

Glossary

2012 Act - The Personal Insolvency Act 2012 as amended.

Affidavit - A written, signed and sworn statement which allows a person to formally affirm something to be true before a person that is authorised to witness them (such as a practicing solicitor, Commissioner for Oaths or an officer of the Court)

Asset - A possession that has some monetary value or can produce a cash flow. An asset can therefore be used to discharge debts.

or

Section 3 of the Bankruptcy Act defines property as “... money, goods, things in action (a right to sue someone), land and every description of property whether real or personal and whether situate in the State or elsewhere; also obligations or easements, and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as above defined”. When someone is made bankrupt all of their assets and property vest in the Official Assignee (Section 44 of the Act) for the benefit of their creditors.

See also Property

Bankruptcy - Bankruptcy is a process where the ownership of a person’s property who cannot pay his/her debts transfers to the Official Assignee in Bankruptcy to be sold. Bankruptcy proceedings are brought in the High Court. When the property or assets are sold, the expenses, fees, costs, and certain priority debts are paid. The net proceeds are paid to those owed money (creditors) and any outstanding debt will be written off. It normally lasts for 3 years.

Bankruptcy Inspector - The Bankruptcy Inspector is a member of staff of the Bankruptcy Division of the ISI whose role it is (among other functions) to serve bankrupt persons with a copy of the Bankruptcy Order and Warrant of Seizure when they are made bankrupt.

Bankruptcy Order - This is the order the Court makes when it adjudicates a person bankrupt having dealt with his/her petition for bankruptcy. This may also be called the adjudication order.

COMI (Centre of Main Interest) - The centre of main interest is the place where the debtor conducts the administration of his interests on a regular basis and is therefore ascertainable to third parties.

Creditor - A person who is owed money by a debtor.

Debt - Debt is a liability that a person must pay.

Debtor - A person who owes money (a debt) to a creditor.

Debt Relief Notice (DRN) - A DRN is a personal insolvency process provided for under the Personal Insolvency Act, allowing for the write off of qualifying debts up to €20,000, subject to satisfaction of certain conditions

Debt Settlement Arrangement (DSA) - A DSA is a personal insolvency process provided for under the Personal Insolvency Act, allowing for the write off of qualifying unsecured without limit, subject to agreement of creditors and satisfaction of certain conditions

Estate - A name for all of a bankrupt person's assets or property which the Official Assignee deals with in order to pay their creditors

Equity - Equity is the value of any assets/property you own after any debts are paid. In the context of your property, your equity in property refers to the difference between its market value and the mortgage you owe on it.

Income payment agreement - A written agreement between a bankrupt person and the Official Assignee to pay the Official Assignee his/her surplus salary or other income for up to 5 years, after Reasonable Living Expenses have been deducted.

Income payment order - This is similar to an income payment agreement but this is where the Court orders a bankrupt person to pay the Official Assignee his/her surplus salary or other income for up to 5 years after Reasonable Living Expenses have been deducted.

Insolvency Service of Ireland (ISI) - The ISI is the statutory body established under the Personal Insolvency Act 2012 which is responsible for, amongst other things, monitoring the operation of the arrangements relating to personal insolvency; the authorisation and regulation of Personal Insolvency Practitioners; certain other functions specified in that Act and bankruptcy.

Insolvent - Where a person is unable to pay his or her debts in full as they fall due

Interest - A right to, or share in, a property.

Iris Oifigiúil - Iris Oifigiúil is the State gazette. It is the official means by which the Government makes public announcements regarding appointment to Public offices and publishing proclamations, statutory instruments, etc.

Legal charge - A form of security (e.g. a mortgage) to ensure payment of a debt.

Negative Equity - This is used to describe a situation where the market value of your house is less than the balance you owe on your mortgage

New Arrangements - "New arrangements" refers to the three new measures introduced under the Personal Insolvency Act 2012 — the Debt Relief Notice; Debt Settlement Arrangement and Personal Insolvency Arrangement.

