



Australian Government

Insolvency and Trustee Service Australia

**INSPECTOR-GENERAL
PRACTICE STATEMENT NO 7**

**INFORMATION AND REGISTRY
Practice Statement on Annual Estate Returns**

July 2010

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1. PURPOSE OF THE ANNUAL ESTATE RETURN

At the end of each financial year ITSA is required to report to the Parliament on the operation of the Bankruptcy Act. This report is submitted to Parliament by the Minister.

The Annual Estate Return (AER) is primarily used to collect information on the operation of the Bankruptcy Act from Debt Agreement Administrators, Controlling Trustees and Registered Trustees. Section 12(1)(c) of the Bankruptcy Act empowers the Inspector General in Bankruptcy to obtain this information.

ITSA also uses the AER process for other purposes:

- Calculation of the annual Realisations Charges liability for monies received by administrators and trustees based on data disclosed on the AER
- Reconciliation of any Realisations Charges (RC) paid during the year with the annual liability (ITSA's Practice Statement on collection of the RC is available [here](#))
- Selection of administrations for inspection by ITSA Regulation.

Note: Information from the Official Trustee on the operation of the Act is collected through a separate process.

2. THE AER FORM

The AER is in the form of a spreadsheet and must be completed electronically. The AER form for administrators is different to the form for trustees as the data set required is different. Detailed instructions accompany each form. Examples of the forms are shown in the annexure.

The forms are system generated for each trustee by the ITSA office in the trustee's state of registration. However, AER forms for Debt Agreement Administrators are generated centrally by the ITSA Brisbane office. Each administrator/trustee has a single AER form even though they may have interstate administrations. If a trustee is also an administrator they will be required to complete two AER forms one for their Debt Agreement matters and the other for their matters as Trustee under the Bankruptcy Act.

The forms are auto populated with the following details:

- names of the matters administrators/trustees managed during the year,
- opening bank balances of each of those matters,
- any Realisations Charges that was received against those matters by 30 June, and

- finalisation dates of those matters that were finalised during the year.

The form itself is password protected and only allows administrators and trustees to enter data in designated fields. Data entered in non designated fields and/or any changes to the format prevents the form from being processed. It is very important that administrators and trustees do not make any changes within the form or attempt to add any data other than in the designated fields.

If the administrator/trustee is a registered user of ITSA's Online Services the AER can be completed and lodged online. Information to assist Online users can be found at [Online Services help](#) and [AER use cases](#).

3. AER PROCESS

There are essentially five steps in the AER process.

i) Generating and checking draft AER forms. A sample of approximately 10% of trustees and administrators is selected and draft AER forms are generated to ensure the accuracy of pre populated data before sending final forms to administrators/trustees.

ii) Sending the AER forms. Administrators and trustees are sent the AER forms in an email outlining the AER timeframes for the current year and enclosing detailed instructions for completing the form.

iii) Collecting completed AER forms. Generally the forms are required to be completed and returned to the originating ITSA office within 3 to 4 weeks.

iv) Processing the returned AER forms. The completed AER forms are uploaded on the system and a series of checks are performed to ensure data integrity. Any errors identified are followed up with the administrator/trustee

v) Realisations Charge reconciliation. Realisations Charge liability data from the processed forms is matched by the system against actual Realisations Charge payments received by ITSA. Underpayments/overpayments, if any, are followed up with the administrator/trustee concerned.

Detailed instructions on how each of the above steps is conducted on the system can be found on the I & R intranet under Learning and Development and eSolve help button when you are in the Registered Trustee Information, Trustee AER's.

4. AER TIMEFRAME

The AER process is designed to fit in with annual reporting requirements of government. It is a time critical process and needs to be managed to meet staff,

stakeholder and government expectations. General timeframes for each of the 5 steps are:

June last week – Test checking of draft AERs

July first week – Generate and send AERs to administrators/trustees

August first week – Collect completed AERs from administrators/trustees

August third week – Complete AER data processing for Annual Reports and complete RC underpayment/overpayment reconciliations

Registry officers are encouraged to contact trustees over the phone during the 4 week period (first week of July to first week of August) to enquire on their progress and assess any need for support.

