

Amendments to Bankruptcy Laws

On 30th June 2011, Mr. Alan Shatter T.D., Minister for Justice and Equality, delivered a speech to the Seanad regarding the Civil Law (Miscellaneous Provisions) Bill 2011.

The Bill appears to have a very large scope and refers to over 40 Acts of the Oireachtas. Given the current state of the economy, one of more relevant issues covered related to bankruptcy laws. The Minister even noted that “the provisions in Part 7 of the Bill on bankruptcy have already got more attention than anything else”.

The proposed change regarding bankruptcy will amend the Bankruptcy Act, 1988 (section 85) and will reduce the number of years a person is deemed bankrupt from the current 12 years to five years. The decision regarding the discharge from bankruptcy will still be subject to the existing conditions relating to payment in full of all expenses, fees and costs of bankruptcy as well as all preferential payments (unpaid taxes to the Revenue Commissioners, unpaid local rates, wages etc.). The Minister noted that this “will afford a chance to people to recover and to begin anew”.

There is also a further proposed change in section 85 of the Act which provides for automatic discharge of bankruptcy on the 12th anniversary of the adjudication of cases. There are currently over 300 of these long-term “legacy bankruptcies” in the judicial system.

The Minister also noted in his speech that there is a Personal Solvency Bill currently being developed to provide a framework for settlement and enforcement of debt and for personal insolvency. There is an EU/IMF deadline set for the publication of this Bill in Q1 2012 but the Minister noted that it is his objective to publish in advance of this if possible. One of the key objectives of this Bill will be to get a balance between the interests of both the debtors and creditors involved and have a system in place that can avoid expensive bankruptcy procedures and court involvement.

For a copy of Minister Shatter’s speech, see www.justice.ie/en/JELR/Pages/SP11000102.