragraph (4)(b), the Inspector-General may, having regard to the response (if any) of the person, make a determination under subregulation (3).
 - (6) If the Inspector-General makes a determination under subregulation (3), the Inspector-General must give the person a written notice of the determination, setting out the reasons.
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EXPOSURE DRAFT

Amendments relating to the Insolvency Law Reform Act 2016 **Schedule 1**
Amendments commencing on 1 September 2017 **Part 2**

8.40 Review by Tribunal of determination

Application may be made to the Administrative Appeals Tribunal for review of a decision of the Inspector-General under subregulation 8.35(3).

8.45 Official Trustee to perform duties

- (1) This regulation applies if a controlling trustee becomes ineligible to act as a controlling trustee under regulation 8.35.
- (2) The Official Trustee must perform the duties of the controlling trustee unless and until the debtor appoints a controlling trustee who is eligible to so act.

52 Regulations 10.04, 10.05 and 10.09

Repeal the regulations.

53 Schedule 2

Repeal the Schedule.

54 Item 8 of Schedule 3

Omit “section 75 of”, substitute “section 70-15 of Schedule 2 to”.

55 Part 2 of Schedule 6

Repeal the Part.

56 Items 8 and 10 of Part 3 of Schedule 6

Repeal the items.

57 Part 7 of Schedule 6

Repeal the Part.

58 Items 3 to 13 of Schedule 7

Repeal the items.

59 Subitems 14.3 and 14.4 of Schedule 7

Repeal the subitems.

60 Subitem 15.1 of Schedule 7

Omit “under subsection 73(4)”, substitute “passed in accordance with subsection 74(5)”.

61 Items 27, 46, 47 and 48 of Schedule 7

Repeal the items.

Corporations (Aboriginal and Torres Strait Islander) Regulations 2007

62 Part 4 of Schedule 2 (table item 17, column headed “Provision”)

Omit “432(1)”, substitute “422A”.

EXPOSURE DRAFT

Schedule 1 Amendments relating to the Insolvency Law Reform Act 2016

Part 2 Amendments commencing on 1 September 2017

63 Part 4 of Schedule 2 (table item 22, column headed “Provision”)

Omit “465(a)”, substitute “456A(1)(a)”.

64 Part 4 of Schedule 2 (table item 30)

Repeal the item.

65 Part 4 of Schedule 2 (table item 35)

Repeal the item, substitute:

35 497(1)(b) Copy of notice by liquidator to creditors providing a copy of the documents mentioned in paragraph 497(1)(a) of the Corporations Act.

66 Part 4 of Schedule 2 (table item 36)

Repeal the item.

67 Part 4 of Schedule 2 (table items 40, 41 and 42)

Repeal the items.

68 Part 4 of Schedule 2 (table item 43, column headed “Provision”)

Omit “509(7)”, substitute “509(3)”.

69 Part 4 of Schedule 2 (table item 47)

Repeal the item.

70 Schedule 4 (table item 23)

Repeal the item.

71 Schedule 4 (cell at table item 27, column headed “Modification of the Corporations Act)

Repeal the cell, substitute:

Subsection 532(1)

insert

or is approved in writing by the Registrar as a liquidator of that corporation.

Corporations Regulations 2001

72 Regulation 1.0.03A (table items 13 and 14)

Repeal the items.

73 Regulation 1.0.03C (table items 1 and 2)

Repeal the items.

74 Regulation 1.0.12

Omit “491(2),”.

EXPOSURE DRAFT

Amendments relating to the Insolvency Law Reform Act 2016 **Schedule 1**
Amendments commencing on 1 September 2017 **Part 2**

75 Regulations 5.3A.01 to 5.3A.03

Repeal the regulations.

76 Subregulation 5.3A.03A(2) (note)

Repeal the note.

77 Regulation 5.3A.03AB

Repeal the regulation.

78 Subregulation 5.3A.06A(2)

Repeal the subregulation, substitute:

- (2) The notice must be published by the end of the next business day after a liquidator is appointed to administer the winding up of the company.

79 Regulations 5.3A.06AB and 5.3A.07

Repeal the regulations.

80 Subregulation 5.3A.07A(2) (note)

Repeal the note.

81 Subregulation 5.4.01A(1)

Omit “465A(c)”, substitute “465A(1)(c)”.