It is important that administrators and trustees are sent reminders one week before the due date for lodgement.

5. DEALING WITH EXTENSION REQUESTS

Given the tight timeframes for government reporting, extension of time for lodgement of AERs is generally not granted. The process has been designed to allow administrators and trustees a four week period in which to complete the AER.

However there may be special circumstances (eg. temporary loss of records due to system problems) when an administrator or trustee may not be able to comply with the 4 week timeframe. Under these circumstances an extension of time may be granted upon written application. Such applications should be forwarded to the I&R Assistant National Manager for consideration.

6. DEALING WITH NON COMPLIANCE

Where an administrator or trustee fails to comply with the Inspector General's request for information on the operation of the Bankruptcy Act (the Annual Estate Return) it is a serious breach of their duty. The failure to provide this information can have an adverse impact on the credibility of the insolvency system.

In the first instance contact should be made with the administrator or trustee to enquire about the non lodgement. It is possible that the form may have been misplaced during transmission and a copy can easily be provided by the trustee/administrator. Where an AER is not provided the matter should be escalated to the I&R Assistant National Manager who will raise the issue with ITSA Regulation and resolve a method for encouraging compliance. Continued or serious non compliance will be dealt with by ITSA Regulation.

ANNEXURES

1. [Annual Estate Return form for trustees](#)
2. [AER instructions for trustees](#)
3. [Annual Estate Return form for administrators](#)
4. [AER instructions for administrators](#)

ANNEXURE 2 - AER Instructions for trustees

TRUSTEE INSTRUCTIONS ON COMPLETING THE ANNUAL ESTATE RETURN

Important notes:

1. Do not enter non numerical characters in any of the numerical fields. Entering '?', '!', or comments will generate errors during processing. Should you wish to add a comment against a particular matter or explain an entry, please include that in your covering email to ITSA when returning the AER.

2. Columns marked with '**' are auto populated or calculated and cannot be edited.

3. Minimum trustee remuneration pursuant to Sec 161B

Where you have received a payment from the debtor pursuant to Sec161B of the Bankruptcy Act, then that receipt need not be brought into account in the estate and should not be included in any of the columns in the AER. No realisations charge is payable on that receipt.

4. Sec 188 authorities and PIAs

Where you were a Controlling Trustee of a S188 Authority which later became a PIA during the same financial year, there will be two entries in the AER. It should also be noted that any third party funds held in trust pending the outcome of a PIA proposal need not be brought in to account in the s188 administration except for the amount of costs and fees that are received by you in your capacity as controlling trustee. Financial transactions (if any) that occurred during the controlling trustee period should be entered against the s188 administration and financial transactions that occurred under the PIA need to be entered under the PIA administration. Receipts under a s188 or a PIA should be reported at column16 as 'Other Receipts' if it attracts the Realisations Charge or column 19 'Other Receipts' if that receipt does not attract the Realisations Charge. Any funds transferred from the s188 administration in to a PIA administration should be reported using columns 10 & 34. This will ensure that the Realisations Charge is only levied once on the same funds.

5. Administrations with more than one estate

Where there is more than one estate in an administration (eg a joint bankruptcy with the husband's estate, wife's estate and a joint estate), there is only one entry in the AER for the administration. If there were transactions in each of the estates, you must add the information from the separate estates and insert the combined estate totals against the single administration.

6. Administrations with joint trustees

Where there are joint trustees in a matter, the matter will only appear in the AER of the trustee who is the primary trustee; the other trustee (ie the secondary trustee) will not see this matter and should not request it from ITSA.

7. Missing or extra administrations

If you find any of your matters are missing from the AER or administrations you are not responsible for contact ITSA in order to correct the information and a new version of the AER (either spreadsheet or information online) will be sent to you.

