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# INSOLVENCY BULLETIN

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## IN THIS ISSUE:

- 9 Months Left - Time Runs Out On Older Bankruptcy Cases To Recover Interest in Matrimonial Homes
- IVAs - Minimum Dividend Levels Required?  
A Scottish Prediction

# USE IT OR LOSE IT

## 9 MONTHS LEFT - TIME IS RUNNING OUT TO RECOVER INTERESTS IN MATRIMONIAL HOMES

Section 283A Insolvency Act 1986 was introduced with effect from 1 April 2004.

This section applies to residential homes which as at the date of the bankruptcy were the sole or principal residence of

- The Bankrupt
- The Bankrupt's spouse or civil partner
- A former spouse or civil partner of the Bankrupt

Interests in such homes will revert to the bankrupt unless within 3 years of the date of the Bankruptcy Order the Trustee

- Realises the interest
- Applies for an order for sale or an order for possession of the home
- Applies for a charging order under section 313 Insolvency Act 1986

- The Trustee and the Bankrupt agree to swap the interest in the home for a specified liability to the estate

31 March 2007 is now only 9 months away: from that date section 283A will begin to have effect and interests in homes will begin to revert back to bankrupts unless action is taken before that date.

Prior to proceedings being commenced, valuations will need to be taken place, funding or conditional fee agreements will need to be put in place, sanction will need to be obtained and court documents will need to be drafted. We would urge practitioners to have a long-stop diary date no later than 2 years and 9 months after the date of the Order (not the date of their appointment as Trustee) on all bankruptcy cases. This will provide time for a final review of matrimonial homes interests to be carried out and for proceedings to be issued before such interests revert automatically to the bankrupt.

## IVAs - Minimum Dividend Levels Required? A Scottish Prediction

We thought that practitioners might be interested in proposals that have been made in Scotland relating to Protected Trust Deeds (PTDs) which are the equivalent of IVAs.

Proposals were put out for consultation by the Scottish Executive ending April 2006, under which PTDs would not be able to be proposed unless a minimum return to creditors was predicted. It was suggested that this minimum proposed success rate would require proposals to show a likely return to creditors of between 20 and 30p in the pound. We understand that in Scotland more than half of all PTDs currently issued would fail to satisfy this requirement. Under the proposed changes, such PTDs would not be able to be

issued. This particularly impacts on those debtors who are asset poor and who propose making payments out of income.

This is a link to the Scottish Executive's consultation document: <http://www.scotland.gov.uk/Publications/2006/01/20093732/0>

Whether these changes are implemented in Scotland remains to be seen, however, it is not unusual for changes north of the border to precede similar amendments in England.

A change such as this could have a significant impact on work loads for insolvency practitioners, particularly those who have moved towards specialising in IVAs.

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This newsletter is a summary of the legal position at August 2006, it is not intended as a substitute for detailed advice. If you require any further information or have any queries relating to issues raised, please contact Chris Murratt, on 0115 9 100 200 or email [cam@actons.co.uk](mailto:cam@actons.co.uk). Copyright © Actons 2006.