

ENTERPRISE AND REGULATORY REFORM ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Reduction of Legislative Burdens

Agricultural Wages Board

Section 73, Schedule 21: Unnecessary regulation: miscellaneous

Part 3, Schedule 21: Bankruptcy early discharge procedure

511. The EA 2002 introduced provisions into the Insolvency Act 1986 reducing the duration of bankruptcy to 12 months. It also introduced the early discharge provisions. The intention behind the early discharge provisions was to benefit those bankrupts who co-operated with the official receiver's inquiries and who posed no risk to the public or commercial community. These bankrupts would be allowed a 'fresh start' sooner than 1 year.
512. An evaluation of the provisions introduced was carried out in 2007 (as part of the "Enterprise Act 2002 - the Personal Insolvency Provisions: Final Evaluation Report"¹). This evaluation found that early discharge from bankruptcy did not have the desired impact of encouraging early rehabilitation.
513. Part 3 of Schedule 21 repeals section 279(2) of the Insolvency Act 1986 which allows a bankruptcy to end within a year in certain limited circumstances. Discharge from bankruptcy happens in most cases automatically one year from the date of the bankruptcy order (see section 279(1) of that Act). Under section 279(2), a bankrupt may be discharged earlier than the automatic one year by the official receiver filing a notice of early discharge at the court stating that inquiries into the conduct and affairs of the bankrupt under section 289 of that Act are unnecessary or concluded.
514. Before filing this notice the official receiver is required by Rule 6.214A of the [Insolvency Rules 1986 \(SI 1986/1925\)](#) to send notice of his or her intention to begin the early discharge process to all the bankrupt's creditors and to any trustee (if one has been appointed). The official receiver may only file the notice with the court if no objections have been received or if any objections which have been received have been finally determined.