



Australian Government

Australian Financial Security Authority

OFFICIAL RECEIVER PRACTICE STATEMENT 8

The National Personal Insolvency Index

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**PERSONAL
INSOLVENCY**

Our vision: To be a firm and fair regulator and world-class government service provider that delivers improved and equitable financial outcomes for consumers, business and the community.

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1. INTRODUCTION

What is the National Personal Insolvency Index?

- 1.1. The National Personal Insolvency Index (“NPII”) is a publicly available electronic record of certain personal insolvency proceedings in Australia. Its creation and maintenance are provided for in Part 13 of the [Bankruptcy Regulations 2021](#).
- 1.2. The Inspector-General in Bankruptcy has had the statutory responsibility for the operation of the index since December 1996. Prior to December 1996, the records were kept by the Federal Registrar in Bankruptcy (an office of the Federal Court).
- 1.3. The Official Receiver¹ has a statutory responsibility to maintain the NPII on behalf of the Inspector-General.

Scope of this practice statement

- 1.4. This practice statement outlines the information recorded on the NPII, suppression of personal information on request and access to the NPII.
- 1.5. This practice statement has been prepared to provide detailed information about the maintenance of the NPII, including citing relevant legislative provisions. For a more general overview of the NPII, you may wish to read the information on [AFSA’s website](#).

2. WHAT IS RECORDED ON THE NPII?

- 2.1. Information entered on the NPII is sourced from documents that are lodged or filed with the Official Receiver or Inspector-General.
- 2.2. Information recorded on the NPII includes:
 - i. the name and other personal information that identifies a debtor or bankrupt
 - ii. the type of administration or proceeding
 - iii. the trustee, administrator or controlling trustee of the administration or proceeding
 - iv. the petitioning creditor and/or petitioning creditor’s solicitor (where a creditor’s petition is registered)
 - v. the date an administration or proceeding started
 - vi. the current status of the administration or proceeding, for example whether a person has been discharged from a bankruptcy.

¹ A reference to the Official Receiver in this paper also refers to a delegate of the Official Receiver

- 2.3. Some documents or information given to the Official Receiver may require assessment or verification before the relevant information can be entered on the NPII.
- 2.4. Information is generally entered on the NPII on the same day that the originating document is accepted as complete by the Official Receiver or the information has been verified.

Type of administration or proceeding

- 2.5. Entry of information on the NPII will always be connected with an administration or proceeding under the [Bankruptcy Act 1966](#).
- 2.6. The following are the types of matters recorded on the NPII:
 - i. creditors' petitions
 - ii. bankruptcies (debtors' petitions and sequestration orders)
 - iii. debt agreement proposals, where the proposals are accepted for processing
 - iv. debt agreements
 - v. section 188 authorities (personal insolvency agreement proposals)
 - vi. personal insolvency agreements
 - vii. Part XI administration orders (bankrupt deceased estates)
 - viii. section 50 orders (pre-bankruptcy property control orders).

Personal information about a debtor

- 2.7. Personal information regarding any person who is subject to an administration or proceeding under the Bankruptcy Act is entered onto the NPII. That information is:
 - name (family and given names)
 - date of birth (if known)
 - aliases (if any)
 - residential address at date of lodgment of documents (if known)
 - occupation (if known).
- 2.8. All personal information registered on the NPII is expected to match the information written on the source document. For example, if a person misspells his or her name on the document, such as "Micheal" instead of "Michael", that is how it will appear on the NPII.
- 2.9. Personal information including address and occupation is not changed once it is registered on the NPII. Although the Bankruptcy Act requires changes of name and address that occur during the course of an administration to be advised to the trustee, change of address information does not appear on the NPII.

Aliases

- 2.10. If the Official Receiver is advised of a change to a person's name and evidence is provided to support this, the new name is registered as an alias and appears on the NPII as such. For example, a change of name evidenced by a copy of a

marriage certificate or certificate of change of name by deed poll will be recorded as an alias.

- 2.11. An alias can also be registered where it is established that the person is known by or has been known by another name. Establishment of an alias can occur by:
- the debtor or bankrupt stating in writing that he or she is known, or has been known, by another name or names – for example, disclosure on the statement of affairs/Bankruptcy Form or written advice during bankruptcy of a change of name by marriage or deed poll
 - evidence from a creditor or another person. The creditor or other person must provide a document that clearly shows that the debtor is known by another name and that the debtor and the other name are one and the same person – for example, a loan document or other application where the debtor has revealed that he or she is known by another name
 - a written statement from the trustee or administrator, where investigations have determined that the debtor is or was known by another name, accompanied by evidence.

