



## **Update of the Personal Insolvency Act 2012**

### **Overview**

The Personal Insolvency Bill was signed into law on 26 December 2012. As of 31<sup>st</sup> July, all sections of the Act had been commenced by ministerial order. Following on from our summary of the Personal Insolvency Act 2012, here is an update on some recent developments.

### **A Debtor's Perspective**

- Debtors wishing to avail of a debt settlement regime under the Act must seek advice from an authorised Approved Intermediary (AI) or Personal Insolvency Practitioner (PIP) to ensure they satisfy certain eligibility criteria.
- Subject to meeting this criteria, a variety of restructuring options are potentially available, i.e. extension of repayment timeframe; debt write-offs; write-downs of negative equity; split mortgages; and alterations to interest rates.
- The AI or PIP retained by the debtor will advise in the best available options on the basis of the individual debtors personal and financial circumstances.

### **A Creditor's Perspective**

- Creditors must ensure that they have proper systems and procedures in place to process applications received from debtors for any of the three new debt settlement regimes provided under the Act.
- While active participation in the process itself will not guarantee that a creditor's position will not be adversely affected, it will at least permit creditors to minimise potential losses insofar as possible in the circumstances.
- All creditors should ensure they are fully informed of the statutory restrictions on creditors seeking to recover a debt during the currency of any of the debt settlement regimes under the Act.

*performance  
through  
partnership*

- Creditors should also be aware of the provisions relating to submissions, proof of claims, security valuations, participation at creditor meetings, voting rights, appeal entitlements and statutory time-frames.

### **The Insolvency Service of Ireland**

- The Insolvency Service of Ireland (ISI) started accepting applications for Debt Relief Notices and Protective Certificates for Debt Settlement Arrangements and Personal Insolvency Arrangements on 9 September 2013.
- The ISI has also released guidelines on what might be considered to be “reasonable living expenses” and has published various ‘scenario packs’ illustrating how each of the three new debt settlement regimes provided under the Act will operate in practice.

### **Qualification and Supervision of AIs and PIPs**

- The ISI has made various Regulations prescribing the qualification criteria, licencing requirements and regulatory standards relating to both Approved Intermediaries (AIs) (dealing with debt notices) and Personal Insolvency Practitioners (PIPs) (dealing with Debt Settlement Arrangements and Personal Insolvency Arrangements).
- The ISI has also published list of authorised AI’s and PIPs. As at 30 September 2013, eight persons have been authorised to act as AIs and 49 have been authorised to act as PIPs, although it is understood that over 100 applications for PIP licences have been received by the ISI.
- A list of authorised AIs and PIPs is available on the ISI website.

### **Specialist Judges**

- Six specialist judges have been appointed to the Circuit Court, which has specific jurisdiction to deal with applications under the Act where the debtor’s total liabilities are €2.5 million or less. Where a debtors liabilities exceed this amount, applications under the Act must be made to the High Court.

### **Pre-Bankruptcy Dispositions**

- Part 4 of the Act makes a number of significant changes to the Irish Bankruptcy regime. This part of the Act is expected to be commenced by ministerial order shortly.
- The most significant of these changes is the substantial increase in the “look-back” periods.
  - In respect of fraudulent preference, the look-back period will be extended from one to three years, during which time certain transactions remain potentially at risk of being set aside in the event if a debtor becoming bankrupt.

*performance  
through  
partnership*

- In such circumstances, a creditor may be forced to repay any monies received during the periods to the Official Assignee.
  - The look-back period in respect of fraudulent/voluntary conveyances will increase from two to three years.
- It is estimated that between 3,000 and 4,000 applications for Debt Relief Notices and approximately 15,000 applications for Debt Settlement Arrangements and Personal Insolvency Arrangements will be made in the first year of the new insolvency regime.

**cooney**carey.

**Chartered Accountants,  
Taxation & Business Advisors**

The Courtyard, Carmanhall Road,  
Sandyford, Dublin 18, Ireland

**t** +353 (0)1 677 9000

**f** +353 (0)1 677 9805

**e** [info@cooneycarey.ie](mailto:info@cooneycarey.ie)

[www.cooneycarey.ie](http://www.cooneycarey.ie)