82 After regulation 5.4.01A

Insert:

5.4.01B Notice of Court-ordered winding up

- (1) This regulation is made for the purposes of subsection 465A(2) of the Act.
- (2) The information about an order by the Court that must be set out in a notice is at least the following information:
 - (a) the Court that made the order;
 - (b) the date the order was made;
 - (c) the name of the liquidator appointed to administer the winding up;
 - (d) the name of the company;
 - (e) any business name of the company;
 - (f) any ABN of the company;
 - (g) any ACN of the company.

83 Subregulation 5.5.01(3)

Repeal the subregulation, substitute:

- (3) The notice must be published by the end of the next business day after a liquidator is appointed to administer the winding up of the company.

84 Regulation 5.5.02

Repeal the regulation.

EXPOSURE DRAFT

Schedule 1 Amendments relating to the Insolvency Law Reform Act 2016
Part 2 Amendments commencing on 1 September 2017

85 Regulations 5.6.01 to 5.6.10

Repeal the regulations.

86 Subregulation 5.6.11(1)

Omit “(1)”.

87 Subregulation 5.6.11(1)

Omit “5.6.12”, substitute “5.6.37”.

88 Subregulations 5.6.11(2) and (3)

Repeal the subregulations.

89 Paragraphs 5.6.11A(1)(a) and (b)

Repeal the paragraphs.

90 Regulations 5.6.12 to 5.6.36A

Repeal the regulations.

91 Subparagraph 5.6.65(1)(b)(iii)

Omit “497(2)(b)(ii)”, substitute “497(1)(a)(ii)”.

92 Subparagraph 5C.11.01(1)(c)(i)

Omit “an externally-administered body corporate”, substitute “a Chapter 5 body corporate”.

93 Regulation 10.2.36

Omit “Schedule 10D”, substitute “Schedule 11”.

94 Schedule 1 (table item 51C)

Repeal the item.

95 Schedule 1 (table item 62)

Repeal the item.

96 Schedule 1 (tables items 71 to 74)

Repeal the items.

97 Schedule 2 (Form 509C)

Repeal the form.

98 Schedule 2 (Form 521)

Repeal the form.

99 Schedule 2 (Forms 529A to 532)

Repeal the forms.

EXPOSURE DRAFT

Transition to Part 3 of the Insolvency Practice Schedule (Corporations) **Schedule 2**

Schedule 2—Transition to Part 3 of the Insolvency Practice Schedule (Corporations)

Corporations Regulations 2001

1 In the appropriate numerical position in Chapter 10

Insert:

Part 10.25—Transition to Part 3 of the Insolvency Practice Schedule (Corporations)

10.25.01 Transition to Part 3 of the Insolvency Practice Schedule (Corporations)

- (1) For the purposes of subsection 1634(1) of the Act, Part 10.25 of Chapter 10 of the Act applies as if the references in Divisions 3 and 5 of that Part to the commencement day were a reference to 1 September 2017.
- (2) For the purposes of subsection 1634(2) of the Act, Part 10.25 of Chapter 10 of the Act applies as if Divisions 1 and 3 of that Part were modified as set out in Schedule 13.

10.25.02 Application of certain amendments relating to the enactment of the Insolvency Practice Schedule (Corporations)

- (1) This section is made for the purposes of subsection 1634(1) of the Act.
- (2) The amendments of sections 546-10 and 546-20 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* made by Part 2 of Schedule 2 to the *Insolvency Law Reform Act 2016* apply in relation to deregistrations that occur on or after 1 September 2017.
- (3) The amendments made by the following items of Part 2 of Schedule 2 to the *Insolvency Law Reform Act 2016* apply in relation to external administrations on and after 1 September 2017:
 - (a) item 65;
 - (b) item 66;
 - (c) item 84;
 - (d) items 102 to 115;
 - (e) items 117 to 140;
 - (f) items 143 to 172;
 - (g) items 177 to 208;
 - (h) item 213;
 - (i) item 245;
 - (j) item 246;
 - (k) item 215 (to the extent that it inserts paragraphs 1317C(n) and (o) of the Act);
 - (l) item 253;

EXPOSURE DRAFT

Schedule 2 Transition to Part 3 of the Insolvency Practice Schedule (Corporations)

(m) items 258 to 260;

(n) items 262 to 264.