You should contact ITSA immediately if you believe any of the data that is auto populated in your AER form is incorrect.

***Columns 1 -7 Matter details**

These columns are pre filled with details of your administrations that were active at any time during the financial year or had a closing balance as at the end of the previous financial year as per ITSA's records.

***Column 8 Opening Balance**

The column is pre filled with the closing balance which was reported in your previous AER

Column 9 Adjusted Opening Balance

Where you believe that there was a mistake in your previous year's closing balance, you are able to insert the revised opening balance

Column 10 Adjustment Comment

Enter a comment about why there is an adjusted opening balance for this matter.

Column 11 Funds Transferred from another Trustee

Where an administration has been transferred to you along with funds held in the estate, the amount you received needs to be inserted here. ITSA will cross reference this entry with funds transferred out by the other trustee.

Column 12 Gross Sale Price of Assets

Where you have sold assets in a bankruptcy or Part X1 administration, the gross asset value should be reported here. Eg you sold a house property for \$500,000 and after the deduction of agent's commission/settlement fees of \$20,000, outstanding water/council rates of \$5000 and mortgage of \$400,000 you received a net amount of \$75,000 in the estate; the figure that gets reported in this column is \$500,000.

Note: Receipts should be shown excluding the GST component, if any. Eg. Sale of business Plant & Equipment \$11,000 including \$1000 GST – only \$10,000 should be shown in this column and the GST component of \$1000 should be shown under Column 19 (Other Receipts not subject to Realisations Charge).

Column 13 Recoveries from Antecedent Transactions

Any receipts in relation to recoveries under sections 120, 121 and 122 of the Bankruptcy Act should be reported in this column.

Column 14 Contributions Collected

All income contributions received from bankrupts should be reported in this column.

Column 15 Sec 73 Composition Receipts

Any composition monies received should be reported in this column.

Column 16 Trading Receipts

Where you have continued to trade a debtor's business, the value of any trading receipts (net of GST) should be shown in this column. (Do not include sale of business assets in this column – these should be shown at column 11). Trading payments are shown at column 23.

Column 17 Other Receipts

Where you have other types of receipts (eg. rents, dividends, royalties, income tax refunds, GST refunds, insurance premium refunds, etc) which are subject to the Realisations Charge, they need to be reported here.

Note - any receipts that you have in an S188 or PIA needs to be reported in this column.

***Column 18 Total Receipts Subject to the Realisations Charge**

This column automatically calculates the total receipts you have had which are subject to the Realisations Charge.

Column 19 Interest earned on estate funds

If you have earned interest on estate funds it is reported in this column. This information is used to calculate your Interest Charge liability. Bank fees and charges paid should be disclosed at column 26.

Note – some trustees maintain a single bank account for all their estates, the interest earned on that single bank account is not required to be apportioned amongst the various estates.

That interest income need not be reported in the AER, but payment should be made to ITSA using Form 15.

Column 20 Other Receipts Not Subject to the Realisations Charge

If you have certain receipts which are not subject to the Realisations Charge (*eg creditor*

advances/indemnities/GEERS receipts/GST collected on sale of business assets) these

should be reported in this column.

***Column 21 Total Receipts for the Period**

This column automatically calculates the total receipts that you have had in a matter.

Column 22 Amount Paid to Secured Creditors

Where you have paid secured creditors from the sale proceeds of assets, the amount paid should be reported in this column. Using the example shown in the notes to column 11, the amount of \$5000 paid for the outstanding water/council rates (these rates are usually secured against the property) and \$400,000 paid to the mortgagee, would be reported in this column.

Column 23 Trading Payments

Where you have continued to trade a debtor's business, the value of any trading payments (payments to suppliers, wages to employees, etc) net of GST, should be shown in this column.

Column 24 Costs of Administering the Estate

All costs of administering a matter should be reported in this column. This would include

expenses like legal fees, selling agent's commission, settlement fees, brokerage on sale of shares, etc. Using the example in the notes for column 11, the selling agent's commission and settlement fees of \$20,000 would be reported in this column.

