

Bankruptcy Amendment (National Personal Insolvency Index) Regulation 2015

Select Legislative Instrument No. 179, 2015

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 12 November 2015

Peter Cosgrove

Governor‑General

By His Excellency’s Command

George Brandis QC

Attorney‑General

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1 Name

 This is the *Bankruptcy Amendment (National Personal Insolvency Index) Regulation 2015*.

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. The whole of this instrument | 19 November 2015. | 19 November 2015 |

Note: This table relates only to the provisions of this instrument as originally made.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 *Bankruptcy Act 1966.*

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 Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Bankruptcy Regulations 1996

1 After Division 2 of Part 13

Insert:

Division 2A—Removal of information from the Index

13.05A Removal of information relating to debt agreement from the Index

 (1) If a debt agreement ends under section 185N of the Act, the Official Receiver must remove information relating to the debt agreement from the Index within 1 month after the later of the following days:

 (a) 5 years after the day on which the debt agreement was made;

 (b) the day on which the debt agreement ends.

 (2) If a debt agreement is terminated under section 185P, 185Q, 185QA or 185R of the Act, the Official Receiver must remove information relating to the debt agreement from the Index within 1 month after the later of the following days:

 (a) 5 years after the day on which the debt agreement was made;

 (b) 2 years after the day on which the debt agreement is terminated.

 (3) If an order is made under section 185U of the Act declaring all of a debt agreement void, the Official Receiver must remove information relating to the debt agreement from the Index within 1 month after the later of the following days:

 (a) 5 years after the day on which the debt agreement was made;

 (b) 2 years after the day on which the order is made.

13.05B Removal of information relating to debt agreement proposal from the Index

 The Official Receiver must remove information relating to a debt agreement proposal from the Index within 1 year after the day on which any of the following occurs:

 (a) the proposal is withdrawn;

 (b) the proposal is not accepted under section 185EC of the Act;

 (c) the acceptance of the proposal for processing is cancelled under section 185ED of the Act;

 (d) the proposal lapses under section 185G of the Act.

2 At the end of Division 3 of Part 16

Add:

16.14 Transitional provisions relating to the *Bankruptcy Amendment (National Personal Insolvency Index) Regulation 2015*

 (1) If:

 (a) subregulation 13.05A(1), (2) or (3) requires the Official Receiver to remove information relating to a debt agreement from the Index; and

 (b) the later of the days referred to in the subregulation was before 19 November 2015;

the Official Receiver is taken to have complied with the subregulation if the Official Receiver removes the information as soon as practicable after 19 November 2015.

 (2) If:

 (a) regulation 13.05B requires the Official Receiver to remove information relating to a debt agreement proposal from the Index; and

 (b) the day on which one of the events referred to in the regulation occurred was before 19 November 2015;

the Official Receiver is taken to have complied with the regulation if the Official Receiver removes the information as soon as practicable after 19 November 2015.

3 Schedule 8 (table item 22B)

Repeal the item, substitute:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 22B | Section 185P (as in force immediately before 1 July 2007)terminating a debt agreement (made as the result of the acceptance of a debt agreement proposal given to the Official Receiver before 1 July 2007) by proposal | Minutes of creditors meeting called under section 185A (as in force immediately before 1 July 2007), or the record made by the Official Receiver of acceptance of proposal under subsection 185B(3) (as in force immediately before 1 July 2007) | not applicable | not applicable | date of acceptance of proposal |

4 Schedule 8 (table item 22D)

Repeal the item, substitute:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 22D | Section 185QA (as in force immediately before 1 July 2007)terminating a debt agreement (made as the result of the acceptance of a debt agreement proposal given to the Official Receiver before 1 July 2007) by special resolution of creditors | Minutes of meeting called under section 185QA (as in force immediately before 1 July 2007) | not applicable | not applicable | date of passing of special resolution |