

ENTERPRISE ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10: Insolvency

Individuals

Sections 259 and 260: Income payments order & Income payments agreement

755. The current income payments order regime is designed to ensure bankrupts make an affordable contribution towards their debt from their income for up to three years, but in most cases they cease on discharge (see section 310(6)). Against the background of a reduced period of bankruptcy for non-culpable bankrupts, income payments orders will now last for a term of up to three years from the date of the order, irrespective of discharge (see new section 310(6) inserted by section 259).
756. Income payments orders are made by the courts on the application of the trustee in bankruptcy. In practice most are not usually contested. Income payments orders can be varied on the application of the trustee or the bankrupt.
757. In order to remove the need for court involvement in non-contentious cases, section 260 introduces the concept of the income payments agreement by inserting a new Section 310A into the Insolvency Act 1986.
758. Income payments agreements will provide a legally-binding written agreement between the bankrupt and the Official Receiver or trustee that requires the bankrupt (or a third party) to make specified payments to his trustee for a specified period. This will be enforceable as if it were an income payments order made by the court. Whilst in force, an income payments agreement may be varied on an application to the court by the bankrupt, trustee or the Official Receiver or by written agreement between the parties. A court may not vary an income payments agreement to include a provision that could not be included in an income payments order and must grant a variation if it takes the view that the variation is necessary to enable the bankrupt to retain sufficient funds to meet the reasonable domestic needs of the bankrupt and his or her family.
759. An income payments agreement must specify the period in which it is to have effect and that period can apply after a bankrupt is discharged but cannot extend to a date more than three years after the date of the income payments agreement.
760. [Paragraph 7](#) of Schedule 19 sets out the transitional provisions as they relate to income payments orders in existence at the time of commencement.