



Australian Government

Australian Financial Security Authority

OFFICIAL RECEIVER PRACTICE STATEMENT 19

REPLACING A DEBT AGREEMENT ADMINISTRATOR

Date issued July 2008
Date last updated 27 October 2014

If you have any comments, suggestions or queries about an issue referred to in this practice statement, please contact the National Manager, Insolvency and Trustee Services, at registry@afsa.gov.au.

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1. PURPOSE

- 1.1. This practice statement is designed to provide guidance on procedures followed by the Official Receiver in the event of an administrator being unable to continue where:
- the administrator dies
 - the registration of an administrator or trustee ceases
 - the administrator becomes ineligible to act as an administrator
 - the court removes the administrator.

2. BACKGROUND

- 2.1. The Official Trustee, being a corporate trustee administered within AFSA, becomes the administrator where there is a vacancy in the office of administrator for various reasons.
- 2.2. The Official Receiver may appoint another person to be the administrator of the debt agreements in place of the Official Trustee.
- 2.3. The creditors or the debtor may propose the appointment of another person as administrator through a proposal to vary the debt agreement.

3. PRACTICE

- 3.1. If a debt agreement administrator dies, the administrator of the estate of the deceased person must notify the Official Receiver as soon as practicable. If AFSA's Regulation section is notified of the death then the Official Receiver is informed immediately.
- 3.2. Once evidence of death (a copy of the death certificate or newspaper death notice) is received, the Official Receiver changes the administrator on the NPII to the Official Trustee.
- 3.3. When the Official Receiver is notified that there is a vacancy in the office of an administrator for any reason, he must notify the debtor and creditors that the Official Trustee at AFSA is the replacement administrator until further notice. If the Official Receiver intends to appoint another person as administrator, the debtor and creditors are notified.

- 3.4. If the debt agreement has not already been varied to appoint a new administrator, the Official Receiver may appoint another person to be administrator in place of the Official Trustee.
- 3.5. In considering whether to appoint an administrator in place of the Official Trustee the Official Receiver will take into account:
 - the reasons for the administrator ceasing registration, becoming ineligible or being removed
 - the state of the affairs of the administrations handled by the administrator including whether a reconciliation or reconstruction of accounts is necessary
 - the views expressed by any major creditors and individual debtors.
- 3.6. The creditors and the debtor, when notified of the Official Trustee becoming the replacement administrator, may lodge a proposal to vary the agreement by appointing another person and the creditors would be given the opportunity to vote.

4. REFERENCES

- [*Bankruptcy Act 1966*](#)
- Bankruptcy Act section [185ZA](#)
- Bankruptcy Act section [185ZB](#)
- Bankruptcy Act section [185ZC](#)
- Bankruptcy Act section [185ZCA](#)
- Bankruptcy Act section [185ZCB](#)