Note – All expenses recorded should include the GST component (if any).

Column 25 Trustee's Remuneration

Any remuneration drawn by you in your capacity as trustee/controlling trustee should be reported here.

Note – Where an administration has been transferred to you by another trustee and you are required to make a payment to the previous trustee for his fees, that fee amount should not be shown in this column but included as 'Other Payments' at column 27.

Column 26 Dividends Paid to Creditors

All dividends that were paid to creditors should be reported here. This includes any employee creditor dividends, but does not include payments made to employees out of GEERS funds received from DEWR or payment of petitioning creditor costs.

Column 27 Bank Fees & Charges

Bank fees and charges are shown in this column. This information is used to calculate your Interest Charge liability. Bank fees and charges includes account keeping or account service fees, transaction fees, direct debit fees and cheque deposit fees - all applying whether the transaction is electronic, phone, internet or at the branch. They do not include dishonour fees (cheque or direct debit), overdrawn account fees, financial institutions duty, bank account debits tax or withholding tax, balance enquiries or additional statements.

Column 28 Other Payments

All other payments made out of an estate need to be recorded here. This could include payments like Petitioning Creditor costs, GEERS payments to employees, income taxes, net GST on sale of assets, etc.

***Column 29 Realisation Charges for Period Receipts Paid to ITSA**

This column is auto filled with any Realisation Charge payments that you have already made during the financial year in respect of this charge period. This data is drawn from the Form 16s that you submitted along with your payments.

***Column 30 Realisations Charge for Earlier Years**

This column is auto filled with any Realisations Charge payments that you may have made during the financial year but which pertain to prior charge periods. This data is drawn from the Form 16s that you would have submitted along with your payments.

Column 31 Interest Charge paid for current period

If you have already paid ITSA any Interest Charge in relation to the current charge period during this financial year please enter the amount paid in this column.

Column 32 Interest Charge paid for previous period

If you have paid ITSA any Interest Charge in relation to previous charge periods during this financial year please enter the amount paid in this column.

Column 33 Refund of Surplus to Debtor

Where there is a surplus in an estate and a refund has been made to the debtor/bankrupt during the financial year, the refund amount should be recorded here.

***Column 34 Total Payments**

This column automatically totals all the payments that you have made from the estate during the year.

Column 35 Funds Transferred to another Trustee

Where you have transferred an administration with funds to another trustee, the amount transferred needs to be reported here. ITSA will cross reference this with the funds reported as received by the other trustee.

***Column 36 Closing Balance**

This column automatically calculates the closing balance in the estate based on the receipts and payments disclosed by you in the previous columns. This balance should be the same as the estate's bank balance.

Column 37 Date administration finalised

Where you have finalised an administration during the year, the date of finalisation needs to be recorded in this column.

Note 1: the AER will not let you enter a finalisation date if the estate has a closing balance or if it is s188 administration.

Note 2: Where you have transferred an estate to another trustee do not show this as a finalisation – leave the finalisation date field empty.

***Column 38 Realisations Charge due for Receipts during the year**

This column automatically calculates the total Realisations Charge that is due based on the various receipts and payments that you have entered in the previous columns.

***Column 39 Realisations Charge Payments received for period**

This column is pre filled with data from Column 28

***Column 40 Realisations Charge now payable**

This column calculates the Realisations Charge that is due and payable to ITSA for the current charge period based on the receipts and payments disclosed by you and after taking in to account any Realisations Charge that you have already paid to ITSA in respect of this charge period.

Note: If the RC calculated at column 40 is less than \$10 the charge is not payable.

***Column 41 RC Amount Payment being made**

ITSA AER Spreadsheet Lodgement Instructions

***Column 42 Interest Charge due for current charge period**

This column automatically calculates the Interest Charge that is due based on the Interest earned and bank fees/charges you have entered at columns 19 & 27 respectively.

