



Australian Government

Insolvency and Trustee Service Australia

**INSPECTOR-GENERAL
PRACTICE DIRECTION No 21**

**ITSA Website Advertising of
Meetings of Creditors**

Release Date: 2 September 2010

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Introduction

The purpose of this Practice Direction is to outline the Inspector-General in Bankruptcy's regulatory role in regard to the obligation on trustees and controlling trustees to publish notice of the first meeting of creditors convened pursuant to section 73 and section 188 of the *Bankruptcy Act 1966* (the Act).

The Legislative Framework

1. Section 76A of the Act provides that the general provisions contained in Division 5 of Part IV of the Act relating to meetings of creditors apply, with such modifications as are prescribed by the Bankruptcy Regulations 1996 (the Regulations), to meetings of creditors under Division 6 of Part IV of the Act (the division that deals with proposals for compositions/schemes of arrangement).
2. Section 196 of the Act provides that Division 5 of Part IV of the Act applies, with such modifications as are prescribed by the Regulations, to meetings of creditors called under an authority under section 188 of the Act.
5. Schedule 2 and Part 2, Schedule 6 of the Regulations respectively prescribe modifications to Division 5 of Part IV of the Act as it applies to the first meeting of creditors called under Division 6, Part IV and under an authority under section 188 of the Act.
6. In particular, section 64A in Division 5 of Part IV of the Act is modified by the addition of:
 - paragraph 64A(2)(a) - which provides that the notice of the first meeting of creditors must be published in a manner approved by the Inspector-General;
 - subsection 64A(3) - which provides that the notice of the first meeting of creditors must include any matter approved by the Inspector-General; and
 - subsection 64A(4) - which states:

“For the purposes of paragraph (2) (a) and without limiting the power of the Inspector-General under that paragraph, the Inspector-General may:

(a) approve, as the manner of publication of the notice of the first meeting of creditors, publication on a website; and

(b) specify in the approval:

(i) the website where the notice must be published; and

(ii) any conditions relating to the approval.”

The Method Approved By the Inspector-General

7. The method approved by the Inspector-General for notice given on or after 1 September 2010 of the first meeting of creditors convened under Division 6, Part IV and under an authority under section 188 of the Act is described below.

Publishing notice of the meeting

8. The notice must be given on the website of the Insolvency and Trustee Service Australia (ITSA) with domain name www.itsa.gov.au.

Contents of the notice

9. The following matters must, as a minimum, be included:
 - whether the meeting is called under section 73 or pursuant to an authority under section 188 of the Act;
 - administration number;
 - bankrupt's or debtor's name(s), residential address, occupation(s), business name(s);
 - trustee's or controlling trustee's name and address;
 - time and date of the meeting;
 - place and address of the meeting;
 - contact name in the trustee's or controlling trustee's office; their phone number, facsimile number and email address.
10. The approved method can be found on the ITSA website under the “Trustees” drop down menu (see item “IG approved content and method of notification of the first meeting of creditors”). Follow this [link](#).

Requesting the Placement of an Advertisement

11. Requests to advertise a meeting are to be made at least ten business (10) days prior to the meeting using the form “Request to Advertise Creditors’ Meeting” available from the ITSA website www.itsa.gov.au under the menu tab “Trustees” then under *Forms for Trustees/Forms Relating to Trustee Administration*. The form is interactive and may be found at this [link](#).
12. It is expected that cost recovery measures consistent with the *Australian Government Cost Recovery Guidelines* (the Guidelines), which require agencies to set charges to recover the costs of products or services where it is efficient to do so, will be initiated in the near future. The policy outlined in the Guidelines applies to all *Financial Management and Accountability Act 1997* agencies (including ITSA).

13. Any fee determined according to these Guidelines will apply to advertising the relevant creditors' meeting on ITSA's dedicated webpage. This will see the advertisement processed and placed on ITSA's website at least five (5) business days before the proposed meeting; maintained and displayed in a user-friendly environment; and removed five (5) business days after the meeting has passed.
14. It is proposed that any such fee for advertising Part X meetings would be able to be paid by cheque, credit card, or cash at the time the filing fee is paid for the section 188 authority.
15. It is proposed that for section 73 meetings:
 - if payment is being made by credit card - the request form should be completed and signed (including credit card details) and emailed/faxed to the email address/fax number at the top of the form;
 - if payment is being made by cash or cheque - the request form should be completed and emailed/faxed (as above) **and** a copy of the form must be given to the trustee's nearest ITSA office with the cash or cheque payment.
16. Further, trustees could, if they choose to do so, utilise the website for advertising other types of meetings under section 64 of the Act. The same fee would apply. The payment method would be as per section 73 meetings.¹
17. An alternative payment arrangement with the Inspector-General under subregulation 16.06(3) (such as payment in arrears by monthly account) is not available for website advertising.
18. ITSA displays the advertisement link under the "Quick Links Menu" on the home page www.itsa.gov.au.

Trustee's initial notification to creditors

19. ITSA recommends trustees and controlling trustees amend their initial 'notification to creditors' correspondence by adding a simple sentence and website link into their existing letters to advise of the above changes. An example would be:

"For information about creditors' meetings that may be called in relation to this administration please refer to ITSA's website www.itsa.gov.au under the "Quick Links" Menu."

¹ Advertising meetings under section 64 on ITSA's website does not relieve trustees of their obligations under the Act and Regulations relating to notifying creditors of such meetings.

ITSA Role

Regulation & Enforcement (R&E)

20. Section 12 of the Act provides R&E with the power to investigate where there are issues of concern either with the advertisement submitted for publishing, during the annual inspection program, or through a complaint being received. R&E will examine the level of trustees' compliance with the obligations set out in this Practice Direction and the legislative framework outlined in paragraphs 3 to 6 above. Advertisements will not be accepted for publication on ITSA's website if they do not comply with these obligations.
21. Where breaches of these obligations or a lack of record-keeping are identified a trustee will be asked to take appropriate remedial action, including a change in practice.

Conclusion

22. This Practice Direction outlines the Inspector-General's procedure relating to a trustee's or controlling trustee's obligations in relation to publishing notice of the first meeting of creditors pursuant to section 73 and section 188 of the Act. It will be against the procedure set out in this Practice Direction and the legislative framework that a trustee's performance of these obligations will be assessed by R&E.