- (4) The amendments made by items 89 and 90 of Part 2 of Schedule 2 to the *Insolvency Law Reform Act 2016* apply in relation to Part 5.1 bodies on and after 1 September 2017.

2 At the end of the Regulations

Add:

Schedule 13—Transition to Part 3 of the Insolvency Practice Schedule (Corporations)

Note: See regulation 10.25.01.

Corporations Act 2001

1 Section 1550 (Simplified outline)

Omit “the commencement of Part 1 of Schedule 2 to the *Insolvency Law Reform Act 2016*”, substitute “1 September 2017”.

2 Section 1578 (Simplified outline)

Omit “the commencement of the *Insolvency Law Reform Act 2016* (called new external administrations)”, substitute “1 September 2017”.

3 Section 1579

Repeal the section, substitute:

1579 Application of Part 3 of the Insolvency Practice Schedule (Corporations)— general rules

- (1) Part 3 of the Insolvency Practice Schedule (Corporations) applies in relation to an external administration of a company that starts on or after 1 September 2017.
- (2) Part 3 of the Insolvency Practice Schedule (Corporations) applies in relation to an ongoing external administration of a company in accordance with this Division.

4 Section 1581

Repeal the section, substitute:

1581 Old Act continues to apply in relation to remuneration for administrators already appointed or appointed during transition period

- (1) Despite the repeal of sections 449E and 473 and the repeal and substitution of subsections 499(3) to (7) of the old Act by Schedule 2 to the *Insolvency Law Reform Act 2016*, the old Act continues to apply in relation to the remuneration of an external administrator of a company who is appointed:
 - (a) before the commencement day; or

EXPOSURE DRAFT

Transition to Part 3 of the Insolvency Practice Schedule (Corporations) **Schedule 2**

(b) during the transition period.

(2) Despite subsection (1), if, under Subdivision F of this Division, Division 75 of the Insolvency Practice Schedule (Corporations) rather than the old Act would apply to a meeting that deals with the remuneration of an external administrator of a company who is appointed before the commencement day or during the transition period, Division 75 of the Insolvency Practice Schedule (Corporations) applies to that meeting.

(3) In this section:

transition period means the period:

- (a) starting immediately after the commencement of Schedule 1 to the *Insolvency Law Reform Act 2016*; and
- (b) ending at the end of 31 August 2017.

1581A Duties of administrators relating to remuneration and other benefits

- (1) Section 60-20 of the Insolvency Practice Schedule (Corporations) applies on and after 1 September 2017 in relation to an external administrator of an ongoing external administration of a company regardless of when the administrator was appointed.
- (2) However, that section does not apply in relation to arrangements made before 1 September 2017.

5 Subsection 1582(1)

After “applies”, insert “on and after 1 September 2017”.

6 Section 1584

Omit all the words after “applies”, substitute “on and after 1 September 2017 regardless of when the vacancy in the office of the liquidator arose”.

7 At the end of section 1586

Add “on and after 1 September 2017”.

8 Subsection 1588(2) (heading)

Repeal the heading, substitute:

Old regulations continue to apply to money received before 1 September 2017

9 Subsection 1590(2) (heading)

Repeal the heading, substitute:

Old regulations continue to apply to securities received before 1 September 2017

10 At the end of section 1591

Add “on and after 1 September 2017”.

11 Section 1592

Repeal the section, substitute:

EXPOSURE DRAFT

Schedule 2 Transition to Part 3 of the Insolvency Practice Schedule (Corporations)

1592 Transitional rules for annual administration returns

- (1) Section 70-5 of the Insolvency Practice Schedule (Corporations) applies in relation to a person if the person first began to be an external administrator of a company on or after 1 September 2017.
- (2) Section 70-5 of the Insolvency Practice Schedule (Corporations) also applies in relation to a person if the person first began to be an external administrator of a company before 1 September 2017 as if the reference in that section to an administration return year for the administrator were a reference to:
 - (a) the first full year starting on or after 1 September 2017 that is an anniversary of when the person first began to be the external administrator of the company; and
 - (b) each subsequent period of 12 months.
- (3) Despite the repeal of the old return provisions by Schedule 2 to the *Insolvency Law Reform Act 2016*, those provisions continue to apply to an external administrator of a company appointed before 1 September 2017:
 - (a) if the end of the 6-month period referred to in the old return provisions occurs before 1 March 2018—in relation to that period; and
 - (b) if the end of that period is not an anniversary of the administrator's appointment—in relation to the subsequent 6-month period.
- (4) To avoid doubt, despite the repeal of the old return provisions by Schedule 2 to the *Insolvency Law Reform Act 2016*, audits may be continued in relation to accounts lodged under those provisions as if the old Act continued to apply.
- (5) In this section:

old return provisions means the following provisions of the old Act:

 - (a) subsection 438E(1);
 - (b) subsection 445J(1);
 - (c) subsection 539(1), other than the extent to which it relates to a liquidator ceasing to act as liquidator.