Official Assignee in Bankruptcy - The Official Assignee is an officer of the Court to whom the ownership of the property of bankrupt persons is transferred on the making of a bankruptcy order. He administers the estate of the bankrupt person and is the head of the bankruptcy division within the ISI. He is an independent statutory officer answerable to the Bankruptcy Judge in relation to the exercise of his functions.

Office of the Examiner of the High Court - One of the functions of this office of the High Court is to administer the bankruptcy list of the High Court. All documents which need to be filed for the bankruptcy list are filed here.

Office of the Examiner of the High Court
Courts Service,
2nd Floor, Phoenix House,
Smithfield, Dublin 7
Phone: 01 888 6269 / 6219
email: Examinersmail@courts.ie

Personal Insolvency Arrangement (PIA) - A PIA is a personal insolvency process provided for under the Personal Insolvency Act, allowing for the write off of qualifying unsecured debt without limit and secured debt to a maximum of €3m (or higher with agreement of secured creditors), subject to agreement of creditors and satisfaction of certain conditions.

Personal Insolvency Practitioner - A Personal Insolvency Practitioner (PIP) interfaces between the debtor and his or her creditors in relation to a PIA or DSA and is authorised and regulated by the Insolvency Service of Ireland and has functions under the 2012 Act with respect to a PIA or DSA.

Petition for bankruptcy - This is a document that must be completed by a debtor in order to apply to Court to be made bankrupt. It must be stamped in the Stamp Office and filed in the Examiner's Office

Prescribed Financial Statement - A statement in prescribed form of the debtor's full financial position detailing his or her income, expenditure, assets and liabilities.

Protective Certificate - A certificate issued by a court which protects the debtor against legal proceedings by a creditor in respect of debts for a limited time while a PIA or DSA is being put in place.

Secondary proceedings - Where prior (main) insolvency proceedings have been issued in a Member State of EU (e.g. England), a second set of insolvency proceedings can still be issued in a second Member State (e.g. Ireland), where the debtor has an establishment (a place where he carries on business). The proceedings can only administer assets within the second Member State (Ireland), with all other assets worldwide being administered by the administrator/ trustee in the main proceedings in first Member State (England).

Secured creditor - A creditor who holds a specific claim (usually a property interest) over one or more of your assets as security for a secured debt, such as a mortgage or charge over a house used as security for a housing loan.

Secured debt - A debt backed or secured by an asset to reduce the risk associated with the debt by use of arrangements which make the asset available to the secured creditor to discharge the debt before general/unsecured creditors (e.g. a mortgage or charge over a house used as security for a housing loan). If the debtor defaults or fails to meet one of the terms of repayment, the Bank may seize the debtors' house to sell, using the proceeds towards the settlement of outstanding secured debts.

Statement of Affairs - A document that is sworn by a debtor, setting out his/her assets/property, liabilities, income and expenditure at adjudication

Statutory Court Sitting - A Court sitting after adjudication of bankruptcy before which a notification is placed in the Iris Oifigiil and a national daily newspaper* where the bankrupt person must attend and make full disclosure of his/her property and his/her creditors may prove their debts.

Statutory Declaration - A written, signed and witnessed statement which allows a person to formally affirm something to be true before a person authorised to take statutory declarations (such as a practicing solicitor) in accordance with the Statutory Declarations Act 1938.

Unsecured creditor - A creditor who does not have a specific claim (usually a property interest eg mortgage) over the debtor's assets.

Unsecured debt - A debt where the unsecured creditor would not be entitled to seize specific assets if the debtor fails to make repayments because that creditor does not hold security (eg mortgage) over those assets.

Vesting - The process whereby upon the making of a bankruptcy adjudication order, the ownership of a person's property transfers to the Official Assignee.

Warrant of Seizure - This is a document which accompanies the order of adjudication and enables the Bankruptcy Inspector to seize a debtor's property. This is served upon adjudication on a debtor together with the bankruptcy order.

Source: This glossary is a copy of the glossary to be found on The Insolvency Service of Ireland website - <http://www.isi.gov.ie/en/ISI/Pages/Glossary> - due to position and authority held by the ISI we believe there is no better source for this information and we thank the ISI for the availability.