

## The Personal Insolvency Bill

### - A Brief Summary

This document contains a general summary of developments & is not a complete or definitive statement of the law. Specific legal advice should be obtained where appropriate.

The Government published the “Personal Insolvency Bill” on the 29<sup>th</sup> of June 2012 as part of its plans to reform the laws on personal insolvency and address the large level of personal debt in the country. The Bill, which may be subject to further amendment, is expected to come into effect early next year.

The Bill provides for the following three changes:

- The introduction of three ‘out of court’ debt relief processes** to provide effective alternatives to bankruptcy for individuals and creditors (it must be noted that there will be Circuit Court oversight of the new procedures);
- A) Personal Insolvency Arrangements (“PIA”);
  - B) Debt Settlement Arrangements (“DSA”),
  - C) Debt Relief Notices (“DRN”).

**New bankruptcy reforms** - the most significant change being the reduction of the discharge period from 12 years to 3 years.

**The establishment of an Insolvency service in Ireland** - to operate the new process and to develop insolvency policy in the future.

The reforms are expected to result in a significant increase in personal insolvency related applications as more individuals opt to file for bankruptcy in Ireland or resolve their financial difficulties through the implementation of one of the out of Court debt relief processes rather than ‘Forum shopping’ in other jurisdictions such as the UK.

#### 1a. Personal Insolvency Arrangements (“PIA”)

A PIA is a binding agreement between an individual and his or her creditors involving a compromised settlement of creditors’ claims unlike the other two processes PIA’s include secured liabilities. The key features are as follows; An individual can only propose one PIA in their lifetime;

The debtor’s secured liabilities must be less than €3m (although this limit can be waived with the consent of all secured creditors);

The debtor must owe a debt to at least one secured creditor;

A PIA would normally involve the payment of income by a debtor into the arrangement for a period of up to 6 years (with a possible 12 month extension) but can also involve lump sum payments; On completion of the arrangement, the debtor is discharged from the remainder of their debts;

A PIA is voted on at a creditors’ meeting and requires the agreement of at least 65% (in value) of creditors who vote at the meeting which must include over 50% of secured creditors’ votes and 50% of unsecured creditors’ votes;

The process involves a Personal Insolvency Practitioner who facilitates the process and ensures the arrangement is implemented in accordance with the approved proposal;



### 1b. Debt Settlement Arrangements (“DSA”)

A DSA is a similar mechanism to a PIA although it does not include secured debts and cannot otherwise affect the rights of secured creditors. Other key features are as follows;

An individual can only propose one DSA in their lifetime;

A DSA can last up to 5 years but can be extended by a further 12 months;

The DSA is voted on at a creditors’ meeting similar to the PIA and requires at least 65% of creditors (in value) voting in favour at the meeting before it is approved and becomes binding on all creditors;

Similar to a PIA, the process involves a Personal Insolvency Practitioner who facilitates the process and ensures the arrangement is implemented in accordance with the approved proposal;

### 1c. Debt Relief Notices (“DRN”)

A DRN is designed to provide ‘debt forgiveness’ for insolvent individuals who have little or no assets. It has been designed to be a low cost efficient process to resolve unmanageable debt problems. It creates a moratorium which lasts for 3 years, after which time the individual will be fully discharged from the relevant debts.

An individual must meet the following criteria before a DRN can be proposed:

Unsecured liabilities must be equal to or less than €20,000;

Assets must be less in value than €400 (excluding certain assets such as household items and tools of trade);

Surplus income must be less than €60 per month;

There must be no likelihood of the debtor being able to pay their debts within 5 years of the DRN application;

An individual can only propose one DRN in their lifetime;

A DRN must be reviewed, approved and submitted to the Insolvency service, by an approved intermediary;

A DRN only applies to unsecured debts and cannot otherwise affect the rights of secured creditors.

## 2. Bankruptcy

The new bankruptcy reforms represent a significant change from existing legislation and are expected to result in a substantial increase in bankruptcy applications in the country. The main changes are as follows:

Reduction of the automatic discharge period from 12 years to 3 years;

The Court will have discretion to order a debtor to make income payments into the bankruptcy for a period up to 5 years after discharge;

Creditors can only petition for an individual’s bankruptcy when they are owed more than €20,000;

The Court will be required to consider the financial position of the debtor and whether it may be appropriate to adjourn proceedings to allow for the possibility of a DSA or PIA to be assessed;

New processes are expected to make the bankruptcy application process more efficient.

## 4. Insolvency Service

The Bill proposes the establishment of an independent body, to be known as the Insolvency Service, which will be responsible for monitoring the operation of the debt relief processes as summarised above. The role will involve considering applications for DRNs, processing applications for protective certificates, and maintaining registers of Arrangements agreed under the new legislation. The Director Designate of the Insolvency Service is expected to be appointed by the Minister for Justice.

**This is a general summary and is not a complete or definitive statement of the law. Specific legal advice should be obtained where appropriate. For advice on any matters relating to Debt or personal Insolvency please contact:-**

Grattan Butler

Personal Insolvency Group

Tel: +353 (0)749731174

Email: [grattan@barrylaw.ie](mailto:grattan@barrylaw.ie)



D.P.Barry & Co, Solicitors,  
Bridge Street, Killybegs,  
County of Donegal  
Tel: +353 (0)749731174  
Email: [info@barrylaw.ie](mailto:info@barrylaw.ie)  
[www.barrylaw.ie](http://www.barrylaw.ie)



**DP Barry & Co**  
Solicitors, Land Agents and Notary Public