



Australian Government

Australian Financial Security Authority

OFFICIAL RECEIVER PRACTICE STATEMENT 8

THE NATIONAL PERSONAL INSOLVENCY INDEX

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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. WHAT IS THE NATIONAL PERSONAL INSOLVENCY INDEX?

- 1.1. The National Personal Insolvency Index (“NPII”) is a publicly available and permanent electronic record of all personal insolvency proceedings in Australia.
- 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.
- 1.4. The purpose of the NPII is to provide publicly available information regarding the insolvency status of individuals.

2. WHAT IS RECORDED ON THE NPII?

- 2.1. Information entered on the NPII is prescribed by regulation 13.03 and Schedule 8 to the [Bankruptcy Regulations 1996](#). The information is sourced from documents that are lodged or filed with the Official Receiver or Inspector-General.
- 2.2. Information recorded on the NPII includes:
 - the name and other personal information that identifies a debtor or bankrupt
 - the type of administration or proceeding
 - the trustee, administrator or controlling trustee of the administration or proceeding
 - the petitioning creditor and/or creditor’s solicitor (where a creditor’s petition is registered)
 - the date an administration or proceeding started
 - the current status of the administration or proceeding, for example whether a person has been discharged from a bankruptcy.
- 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

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

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 NPPI will always be connected with an administration or proceeding under the [Bankruptcy Act 1966](#) (“the Act”).
- 2.6. The following are the types of matters recorded on the NPPI:
 - creditors’ petitions
 - bankruptcies
 - debt agreement proposals, where the proposals are accepted for processing
 - debt agreements
 - section 188 authorities (personal insolvency agreement proposals)
 - personal insolvency agreements
 - Part XI administration orders (bankrupt deceased estates)
 - 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 Act is entered onto the NPPI. 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 NPPI is expected to match the information written on the source document. For example, if a person misspells their name on the document, such as “Micheal” instead of “Michael”, that is how it may appear on the NPPI.
- 2.9. Personal information including address and occupation is not changed once it is registered on the NPPI. Although the Act requires changes of name and address that occur during the course of an administration to be advised in writing to the trustee, a change of address information does not appear on the NPPI.

Aliases

- 2.10. If the Official Receiver is advised of a change in a person’s name and evidence is provided to support this, the new name is registered as an alias and appears on the NPPI 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 or has been known by other names. Establishment of an alias can occur by:
- the debtor stating in writing that they are known, or have been known, by another name or names – for example, disclosure on the statement of affairs or written advice during bankruptcy of a change of name by marriage or deed poll
 - evidence from a creditor or another person. A creditor or another 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 same person – for example, a loan document or other application where the debtor has revealed that they are known by another name
 - a written statement from the trustee or administrator that, based on their investigation, they have determined that the debtor is also known by another name.

Trustee or administrator

- 2.12. Every administration recorded on the NPII has a trustee or administrator whose contact details appear against the administration. The details include type of trustee or administrator, their name, business name, business address and business phone number.
- 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 NPII is updated from documents filed with the Official Receiver.
- 2.15. A record is maintained on the NPII of all persons who are or have applied to be registered as trustees or debt agreement administrators.
- 2.16. Details regarding the registration and regulation of trustees and debt agreement administrators can be found on AFSA's website in the [Practitioners](#) section.

3. SUPPRESSING PERSONAL INFORMATION

- 3.1. If a debtor or bankrupt believes that publishing their address on the NPII may jeopardise their safety, they may apply to have their address suppressed. 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, date of birth and details of the administration or proceeding 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 one 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.

Witness protection

- 3.8. Where a person who is placed on a witness protection program is or becomes subject to an administration or proceeding under the 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.
- 3.9. 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. INTEGRITY OF NPII INFORMATION

- 4.1. Name and date of birth information entered is expected to match the information supplied on the relevant source documents. Registration of information that affects the NPII is entered the same day the documents are accepted for filing by the Official Receiver.

5. CORRECTING NPII INFORMATION AND REMOVING NPII RECORDS

- 5.1. 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 NPII information can be made only with the authorisation of the Official Receiver and are made as a matter of high priority.
- 5.2. As the NPII 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).
- 5.3. Entries on the NPII are not removed except under the following circumstances:
 - the Federal Court or Federal Circuit Court directs removal of a particular entry from the NPII – for example, when a sequestration order is set aside
 - information regarding debt agreements and debt agreement proposals are removed from the NPII after the prescribed length of time pursuant to Bankruptcy Regulations 13.05A and 13.05B
 - it is established by the Official Receiver that the entry was based on a forged process – for example, a debtor’s petition for bankruptcy was falsely lodged by a person claiming to be the debtor
 - an administrative oversight has occurred when processing a document.
- 5.4. 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.

6. ACCESS TO THE NPII

- 6.1. Any person can, for a fee, gain access to the information recorded on the NPII.
- 6.2. An extract from the NPII can be used to prove whether or not a person is subject to an administration or proceeding under the Act.²
- 6.3. 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

² Pursuant to [Bankruptcy Regulations](#) 13.07 and 13.10

- where a search of the NPII results in no matching record, an extract may be purchased that will state that no matching record was found
- 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.

Public searches

6.4. Public searches of the NPII are available through the [Bankruptcy Register Search](#). This is an online service available 24 hours a day, seven days a week. AFSA operates this service on a cost recovery basis under Australian Government policy. Information about search fees and methods of payment can be found on AFSA's website.

Access for law enforcement purposes

- 6.5. Searches for law enforcement purposes by Australian, State or Territory government agencies may be requested through AFSA by emailing the [Official Receiver](#). A fee exemption may apply.
- 6.6. Searches for enforcement purposes are defined as those relating to a prosecution or proposed prosecution.
- 6.7. The search fee will not be waived where the NPII 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.
- 6.8. For each enforcement search conducted, the agency must certify that the search is being made for a specific enforcement purpose.

Access for approved organisations to subsets of information

- 6.9. The Inspector-General may authorise the electronic provision of subsets of NPII information to approved organisations on a periodic or ad hoc basis.
- 6.10. Principles guiding the provision of NPII information in this manner are contained in the document attached at [Annexure A – Inspector-General's discretion to provide a subset of NPII information](#).
- 6.11. An application for access is to be made by an organisation in writing and must be directed to the [Inspector-General](#).
- 6.12. Fees for access to the NPII by approved organisations through AFSA are available on request.

7. FURTHER INFORMATION

- 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.³ 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 Schedule 8 to the Bankruptcy Regulations.

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

³ 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

- 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 and Investments Commission) with an enforcement role which relies on information about people subject to personal insolvency 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 IT 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.

