



**Information Note
on Commencement
of New Bankruptcy
Act on 29/1/16**



ISI

Tackling problem debt, together

1 Information Note

The ISI welcomes the commencement by the Minister for Justice and Equality of new bankruptcy law changes contained in the Bankruptcy (Amendment) Act 2015.

The new provisions which have been commenced with effect from 29 January 2016 are:

- Reduce the bankruptcy term from 3 years to 1 year.
- Reduce the income payment period from 5 years to 3 years.
- Provide for the re-vesting of family homes in debtors, where the Official Assignee has not issued proceedings for the sale of the property within 3 years of the adjudication of bankruptcy individual involved.
- Widen the powers of the Official Assignee to disclaim assets in bankruptcy estates which have no value to the estate, yet may involve a burden on the estate.
- Extend the discharge period in bankruptcies up to 8 years and up to 15 years; depending on the seriousness found by the Court of non co-operation with and/or non- disclosure of assets to, the Official Assignee.

The Act also envisages the abolition of a second Court sitting which persons declared bankrupt must subsequently attend. The ISI understands this change has not yet been commenced as it requires Court Rule amendments which should be finalised in the near future.

2 Transitory Provisions

The new Act contains transitory provisions in relation to current bankruptcies dealing with the early discharge of individuals, termination of existing Income payment orders and the re-vesting of family homes.

The following tables sets out the position in this regard:

1. DISCHARGE DATES FOR UNDISCHARGED BANKRUPTS ON 29/1/16

Group	Dates of adjudication	Date of discharge
A	On or before 29/7/13	Original 3 year discharge date
B	Between 30/7/13 and 29/7/15	29 th July 2016
C	On or after 30/7/15	1 st anniversary of date of adjudication.

Discharge can be extended for up to 15 years in cases found by Court to have involved serious non co-operation with or non-disclosure of assets to the Official Assignee.

2. INCOME PAYMENT ORDERS – TERMINATION DATES

Group	Expressed Date of Expiry Of Order	Terminate*
A	On or Before 29/7/16	Original expiry date
B	On or after 30/7/16	No later than the 3 rd anniversary of the IPO

*if not subsequently ordered to terminate earlier

An income payment order can be made for up to 5 years where the Court finds serious non-disclosure and or non co-operation.

3. RE-VESTING OF FAMILY HOMES IN BANKRUPTS

Subject to provisions of amended S 85(3) of Bankruptcy Act where the Official Assignee does not issue proceedings seeking sale of the family home within 3 years of adjudication, the family home may re-vest in the bankrupt. If you do not wish the family home to re-vest please indicate by return correspondence as there is provision in the legislation that covers this.

Re-vesting dates for Undischarged Bankrupts and discharged bankrupts where the family home continues to vest in the Official Assignee on 29/1/16, where the Official Assignee has not issued proceedings for the sale of the family home within 3 years¹ of adjudication are:

Group	Dates of adjudication	Date of re-vesting
A	On or before 29/7/13	29 th July 2016
B	On or after 30/7/13	3 rd anniversary of adjudication

¹ There will be no automatic re-vesting where:

- a) the Official Assignee and the bankrupt agree in writing that the property does not re-vest.
- b) the Court orders that the property does not re-vest.
- c) the Court extends the 3 year period and re-vesting does not happen until the date the Court specifies.