



www.insolvency.gov.uk

Income Payments Agreements and Income Payments Orders



CUSTOMER SERVICE EXCELLENCE



INVESTOR IN PEOPLE

dti

This leaflet provides information about Income Payment Agreements (IPAs) and Income Payment Orders (IPOs). It also covers the questions you are most likely to want answered about IPAs and IPOs.

General

After making a bankruptcy order, you no longer have to make payments to most of your creditors. So you may find you have more income than you need to pay your everyday living expenses. One of the aims of bankruptcy is that creditors should receive at least part payment of what they are owed. To achieve this, your assets will be sold and the money will be split between your creditors. Also, the official receiver or your trustee in bankruptcy will ask you to agree to make contributions towards your bankruptcy debts, if you can afford to, for a period of time - normally 3 years.

What are Income Payment Agreements (IPAs)?

The law allows the official receiver or trustee in bankruptcy to ask you to agree to make regular payments from your income into the bankruptcy estate for a specific period of time. This is an Income Payment Agreement (section 310A of the Insolvency Act 1986). The payments will come from 'surplus income' - spare money you have after paying your living expenses. You enter an IPA voluntarily, but it is a written and formal binding agreement between you and the official receiver or your trustee. The agreement can be varied if your circumstances change, but if you don't make the agreed payments, then your trustee may apply to the court for an order suspending your discharge from bankruptcy. This means that you would be subject to the restrictions of a bankruptcy order for longer. Your trustee can also ask for money to be taken directly from your wages to make the agreed

payments, or take other legal action to recover the unpaid amounts.

What are Income Payment Orders (IPOs)?

The law allows your trustee in bankruptcy to apply to the court for an order that you or your employer make regular payments into the bankruptcy estate from your surplus income for a specific period of time. This is an Income Payment Order (section 310 of the Insolvency Act 1986). The official receiver or your trustee will try to reach an agreement with you about the amount you should regularly pay, without having to apply to the court for the order. But if you can't agree on the amount, and the official receiver or trustee believes that you can make a contribution, they will apply to the court for an IPO.

As an IPO is a court order, if you don't keep up the payments, your trustee may apply to the court for an order suspending your discharge from bankruptcy or can take other legal action to recover the unpaid amounts.

How are the IPA and IPO payments calculated?

The official receiver or trustee will not try to get an IPA, and the court will not make an IPO, if this would leave you without enough money to cover the reasonable domestic needs (the day-to-day living expenses) of you and your family. Your family includes everyone living with you who depends on you. This means children, and any adults who don't have an income. Your trustee in bankruptcy or the court will assess your 'reasonable domestic needs' by examining all the circumstances of your case. There is no fixed amount for an IPA or IPO and each case will depend on individual circumstances.

You will have to give details of your income and spending in:

- your Statement of Affairs, if you have applied for your own bankruptcy, or
- the preliminary information questionnaire (PIQB), if someone else has made you bankrupt.

The Statement of Affairs and the PIQB ask for details of your income and normal monthly expenses, such as rent, food, heating and lighting, and clothing. You will be asked to provide proof of your income and spending, such as payslips, utility bills, rent books etc.

The official receiver or your trustee in bankruptcy will assess your monthly spending to decide whether, in your circumstances, the payments are reasonable. They will deduct your reasonable domestic expenses from your income to find your 'real disposable income'. This is the money that is left over every month after you have paid all your necessary expenses.

Normally, you will have to use between 50% and 70% of your real disposable income every month for your IPA or IPO payments. Generally, the more real disposable income you have, the greater the percentage of it you will have to use for the payments.

If your main or only income is state benefits, the official receiver or the trustee in bankruptcy will not normally try to get an IPA or IPO.

What expenses are allowable as 'reasonable domestic expenses'?

As well as your normal monthly expenses, which include rent or mortgage payments (which are reasonable for the area you live in and the size of your family), food, heating and lighting, clothing etc, here are some examples of things that **can** also be treated as part of your domestic needs:

- TV licence, TV and video hire - one set per household
- Household insurance
- Car tax and insurance (if the trustee decides your car is 'exempt property' and allows you to keep it)
- AA/RAC or similar membership
- Membership of a professional body, needed for your job (unless your employer pays for this)
- Prescriptions/dental treatment/opticians
- Payment under a maintenance order or Child Support Agency assessment
- Mobile phone (a reasonable monthly cost)
- Dry cleaning

This is not meant to be a complete list, and other expenses could be considered.

The following are examples of what is **not** generally treated as allowable expenses (unless there are special circumstances):

- Gym membership, any sports expenses or club membership
- Additional pension contributions to enhance a pension
- Private healthcare insurance
- Money for gambling, alcohol or cigarettes
- Satellite TV
- Broadband internet costs (unless shown to be necessary for paid employment or education)
- Excessive mortgage payments

Note: the official receiver will always consider your views about what is 'reasonable' or necessary spending for your circumstances.

Again, the list is not meant to be complete.

What do I include in my income?

Your income includes all payments you get, including income from self-employment, PAYE

employment, benefits (including child benefit and child tax credit), working tax credit and any payments under a pension scheme.

