

All Trustees and RPBs  
By email only

Our Ref: GB/COB/Trustee Discharge  
Email: [AST@aib.gsi.gov.uk](mailto:AST@aib.gsi.gov.uk)  
Tel: 0300 200 2916

Date: 30 November 2016

Dear Trustee

### **Important Notice – Changes to Trustee Discharge process**

The Accountant in Bankruptcy (the Accountant) expects a trustee to apply for their certificate of discharge as trustee as soon as possible after their final accounts have been determined and either; the appeal period has ended, or an appeal of the final accounts has been finalised. If there is any delay in this process the trustee should provide an explanation to the Accountant when their application is submitted.

This letter details changes to the forms for applying for a Trustee Certificate of Discharge. These changes will come into effect from 9 January 2017.

I would be grateful if you would take time to read about the changes and bring the content of this letter and the new forms to the attention of all your staff who are involved in the trustee discharge process.

Following a review of our processes, we noted that there were a number of cases where the documentation that we required, to enable us to make our decision on discharge of the trustee, had not been provided by the trustee. Therefore, we have revised the application form that you should complete and submit to the Accountant.

Each form details the actions that we check have been completed prior to making our decision on discharge. You should check that each action recorded has been undertaken and, where relevant, the supporting documentation has been sent to this office.

The relevant Section of our Notes for Guidance will be updated shortly with these new forms.

Pre 1 April 2015 cases – Form Appendix D1 (Annex A)

This form should be used for bankruptcy cases that were presented to the court, or the Accountant, prior to 1 April 2015.

The trustee should continue to send a Sederunt Book to this office, either in an electronic or paper format. This will be retained for a period of six months, after which it will be destroyed.

Post 1 April 2015 cases – Form Appendix D1A (Annex B)

This form should be used for bankruptcy cases that were presented to the court, or Accountant, on or after 1 April 2015.

The trustee is required to provide this office with an electronic Sederunt Book. This will be retained for a period of six months, after which it will be destroyed.

Case documents can be directly uploaded to the BASYS case management system. The processes for uploading documents to BASYS and allocating them to the Sederunt Book are recorded at Annex C.

I have also provided a Sederunt Book document checklist at Annex D

The purpose of these new forms is to decrease the time taken for the Accountant to make the decision on discharge of the trustee. This should allow the certificates to be issued promptly and the Register of Insolvencies updated accordingly.

If you have any questions regarding this letter, or the changes we are making, please contact the Adjudication and Supervision Team on the telephone number, or email address, shown at the top of this letter.

Yours faithfully

Gillian Boyd AIPA  
Adjudication & Supervision Team Leader

**Annex A**

**APPENDIX D1**

To: The Accountant in Bankruptcy

From : \_\_\_\_\_ (Trustee Name)

I now apply for a Certificate of Discharge in the sequestration of

Case Reference: \_\_\_\_\_

Debtor Name: \_\_\_\_\_

I confirm the following:

- All assets have been realised or abandoned Yes / No \*  
(If No, please provide details of the asset and reasons, if not already notified to AiB)  
\_\_\_\_\_
- The debtor was discharged on \_\_\_\_\_ (enter date)
- All invoices payable to AiB have been settled Yes / No \*
- The circular for final account ending \_\_\_\_\_ (enter date) was issued on \_\_\_\_\_ (enter date) and the appeal period has passed, with no appeal(s) lodged
- All audit observations for the above account have been answered Yes / No \*
- The circular advising the debtor and creditors of my intention to seek discharge was issued on \_\_\_\_\_ (enter date)
- All the relevant documents have been included in the Sederunt Book which has been forwarded to AiB

pp \_\_\_\_\_  
Trustee

\*delete as necessary

**Annex B**

**APPENDIX D1A**

To: The Accountant in Bankruptcy

From : \_\_\_\_\_ (Trustee Name)

I now apply for a Certificate of Discharge in the sequestration of

Case Reference: \_\_\_\_\_

Debtor Name: \_\_\_\_\_

I confirm the following:

- All assets have been realised or abandoned Yes / No \*  
(If No, please provide details of the asset and reasons, if not already notified to AiB)