1592A Transitional rules for end of administration returns

- (1) Section 70-6 of the Insolvency Practice Schedule (Corporations) applies in relation to external administrations that end on or after 1 September 2017.
- (2) Despite the repeal of the old return provisions by Schedule 2 to the *Insolvency Law Reform Act 2016*, those provisions continue to apply, in relation to an external administrator of a company, if the external administrator ceases to act as an external administrator for the company before 1 September 2017.
- (3) To avoid doubt, despite the repeal of the old return provisions by Schedule 2 to the *Insolvency Law Reform Act 2016*, audits may be continued in relation to accounts lodged under those provisions as if the old Act continued to apply.
- (4) In this section:

old return provisions means the following provisions of the old Act, as in force before their repeal by Schedule 2 to the *Insolvency Law Reform Act 2016*:

EXPOSURE DRAFT

Transition to Part 3 of the Insolvency Practice Schedule (Corporations) **Schedule 2**

- (a) subsection 438E(2);
- (b) subsection 445J(2);
- (c) subsection 539(1), to the extent to which it relates to a liquidator ceasing to act as liquidator.

12 Section 1594

After “apply”, insert “on and after 1 September 2017”.

13 Subsection 1596(1)

After “applies”, insert “on and after 1 September 2017”.

14 Sections 1597, 1598 and 1599

After “applies”, insert “on and after 1 September 2017”.

15 At the end of section 1601

Add “on and after 1 September 2017”.

16 Section 1604

Omit “2017”, insert “2018”.

17 Section 1613

After “applies”, insert “on and after 1 September 2017”.

18 Section 1615

After “applies”, insert “on and after 1 September 2017”.

19 Subsection 1618(6)

After “applies”, insert “on and after 1 September 2017”.

20 Section 1623

Repeal the section, substitute:

1623 Transitional rules for controller returns

- (1) Section 422A, as inserted by Schedule 2 to the *Insolvency Law Reform Act 2016*, applies in relation to a person if the person first began to be a controller of the property of a corporation on or after 1 September 2017.
- (2) Section 422A, as inserted by Schedule 2 to the *Insolvency Law Reform Act 2016*, also applies in relation to a person if the person first began to be the controller of the property of a corporation before 1 September 2017 as if the reference in that section to a control return year for the controller were a reference to:
 - (a) the first full year starting on or after 1 September 2017 that is an anniversary of when the person first began to be the controller of the property of a corporation; and
 - (b) each subsequent period of 12 months.

EXPOSURE DRAFT

Schedule 2 Transition to Part 3 of the Insolvency Practice Schedule (Corporations)

- (3) Despite the repeal of section 432 of the old Act by Schedule 2 to the *Insolvency Law Reform Act 2016*, that section continues to apply, in relation to a controller of a corporation appointed before 1 September 2017:
 - (a) if the end of the 6-month period referred to in paragraph 432(1)(a) occurs before 1 March 2018—in relation to that period; and
 - (b) if the end of that period is not an anniversary of the administrator’s appointment—in relation to the subsequent 6-month period.
- (4) To avoid doubt, despite the repeal of section 432 of the old Act by Schedule 2 to the *Insolvency Law Reform Act 2016*, audits may be continued in relation to accounts lodged under those provisions as if the old Act continued to apply.

1623A Transitional rules for end of control returns

- (1) Section 442B , as inserted by Schedule 2 to the *Insolvency Law Reform Act 2016*, applies in relation to a control of the property of a corporation that ends on or after 1 September 2017.
- (2) Despite the repeal of section 432 of the old Act by Schedule 2 to the *Insolvency Law Reform Act 2016*, that section continues to apply, in relation to controllers that cease to be a controller of property of a corporation, if the cessation occurs before 1 September 2017.

21 Subsection 1627(3)

After “apply”, insert “on and after 1 September 2017”.