***Column 43 Interest Charge for period already paid**

This column is pre filled with data from Column 31

*** Column 44 Interest Charge now payable**

This column calculates the Interest Charge that is due and payable to ITSA for the current charge period after taking in to account any Interest Charge that you claim to have already paid to ITSA in respect of this charge period at column 31.

Note: If the IC calculated at column 42 is less than \$10 the charge is not payable.

***Column 45 IC Amount Payment being made**

This column indicates the amount that the client is intending to pay.

ANNEXURE 4 - AER Instructions for administrators

ADMINISTRATOR INSTRUCTIONS FOR COMPLETING THE ANNUAL ESTATE RETURN

General instructions:

- Administrators will be provided with their AER forms in the first week of July
- The AER form will be pre filled with details of each Debt Agreement that is being administered by the Administrator and was which was active at any point of time in the immediately preceding financial year (1 July to 30 June)
- All columns highlighted in grey contain data pre filled by ITSA or data auto calculated in the form. No data should be manually entered in these columns.
- The AER forms are password protected so no changes can be made to the format of the forms and administrations cannot be deleted or added. Where an Administrator believes that pre filled data in respect of a Debt Agreement is incorrect they should immediately contact ITSA Perth and the data will be checked and an updated AER issued where necessary.
- The AER is due for lodgement with ITSA Brisbane on or before 4th of August each year.

Column specific instructions:

You are only required to fill in data in columns marked with an asterisk.

Columns 1 Debtor's state of residence

This column is pre filled with the debtor's state of residence. The data is drawn from the Statement of Affairs that was filed at the time the debtor's proposal was lodged with the Official Receiver.

Columns 2 to 7 Matter details

These columns are pre filled with the ITSA administration number and debtor's name.

Column 8 Date proposal was lodged with Official Receiver

This column is pre filled with the date the Debt Agreement proposal was lodged with the Official Receiver. This date is relevant in determining which Debt Agreements attract the Realisations Charge and Interest Charge.

Column 9 Opening balance from previous financial year

This column is pre filled with the closing balance disclosed by a Debt Agreement Administrator in the previous years AER. (For the first year of operation of these new AER forms this column will be blank.)

*** Column 10 Adjustments to opening balance**

Where administrators find that there may have been errors in the closing balance provided to ITSA in the previous year which in turn has flowed through as an incorrect opening balance, they will have the opportunity to enter the difference (+/-) in this column. (In the first year of operation of these new AERs, administrators will have to enter all opening balances in this column.)

Column 11 Adjusted opening balance

This column auto populates with the adjusted closing balance after taking in to account any differences entered by an administrator at Column 10.

*** Column 12 Funds transferred from another administrator**

Where a Debt Agreement has been transferred from another administrator (eg from the Official Trustee or other private administrator), the funds, if any, that were transferred along with that DA needs to be entered in this column.

*** Column 13 Debt Agreement payments collected**

Receipts from debtors during the course of the year should be shown in this column. These receipts attract the Realisations Charge if the DA arose out of a proposal that was lodged with the Official Receiver on or after 1 July 2007.

*** Column 14 Other receipts not subject to Realisations Charge**

Where an administrator receives any other type of funds in relation to the Debt Agreement, it should be shown in this column. These types of receipts will be rare but could include instances where a dividend cheque was returned unrepresented by a creditor, or a person returns a dividend cheque that may have been issued by the administrator in error. These types of receipts do not attract the Realisations Charge.

Column 15 Total receipts

This column is auto populated with the sum of Columns 13 and 14.

*** Column 16 Expenses of Debt Agreement**

Where an administrator makes any payments to cover expenses in relation to the Debt Agreement, these amounts are entered in this column. An example of such an expense will be where a cheque received from the debtor under the Debt Agreement payment plan is dishonoured and the bank charges a dishonour fee.

*** Column 17 Administration fees**

The fees which have been drawn by the administrator during the course of the financial year should be shown in this column.