\_\_\_\_\_

- The debtor was discharged on \_\_\_\_\_ (enter date)
- The Debtor Contribution Order has been completed / brought to an end \* on \_\_\_\_\_ (enter date)
- All invoices payable to AiB have been settled Yes / No \*
- The circular for final account ending \_\_\_\_\_ (enter date) was issued on \_\_\_\_\_ (enter date) and the appeal period has passed, with no appeal(s) lodged
- All audit observations for the above account have been answered Yes / No \*
- The circular advising the debtor and creditors of my intention to seek discharge was issued on \_\_\_\_\_ (enter date)
- All Sederunt book documents have been uploaded to BASYS / sent to AiB \*

pp \_\_\_\_\_  
Trustee

\*delete as necessary

## Appendix C

### Upload of case documents to BASYS

Documents can be directly uploaded to BASYS using the following method :-

- Locate relevant case
- If the Case Reference is known, enter the number into the **Quick Search Box**
- If not known, select **Cases** from the top toolbar
- Select **Personal Insolvency Cases**
- Enter the debtor's details within the **Search Criteria**
- Select the correct case by clicking on the case reference number in **red**
- Scroll down the case and click on **Document Tab**
- Select **Upload Document** .
  - **Name** – Please enter a brief relevant description of the document (i.e. Account Circular period ending xx/xx/xx or Statement of Affairs or Appendix O – Proposal for DCO)
  - **Category** – Case Workflow
  - **Type** – Insolvency Case
  - **Include in Sederunt Book** – Select Yes/No in accordance with the Sederunt Book document checklist (Annex D)
  - **Is AiB only** – leave blank (by ticking this box the document is only available for viewing by AiB staff. It should be ticked for documents such as Written Comments and the Standard Questionnaire. However AiB staff will amend, if relevant, upon checking the document following a notification of upload)

- **Browse** – find document and double click
- Click – **Upload Document**
- Select – **Create Notification**  
(found at the bottom of the page of the BASYS case file)
  - **Recipient** – An Organisation
  - **Recipient Organisation** – AiB
  - **Subject** – Document Uploaded
  - **Message** – provide details of all documents uploaded
  - **Reminder Date** – today's date
  - Click - **Create**

Prior to submitting an application for a Trustee Discharge Certificate, the Sederunt Book documents held on BASYS should be checked. This can be done by selecting the **Sederunt Book** option from the menu at the end of the BASYS case file.

If there are missing Sederunt Book documents, they may be held in the Documents Tab of the case file. You can place a document into the Sederunt Book using the following method:

- Select **Document Tab**
- Identify the document that should be saved in the Sederunt Book
- Click on the document's **ID No**
- Select **Update**
- Select – **Include in Sederunt Book** - Yes
- Click **Update**

## Annex D

Sederunt Book checklist (bankruptcy legislation sections pre 30 November 2016):

- 1 A copy of a debtor application made under section 5(2)(a)
- 2 A copy of a petition presented under section 5 (2)(b)
- 3 A copy of an award of sequestration granted under section 12(1) or (3)
- 4 A copy of a warrant to cite the debtor granted under section 12(2)
- 5 The audited accounts sent to the trustee by the Accountant in Bankruptcy in accordance with section 13A(5)(d),  
  
and  
  
the determination fixing the amount of the outlays and remuneration payable to the interim trustee sent to the trustee by the Accountant in Bankruptcy in accordance with section 13A(5)(d).
- 6 A copy of any—
  - (a) order recalling or refusing to recall an award of sequestration by the sheriff under section 17 and sent to the trustee under section 17(8)(b)(ii),
  - (b) grant or refusal to grant a recall of an award of sequestration under section 17D(1), 17E(6) or 17G.
- 7 A copy of any order under section 41(1)(b)(ii) or 41A(1)(b)(ii) sent to the trustee under section 17(8)(b).
- 8 Where the trustee is a replacement trustee appointed under section 25 and the Accountant in Bankruptcy was not the original trustee—
  - (a) a copy of any determination fixing the amount of the outlays and remuneration payable to the original trustee and of the original trustee's audited accounts which is sent to the trustee under section 26(3)(b)(ii),

- (b) upon appointment, such information as is appropriate to provide a record of the sequestration process before the trustee's appointment as replacement trustee (except that no entry is to be made in relation to any written comments made by the original trustee under section 20(2)), and .
- (c) an entry recording any certificate of discharge issued to the original trustee under section 27.
- 9 A copy of a statement of assets and liabilities sent to the trustee under section 19(1) or (2).
  - 10 A copy of a notice given under section 21A(2).
  - 11 A copy of a report made under section 21B(1)(a).
  - 12 Where the trustee is a replacement trustee appointed under section 25 and the Accountant in Bankruptcy was the original trustee, upon appointment, such information as is appropriate to provide a record of the sequestration process before the trustee's appointment as replacement trustee.
  - 13 A copy of any initial proposal for the debtor's contribution provided by the trustee under section 32A(1)(b).
  - 14 A copy of a debtor contribution order applying to the debtor.
  - 15 A copy of any decree issued under section 34 affecting the sequestrated estate.
  - 16 A copy of any decree of recall issued following an application under section 35(2).
  - 17 A copy of any decree issued under section 36 affecting the sequestrated estate.
  - 18 The inventory and valuation of the estate made up and maintained in accordance with section 38(1)(b).
  - 19 A copy of an account given by the debtor under section 43A(2).
  - 20 The debtor's deposition at an examination subscribed under section 47(5).
  - 21 A copy of the record of an examination sent to the Accountant in Bankruptcy under section 47(6).



