

*These notes refer to the Enterprise Act 2002 (c.40)
which received Royal Assent on 7 November 2002*

ENTERPRISE ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10: Insolvency

Individuals

Section 261: Bankrupt's Home

761. **Section 261** makes provision in relation to the sole or principal residence of the bankrupt, the bankrupt's spouse or the former spouse of a bankrupt, and where the bankrupt has an interest that is comprised in the bankrupt's estate. The section (*subsection (1)*) inserts section 283A into the Insolvency Act 1986. This new section provides that where a bankrupt's estate comprises an interest in such a residence, that interest reverts back to the bankrupt unless within the three year period following the date of the bankruptcy the trustee:
- (a) realises the interest;
 - (b) applies for an order of sale or possession in respect of the premises in which the interest subsists;
 - (c) applies for a charging order over the premises in respect of the value of the interest;
or
 - (d) enters into an agreement with the bankrupt regarding the interest.
762. The section (*subsection (3)*) also inserts a new section 313A into the Insolvency Act 1986 which provides for the dismissal of applications for orders for sale, possession or a charging order in respect of the bankrupt's residence where the value of the bankrupt's interest is below a level prescribed in secondary legislation.