*** Column 18 Dividends paid to creditors**

The total dividends paid to creditors during the financial year should be shown in this column.

*** Column 19 Any other payments (not including Realisations Charge)**

Where the administrator has made any other payments in relation to the Debt Agreement the amount needs to be shown in this column. Such payments will be rare but may include for instance a dividend cheque that was returned in a previous financial year and reissued in the current financial year.

Column 20 Realisations Charges paid CY receipts

This column is auto filled with any Realisations Charges that may have been paid to ITSA during the course of the financial year which relate to Debt Agreement payments for the current financial year.

Column 21 Realisations Charges paid PY receipts

This column is auto filled with any Realisations Charges that may have been paid to ITSA during the course of the financial year which relate to Debt Agreement payments for a previous financial year. (In the first year of operation of this AER this column will not contain any entries.)

*** Columns 22 Refunds to debtor**

Any refunds paid to the debtor should be recorded in this column. Entries in this column would be extremely rare but could arise where creditors withdraw their claims or total receipts from the debtor are more than sufficient to pay out the terms of the agreement.

Column 23 Total payments

This column is auto populated with the sum of all the payments made (Columns 16 to 22).

*** Column 24 Funds transferred to another administrator**

If the administration of a Debt Agreement has been transferred to another administrator (eg to the Official Trustee or another private administrator) then any funds that were transferred as part of the administration need to be recorded here.

Column 25 Closing balance

This column is auto populated with the closing balance of the administration based on the total receipts and payments made.

Column 26 Realisations Charges due for CY receipts

This column is auto populated with the Realisations Charge that is due for the financial year based on the receipts and payments data that has been entered in columns 12 to 24. The auto population will only occur where the Debt Agreement arose out of a proposal that was lodged with the Official Receiver on or after 1 July 2007.

Column 27 Realisations Charges already paid for CY receipts

This column is auto populated with any Realisations Charge payments which relate to the current financial year and which have already been received by ITSA.

Column 28 Realisations Charges now payable

This column is auto populated with the Realisations Charge that is now due and payable. This amount is calculated by subtracting the figures at Column 27 from Column 26.

*** Column 29 Date debtor completed terms of Agreement**

Where a debtor has completed and satisfied all obligations of the Debt Agreement (eg. the debtor has made the final payment), the date of the last payment made by the debtor needs to be recorded in this column.

*** Column 30 Date Debt Agreement finalised by administrator**

Where the administrator has finalised the administration of the Debt Agreement (eg. all distributions have been made and the administrator has no further duties under the agreement) then the date of the last distribution to creditors is to be inserted in this column as the date of finalisation by the administrator.

Note 1 – the ‘completion date’ in column 29 and ‘finalisation date’ at column 30 is likely to be different where the debtor has made all payments under the agreement to the administrator, but the final distribution of funds by the administrator takes place at a later date.

Note 2 – where a finalisation notification has already been received from the administrator during the course of the year, this column is auto populated with that date.)

*** Column 31 Date Debt Agreement terminated**

Where an administration was terminated during the course of the year, administrators are required to insert the date of termination in this column. (Note – where a termination

notification has already been processed by the Official Receiver, this column is auto populated with that date.)

*** Column 32 Has debtor made any payments in the last 6 months?**

If the debtor has made any payments in the last six month then please answer 'Yes'. If the debtor has not made any payments in the last six months then please answer 'No'.

*** Column 33 Total value of creditor claims (for finalised matters only)**

Where a Debt Agreement has been completed, please insert the total value of creditors' claims. You will only be able to insert this data if there is a date of finalisation entered at Column 30.

*** Column 34 Total payments made to creditors over the life of the agreement (for finalised matters only)**

Where a Debt Agreement has been completed, please insert the total value of dividends that were paid to creditors during the life of the agreement. You will only be able to insert this data if there is a date of finalisation entered at Column 30.

Column 35 Rate of return achieved

This column is auto populated with the rate of return that was achieved in completed administrations. The data is drawn from Columns 33 and 34.