Money Matters

A series of weekly articles by Quintas Experts

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THE PERSONAL INSOLVENCY BILL explained

The Draft Personal Insolvency Bill amends outdated bankruptcy laws in Ireland as well as introducing a scheme for out of court settlement arrangements between debtors and banks or creditors.

There are three strands to the out of court settlement procedures –

1 **Debt Relief Notice (DRN)** – This strand will permit the write-off of qualifying debts up to a maximum of €20,000. You will be eligible for this if you have virtually no income, no assets, and have no realistic prospect of being able to pay your debts within the next three years. A DRN can last for up to three years, and if there is no change in circumstances the debts will then be written off.

2 **Debt Settlement Arrangement (DSA)** – This strand relates to persons with unsecured debts in excess of €20,000. This is an agreement prepared by a Personal Insolvency Practitioner (PIP) between debtors and creditors to repay an amount of unsecured debt over a period of five years. Where a debtor performs all of his/her obligations specified in the DSA for the five years, s/he shall stand discharged from the remainder of the debts covered by the DSA.

3 **Personal Insolvency Arrangement (PIA)** – This final strand applies to all debt secured or unsecured over €20,000 and less than €3,000,000 (or more in certain instances). A PIP will be appointed to assess the payment capacity of the debtor. This practitioner will then propose a PIA to repay an amount over a period of six years to the creditors. If the PIA is successfully completed, all the unsecured debt is discharged and the secured debt is discharged only to the extent specified in the arrangement.

Importantly a PIA will in general not require you to sell your family home as required under bankruptcy (now a three year timeframe). However all debtors availing of any of the above arrangements will be published on a publicly accessible register.

Small businesses need to be wary as personal insolvency is not just bank debt, it is for all debt and there is a train of thought that some individuals that did not have the wherewithal to become 'bankruptcy tourists' in the UK have been preparing to take advantage of the new legislation here. In particular businesses that advance credit need to look hard at their debtors and ramp up their credit policies if necessary before the legislation is enacted which could be as soon as four weeks.

On the other side, overstretched borrowers should be meeting with an insolvency practitioner to tease out the pros and cons of a PIA versus Bankruptcy so they can make a decision and finally move on with their lives.

In summary this new personal insolvency law will strengthen the hand of over stretched debtors to negotiate with their creditors but there will be no easy way out!

**The information as outlined above on the Personal Insolvency Bill is correct at the time of writing and subject to change.*

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