Trustee or administrator

- 2.12. Every administration recorded on the NPPI has the trustee or administrator named and the type of appointment stated. The trustee or administrator's contact details, business name, business address and business phone number are also displayed.
- 2.13. Where a creditor's petition is recorded, the contact details of the solicitor or agent acting for the creditor and/or the creditor's contact details appear.
- 2.14. A trustee or administrator can be changed during an administration. Where this occurs, the NPPI is updated based on documents filed with the Official Receiver.
- 2.15. AFSA maintains a record of all persons who are or have applied to be registered as trustees or debt agreement administrators. Details regarding the registration and regulation of trustees and debt agreement administrators can be found in Inspector-General Practice Statements on [AFSA's website](#).

3. SUPPRESSING PERSONAL INFORMATION

Personal safety considerations

- 3.1. If a debtor or bankrupt believes that publishing his or her address on the NPPI may jeopardise his or her safety, he or she may apply to have the address suppressed (see section 80 of the Bankruptcy Regulations). An application to have information suppressed must be made in writing to the [Inspector-General](#) and must be accompanied by supporting documents.
- 3.2. A person's name and date of birth cannot be suppressed.

- 3.3. Examples of documents that will assist in the assessment of an application include:
- a domestic violence order, apprehended violence order or similar type of order
 - a police report regarding threats of personal violence
 - a report from a social worker, medical practitioner, psychiatrist or other relevant practitioner.
- 3.4. Decisions to suppress information are usually made by a delegate of the Inspector-General.
- 3.5. Each application must be considered without delay and a decision is usually made within 1 day of receipt of the necessary information.
- 3.6. Each application is considered on its merits and the debtor or bankrupt is notified in writing of the decision. Should the debtor or bankrupt be unhappy with the decision made, there is a right of appeal to the Administrative Appeals Tribunal.
- 3.7. Any decision made to suppress an address affects only the information displayed on the NPII from the date of the decision and into the future. Information that was accessed on the NPII prior to the decision to suppress will not be affected.
- 3.8. Where evidence of the kind described in paragraph 3.3 above is provided to the Inspector-General by a third party on behalf of a debtor or bankrupt, the Official Receiver will consider the evidence as if it had been provided by the debtor or bankrupt. That is, while section 80 of the Bankruptcy Regulations does reference a request for suppression of information being made by the debtor or bankrupt, it is recognised that evidence such as a domestic violence order or a police report will carry the same weight whether it is provided by the debtor or bankrupt or by a third party with access to that evidence.

Witness protection

- 3.9. Where a person who is placed on a witness protection program is or becomes subject to an administration or proceeding under the Bankruptcy Act, any name (including a change of name), alias or address that could identify that person will not be published on the NPII, on the acceptance of a request made to the Inspector-General.
- 3.10. A request to withhold identifying information from the NPII is made by the relevant police department and is dealt with by the Official Receiver.

4. OTHER INFORMATION

Correcting NPII information

- 4.1. Any records that are found to be inaccurate, misleading or duplicated should immediately be brought to the attention of the [Official Receiver](#). Changes to

registered NPPI information can be made only with the authorisation of the Official Receiver and are made as a matter of high priority.

- 4.2. As the NPPI contains records that date back to 1928, there may be some records that are incomplete as the relevant source documents may not be available (in particular, records prior to December 1996).

Removing NPPI records

- 4.3. Entries on the NPPI are not removed except under the following circumstances:
- the Federal Court or Federal Circuit Court directs removal of a particular entry from the NPPI, for example when the court specifically directs removal of the record when a sequestration order is set aside
 - information regarding debt agreements and debt agreement proposals are removed from the NPPI after the prescribed lengths of time, pursuant to sections 82 and 83 of the Bankruptcy Regulations
 - the Official Receiver is satisfied that the entry resulted from fraudulent conduct, for example where a Bankruptcy Form was falsely lodged by a person claiming to be the debtor
 - an administrative oversight has occurred when processing a document.
- 4.4. Debt agreement² records are moved from the NPPI in the following circumstances:

<p>Completion of the debt agreement/discharge of all the debtor’s obligations under the debt agreement (as per section 185N of the Bankruptcy Act)</p>	<p>The NPPI record will be removed in one month of the following:</p> <ul style="list-style-type: none"> ▪ 5 years after the date the debt agreement was made, or ▪ the day the debt agreement was completed, <p>whichever is later</p>
<p>Termination of the debt agreement, where the termination:</p> <ul style="list-style-type: none"> ▪ was proposed by the debtor (as per section 185P of the Bankruptcy Act) ▪ was ordered by the court (section 185Q) ▪ occurred due to 6-month arrears default (section 185QA), or ▪ occurred as a result of the debtor becoming bankrupt (section 185R) 	<p>The NPPI record will be removed in one month of the following:</p> <ul style="list-style-type: none"> ▪ 5 years after the date the debt agreement was made, or ▪ 2 years after the day the debt agreement was terminated, <p>whichever is later</p>

² More information about debt agreements is available in [Official Receiver Practice Statement 11 – Debt agreements](#)

<p>Where an order of the court declared the debt agreement void (in accordance with section 185U of the Bankruptcy Act)</p>	<p>The NPII record will be removed in one month of the following:</p> <ul style="list-style-type: none"> ▪ 5 years after the date the debt agreement was made, or ▪ 2 years after the day of the court order, <p>whichever is later</p>
<p>Where a debt agreement proposal was lodged and it:</p> <ul style="list-style-type: none"> ▪ withdrawn ▪ not accepted by the Official Receiver (in accordance with section 185EC of the Bankruptcy Act) ▪ cancelled by the Official Receiver (section 185ED) ▪ lapsed (section 185G) 	<p>The NPII record will be removed within one year of the relevant event</p>

- 4.5. Where a record is removed from the NPII, an administrative record will be retained by the Official Receiver.

Annulment of a bankrupt estate

- 4.6. Where an annulment of a bankruptcy is made for any reason, the NPII record is not removed; rather, the record is updated to reflect the fact that the bankruptcy has been annulled.

Consolidation of proceedings

- 4.7. In the circumstance where there are two separate bankrupt estates that have been consolidated by the court under section 53 of the Bankruptcy Act, the consolidated administration will not be recorded on the NPII. This is because recording the consolidated estate on the NPII is not a requirement of the Bankruptcy Regulations.

5. ACCESS TO THE NPII

- 5.1. Any person can, for a fee, gain access to the information recorded on the NPII.
- 5.2. An extract from the NPII can be used to prove whether or not a person is subject to an administration or proceeding under the Bankruptcy Act.³

³ Pursuant to section 85 of the Bankruptcy Regulations

Public searches

- 5.3. Public searches of the NPII are available through the [Bankruptcy Register Search](#). This is an online service. AFSA operates this service on a cost recovery basis in accordance with Australian Government policy. Information about search fees and methods of payment can be found on AFSA's website.
- 5.4. The types of NPII extracts that may be purchased are:
- an extract for a single matching name. The extract will display details of the person, the proceeding or administration and the trustee, administrator or other contact
 - where a search of the NPII results in no matching record, an extract stating that no matching record was found may be purchased
 - where a search finds two or more matches or close name matches, a Search Result Summary may be purchased to assist with selection of the exact record that is being sought. The Search Result Summary will display summary data of up to 50 matches and/or near matches to the search criteria.

Access for law enforcement purposes

- 5.5. Australian, State and Territory government agencies conducting searches for law enforcement purposes – being those relating to a prosecution or proposed prosecution – will need to conduct searches online via the Bankruptcy Register Search.
- 5.6. Where the agency conducts NPII searches for law enforcement purposes on a regular basis, the agency can enter into a memorandum of understanding with the Inspector-General to have a Bankruptcy Register Search account set up that will allow searches to be conducted at no cost. For each law enforcement search conducted, the agency must certify that the search is being made for a specific enforcement purpose. Where the search is not related to a law enforcement purpose, for example when a search forms part of an agency's security clearance for recruitment or licensing purposes, this will attract a fee.
- 5.7. If an agency only conducts law enforcement searches on an occasional or irregular basis, these will need to be done via Bankruptcy Register Search and the search fee will be payable on each occasion. An account allowing searches to be conducted at no cost is not available in this situation.

Access for approved organisations to subsets of information

- 5.8. The Inspector-General may authorise the electronic provision of subsets of NPII information to approved organisations on a periodic or ad hoc basis.
- 5.9. Principles guiding the provision of NPII information in this manner are contained in [annexure A – Inspector-General's discretion to provide a subset of NPII information](#).

