

# Debt Relief Notice - A Guide

## What is a Debt Relief Notice?

A **Debt Relief Notice** is one of three completely new measures contained in The Personal Insolvency Bill 2012 which was passed into law in Ireland at the end of 2012 and which is intended to offer non-judicial debt settlement arrangements to debtors with personal debt problems.

This guide is intended to provide the layman with a brief summary of the provisions of the **Debt Relief Notice** or **DRN**. In separate guides we provide summaries of the other two measures contained in the bill, namely **Debt Settlement Arrangement** or **DSA** and **Personal Insolvency Arrangement** or **PIA**.

Before seeking to avail of any of these measures the insolvent debtor should obtain independent legal and/or financial advice from an authorized organisation or a qualified professional such as a local Free Legal Advice Centre (FLAC) the Money Advice and Budgeting Service (MABS), a solicitor, a qualified accountant, a licensed and authorised insolvency practitioner, a debt advice provider, a reputable financial adviser or a debt advice centre. It is expected that the reliefs provided by these measures will be available to citizens by the second quarter of 2013.

## Who can do a Debt Relief Notice?

The **DRN** is suitable for any insolvent person whose total unsecured debts are less than €20,000 and who has few assets and low income and who has no likelihood of becoming solvent within the next three years.

The assets or savings the debtor may have cannot exceed €400 other than a motor vehicle of up to €2,000 in value and certain household items and business-related books, tools and equipment of up to €6,000 in value. In addition, one item of jewellery may be retained with a value of up to €750.

Monthly net disposable income, i.e. the surplus that is left over after all reasonable living expenses and payments relating to excluded debts are paid, must be less than €60. Unsecured debts would include credit card and store card debts, overdrafts, loans

and utility bills. A **DRN** application cannot be made if the debtor incurs 25% or more of the relevant debts in the six months period preceding the date of application for a **DRN**.

The debtor must be ordinarily resident in Ireland and must not, in the two years period preceding the application for a **DRN**, have entered into a transaction at an undervalue which has contributed to his financial difficulties nor given a preference to a person that has substantially reduced the amount available to discharge his other debts.

There are some other restrictions relating to eligibility for a **DRN** which mainly relate to the debtor availing of certain other financial solutions within certain time parameters.

## Can creditors refuse to agree to a Debt Relief Notice?

The consent of creditors is not required for a **DRN** to be approved. Provided the debtor is insolvent i.e. unable to pay his or her debts as they fall due and provided he or she complies with the eligibility requirements in regard to debts, assets and income as outlined above, then creditors cannot prevent a debtor from applying for a **DRN** and having it approved. If any creditor wishes to object to the granting of a **DRN**, they do of course have recourse to the courts where they may lodge their objection and seek satisfaction.

## How much does the debtor in a Debt Relief Notice have to pay to creditors?

If the debtor's financial circumstances do not change during the term of the **DRN**, then he or she will have nothing whatsoever to pay to creditors in respect of the qualifying unsecured debts. Should the debtor's financial circumstances change for the better then they may be obliged to make payments to The Insolvency Service during the term of the **DRN**.

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## How long will a Debt Relief Notice last?

A **DRN** will normally last three years, the period of supervision. The court may however, on the request of The Insolvency Service extend the term of the **DRN** for a variety of reasons and the court may make whatever other order it sees fit in relation to the **DRN**. Should the debtor's net income increase by €400 or more per month during the term of the **DRN**, he or she must contribute at least 50% of the increased income to The Insolvency Service who will distribute it to creditors.

Should the debtor receive a payment or gift in excess of €500 during the term of the **DRN**, he or she must contribute 50% of the relevant sum to the **DRN**, again for the benefit of creditors.

Should the debtor, who is subject to the **DRN**, contribute to The Insolvency Service a sum or sums amounting to not less than 50% of the specified debts, the **DRN** ceases to have effect and the debtor's name is removed without delay from the **DRN** register.

## Who regulates the Debt Relief Notice?

The government has established a body called The Insolvency Service whose primary function is to monitor the operation of the three new debt settlement arrangements including **DRNs**, as provided for in The Personal Insolvency Bill 2012. Included in its other functions are to consider applications for **DRNs**, to process applications for protective certificates, to maintain Registers for each of the three new debt settlement arrangements and to authorize persons to perform the functions of **Approved Intermediaries** or **AIs**.

## Who acts as an approved intermediary and what is their function?

An **Approved Intermediary** or **AI** is someone who is authorized by The Insolvency Service to advise the debtor in regard to their options and to assist the debtor in the preparation of an application for a **DRN**.

It is expected that most **AIs** will be persons already employed by

MABS although the legislation does not preclude other suitably qualified and experienced persons from being authorized by The Insolvency Service to act as **AIs**.

No fee is chargeable to the debtor by the **AI** for their services. The debtor submits to the **AI** a written statement disclosing all of their financial affairs and all relevant information relating to their creditors, debts and other liabilities and assets. The **AI** then meets with the debtor and provides information and advice as to whether the debtor satisfies the criteria for a **DRN** and advises them on the other options that may be available to them in relation to their debts including a **DSA**, a **PIA** or bankruptcy and the consequences, including any adverse consequences, for the debtor in pursuing any of those options. The **AI** also confirms what if any fee is payable to The Insolvency Service in applying for a **DRN**. The fee is expected to be €90. The debtor must confirm to the **AI**, in writing, if they wish to proceed with a **DRN** application and following that confirmation, a Prescribed Financial Statement is prepared with the assistance of the **AI** in which the debtor discloses all relevant information in regard to assets, debts and income. Provided the **AI** is satisfied that the debtor meets the criteria for applying for a **DRN**, the application is completed and submitted with any relevant fee to The Insolvency Service.

## How is the Debt Relief Notice application approved?

The Insolvency Service considers the **DRN** application and if satisfied issues a certificate to that effect and refers the **DRN** application together with supporting documentation to the court. The court may hold a hearing where it requires further information or evidence to enable it to reach its decision. If the court approves the application, it issues a **DRN** and notifies The Insolvency Service which in turn records the **DRN** on the Register of Debt Relief Notices. At this stage the **DRN** takes effect and The Insolvency Service notifies the **AI**, the debtor and the creditors. It will remain in place for three years and at the end of that time the qualifying debts are written-off without affecting the rights of the debtor's secured creditors, if any, to enforce their security.

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