You will be asked to provide details of your partner's income, as it is assumed that your partner will contribute to the household expenses. You will also be asked to provide details of payments you get from any other member of your household who contributes to household expenses.

If you are not willing to provide this information, you will not be able to claim the full amount of all household expenses.

How long does an IPA or IPO last?

An IPA or IPO normally runs for 36 months (3 years), starting on the date the agreement or order was made. The agreement or order will be made after the bankruptcy order and will normally last beyond your period of discharge from bankruptcy. The agreement or order will say how long it will run for.

What happens if my income changes?

You must contact your trustee (who may be the official receiver) immediately. Your IPA or IPO may be changed to take account of the change in your circumstances.

The trustee may decide to suspend your payments under the IPA or IPO until your situation improves.

What happens if I miss a payment under my IPA or IPO?

If you miss a payment, your trustee will ask you for an explanation and, where possible, arrange for you to pay the arrears over a short time. If the problem is more long term, such as a drop in your income or a necessary increase in your

spending, the trustee will look at the situation again. If your trustee is satisfied that an IPA or IPO is no longer appropriate (for example because you have lost your job or your income has dropped considerably) your trustee will inform you that payments will be suspended or reduced until the situation improves. If this happens, you must tell your trustee if things improve before the term of the IPA or IPO ends. After suspending payments, if you can at any time restart the payments or increase them, the IPA or IPO will continue from that point. However, the arrangement or order will end on the original agreed date.

If you miss making one or more payments, and do not contact your trustee to tell them about any difficulties you have making the payments, the trustee may apply to the court for an order suspending your discharge from bankruptcy. The trustee can also take steps to recover the money you owe, including getting another bankruptcy order. Please note that if you don't make a payment under an IPO, you are in contempt of court and the court may punish you.

Applying a 'Nil tax' code

If you pay tax under PAYE, HM Revenue and Customs (HMRC) will usually apply a 'nil tax' code to you for the rest of the tax year in which you were declared bankrupt. This means that soon after your bankruptcy, your employer will be told **NOT** to take any more income tax from your wages for the rest of the tax year. HMRC applies nil tax codes for various reasons, and the new tax code will not tell your employer you are bankrupt. The nil tax code does not mean no tax is due. It just enables HMRC to claim the whole of your unpaid tax for the year of your bankruptcy.

There will be extra money in your pay because of the nil tax code. This money will form the basis of an IPA or IPO, even if you have no other real disposable income.

A nil tax (or NT) IPA or IPO may be the only amount you have to pay, and the agreement or order will stop when your tax code changes. If you have other real disposable income, the IPA or IPO will reduce when your tax code changes.

Example

Say you were made bankrupt on 15 September 2006 and after all spending is deducted you have real disposable income of £300 a month. It is likely you will have an IPA or IPO to pay £150 a month for 36 months. If you were in PAYE employment, a nil tax code would mean your income for a short period would be higher than normal. Part of your IPA or IPO would be a nil tax IPA or IPO for the tax you would have paid if you have not been made bankrupt, say £400 a month. In those circumstances you would pay £150 a month from the date of the IPA or IPO for 36 months, and an extra £400 from the date the HMRC gave you a nil tax code, up to and including March 2007 when the tax year ends (about 6 months).

More Information

You can get more copies of this booklet from The Insolvency Service website:
<http://www.insolvency.gov.uk/>.

All our publications are also available on this website. You may also order free copies of our publications from the DTI Publications Orderline. To do this you will need the reference number (URN) of the forms required. You can find this on the back cover of the leaflets or on the website. You can order:

by telephone: 0845 015 0010 (calls to this number are charged at national rate);
by email: publications@dti.gsi.gov.uk;
by fax: 0845 015 0020;
Minicom users should telephone: 0845 015 00308

You can also contact The Insolvency Enquiry
Line for general enquiries on 0845 602 9848, or
email us at:
Insolvency.Enquiryline@insolvency.gsi.gov.uk

This booklet provides general information only. Every effort has been made to ensure that the information is accurate, but it is not a full and authoritative statement of the law and you should not rely on it as such. The Insolvency Service cannot accept any responsibility for any errors or omissions as a result of negligence or otherwise.

© **Crown copyright 2007.**

The information in this booklet is subject to Crown copyright protection.

The Crown copyright material may be reproduced free of charge in any format or media without requiring specific permission. This is subject to the material being reproduced accurately and not being used in a derogatory manner or in a misleading context. Where the material is being published or issued to others, the sources and copyright status should be acknowledged. If there were a restriction on reproduction, any other proposed use of the material would be subject to the approval of Her Majesty's Stationery Office Unit. Application should be made to the Copyright Unit, HMSO, St Clements House, 2-16 Colegate, Norwich NR3 1BQ. Tel: 01603 621000 Fax: 01603 723000.

The permission to reproduce Crown copyright material does not extend to any material in this booklet which is identified as being the copyright of a third party. Authorisation to reproduce such material would need to be obtained from the copyright holders concerned. For further details on the licensing of Crown copyright, see current guidance at <http://www.hmso.gov.uk/guides.htm> issued by Her Majesty's Stationery Office.

January 2007

URN 07-611