- 22 An appropriate entry in relation to the production of any document to the trustee in accordance with section 48(7), stating the date when it was produced to the trustee.
- 23 Where the trustee accepts or rejects a claim under section 49, the decision on the claim, specifying—
  - (a) the amount of the claim accepted by the trustee,
  - (b) the category of debt, and the value of any security, as decided by the trustee, and
  - (c) if the claim is rejected, the reasons.
- 24 A copy of a decision of the Accountant in Bankruptcy under section 49(6C)(b) and of the sheriff under section 49(6D).
- 25 An agreement or determination in respect of the accounting period under section 52(2)(b)(i) or (ii).
- 26 The audited accounts, the scheme of division and the final determination in relation to the trustee's outlays and remuneration, as mentioned in section
- 27 A copy the certificate of discharge given to the debtor under section 54(2) or 54A(2) or 54F.
- 28 A copy the certificate deferring discharge where the debtor cannot be traced issued under section 54D(4)(b) or (6)(b).
- 29 A decision of the court under section 63 and of the Accountant in Bankruptcy under section 63A.
- 30 A copy of a decree arbitral or, as the case may be, an appropriate entry recording the compromise referred to in section 65.
- 31 The minutes of the meeting mentioned in paragraph 7 of Schedule 6.
- 32 A copy of the minutes of any meeting sent to the Accountant in Bankruptcy in accordance with paragraph 16 of Schedule 6.
- 33 Where a meeting of commissioners is called in accordance with paragraph 17 of Schedule 6—

- (a) a record of the deliberations of the commissioners at the meeting,
  - (b) where the trustee is not clerk in accordance with paragraph 21 of Schedule 6, a record of the deliberations of the commissioners transmitted by the commissioner acting as clerk, such commissioner to authenticate the insertion when made, and
  - (c) in relation to any matter agreed without a meeting, the minute recording that agreement signed in accordance with paragraph 23 of Schedule 6.”
- 34 A copy of any decision (including any determination, direction, award, acceptance, rejection, adjudication, requirement, declaration, order or valuation) relating to the sequestration which is—
- (a) issued by the Accountant in Bankruptcy, and
  - (b) not otherwise mentioned in this Schedule.
- 35 A copy of any decree, interlocutory decree, direction or order relating to the sequestration which is—
- (a) granted by the court,
- and
- (b) not otherwise mentioned in this Schedule.”

**Other documents to be inserted as appropriate:**

- 1 Request to court to appoint new interim trustee (if applicable)
- 2 Copy AiB/court order recalling or refusing to recall the award of bankruptcy
- 3 Copy court order protecting the occupancy rights of a non-entitled spouse
- 4 Entry relative to the grant of a certificate of discharge to the interim trustee (if applicable)
- 5 Copy decree of reduction of a gratuitous alienation

- 6 Copy decree of recall of an order for payment of a capital sum on divorce
- 7 Copy decree of reduction of an unfair preference
- 8 Record of debtor's evidence at an examination, duly subscribed
- 9 Copy record of whole examination
- 10 Adjudication on claims
- 11 Entry relative to the sheriff's decision on any appeal against the trustee's adjudication
- 12 Copy order by sheriff deferring the debtor's automatic discharge
- 13 Receipt from debtor of any reversions
- 14 Entry relative to court's decision to any application to cure defects in procedure
- 15 Copy of decree arbitral
- 16 Entry relative to compromise with regard to any claim of whatever nature made against or on behalf of the sequestrated estate
- 17 Copy of decree of reduction of order discharging the debtor
- 18 Minutes of meetings of creditors (non-statutory)
- 19 Minutes of meetings of commissioners
- 20 Minutes of matters agreed by commissioners without a meeting
- 21 Copy of Debtor Contribution Order (DCO)
- 22 Such other entries and insertions as may be necessary to provide a full record of the bankruptcy process before the date of the trustee's Act and Warrant.