- 5.10. An application for access is to be made by an organisation in writing and must be directed to the [Inspector-General](#).
- 5.11. Fees for access to the NPII by approved organisations through AFSA are available on request.

6. FURTHER INFORMATION

- [Bankruptcy Regulations 2021](#)
- NPII information on [AFSA's website](#)
- Bankruptcy Register Search information on [AFSA's website](#)
- [Bankruptcy \(Fees and Remuneration\) Determination 2015](#)

ANNEXURE A – INSPECTOR-GENERAL’S DISCRETION TO PROVIDE A SUBSET OF NPII INFORMATION

The purpose of this direction is to explain the circumstances in which the Inspector-General will provide bulk NPII information under clause 2.03 of the [Bankruptcy \(Fees and Remuneration\) Determination 2015](#).

The issues covered are:

- who is entitled to receive this information
- what information they are entitled to receive
- how the information will be provided
- what conditions will be imposed on the recipient’s use of the information.

Who is entitled to a subset of NPII information?

The Inspector-General will make decisions on whether to enter an agreement with the corporation, entity, government department or agency under section 2.03 by reference to the principles outlined below. These principles reflect the overall purpose of the NPII which is to provide notification of bankruptcy information to the public at large.⁴ This public notification is important for a number of reasons including:

- eligibility to hold public office in certain circumstances
- enabling people to know whether a person they are dealing with (or contemplating dealing with) commercially is an undischarged bankrupt or subject to some other formal personal insolvency administration
- providing information to credit providers about a person’s credit-worthiness
- informing regulatory agencies or professional bodies about a person’s bankruptcy status where this is relevant to their ability to be employed or licensed in certain professions.

As the NPII is a public register, access to a subset of information is not restricted to creditors or other people having a direct relationship or contact with specific bankrupts or debtors. Any person is entitled to access NPII information as defined in Part 13 of the Bankruptcy Regulations.

Some common examples of people who would be entitled to a subset of NPII information are:

- major creditors wanting to confirm that they have been correctly identified by debtors and bankrupts
- credit reporting agencies
- potential credit providers
- government agencies (such as the Australian Securities & Investments Commission) with an enforcement role which relies on information about people subject to personal insolvency

⁴ The Explanatory Memorandum to the Bankruptcy Legislation Amendment Bill 1996 (which created the NPII) stated that the index “enables persons entering into substantial transactions to determine whether the person with whom they are dealing is an undischarged bankrupt or is subject to the control of a registered trustee under a Part X administration.” This appears to be an incomplete statement of the purpose of the NPII and does not reflect the scope of the information which is actually recorded

administrations

- professional bodies wanting up to date information about the personal insolvency status of people for employment and licensing purposes.

What information will be provided?

The Inspector-General will provide any or all (as requested) information contained in the NPII.

This will include:

- the name and address of the debtor or bankrupt
- the type of administration (or other event such as giving a debt agreement proposal)
- whether an objection to discharge has been lodged
- discharge details
- the name of the trustee or administrator.

This direction does not cover information which is not included on the NPII. Other requests for information held by AFSA which is not publicly available will be considered on their merits and in line with the Australian Privacy Principles in the [Privacy Act 1988](#).

The Inspector-General is entitled to refuse to provide information contained in the NPII where the Inspector-General forms the view that the information will be used to harass, cause embarrassment or cause a nuisance to another person. The Inspector-General will refuse to provide access where the Inspector-General forms the view that providing the information may present a risk to an individual's personal safety.

How will the information be provided?

The information will, as far as possible taking into account AFSA's information technology capabilities, be provided in a form which meets the needs of the person requesting it. This will include access to new NPII data in bulk on a periodic basis.

The fee payable for providing this information is in accordance with clause 2.03 of the [Bankruptcy \(Fees and Remuneration\) Determination 2015](#).

Conditions on use of the information

The Inspector-General will provide information under clause 2.03 on the condition that, if the information is provided to a third party, the Inspector-General does not warrant that the information in possession of that third party is accurate.

Where a person is receiving regular information under item 2.03, the Inspector-General will require that the person receives complete information about all debtors and bankrupts including updated information where circumstances change – for example, where an objection to discharge is lodged after the first record about a person is given, or a bankruptcy is annulled. This will ensure that the person using the information always has accurate and current information and cannot be misled by having outdated information. This condition will not apply to a person obtaining a subset of information on a “one-off” basis – for example, for research purposes.