

DEBT RESOLUTION IN MODERN ÉIRE: ADVANCES IN PERSONAL BANKRUPTCY, CORPORATE RESCUE AND CROSS-JURISDICTIONAL ISSUES

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ABSTRACT

This article looks at how bankruptcy law in Éire has changed over the past decade, from the stringent provisions of the Bankruptcy Act 1988 to the more debtor-friendly rules of the Personal Insolvency Act 2012. It talks about important changes, such as the integration of EU-linked bankruptcy registers, the European Union (Preventive Restructuring) Regulations 2022, which strengthen directors' duties to consider creditors' interests, the upcoming Protection of Employees (Employers' Insolvency) Bill, and cross-border recognition after Brexit in important cases like *Re Keating (2025)* and *Re Mercer Agencies Limited [2025]* IEHC 261.

The analysis discusses the increase in corporate bankruptcies in 2024-2025 as a return to pre-pandemic norms, the low use of rescue processes like examinership and SCARP, and the equity issues in personal debt relief shown by high-profile cases. Even though reforms have made the system more up-to-date and easier to use, there are still problems with predictability, consistency across jurisdictions, and fair treatment of both debtors and creditors. As Éire draws closer to 2030, the article suggests that targeted changes to the law are needed to make the insolvency system truly fair, strong, and equipped to help people get back on their feet.

Keywords: *Insolvency Law, Debt, Éire, UK, EU*

INTRODUCTION

Éire (Ireland) only had one way to deal with personal bankruptcy in modern law until 2011. That was bankruptcy according to the Bankruptcy Act of 1988.¹¹⁰² That type of bankruptcy remained very negative, and unless they employed some technical methods, like making a deal with their creditors, a person who was declared bankrupt could usually expect to die that way. Notably, there were only eight bankruptcy cases in 2008, the year of the global financial crisis. In Éire, this was shown by a liquidity and solvency crisis in credit institutions and a big drop in the property market.¹¹⁰³ The

Law Reform Commission worked extensively for two years and issued three reports: a consultation paper in 2009, an interim report in 2010, and a final report on *Personal Debt Management and Debt Enforcement* in 2010. The Government quickly adopted such suggestions for a new system of personal bankruptcy law. The Personal Insolvency Act 2012¹¹⁰⁴ was the outcome.¹¹⁰⁵

As reported by the 'Law Society Gazette' in 2019, this change in policy has led to a completely new and radical way of dealing with personal debt, bankruptcy, and insolvency in Ireland. The

¹¹⁰² Bankruptcy Act 1988

¹¹⁰³ John Phelan, 'Going for Broke' (Law Society Gazette2023) <<https://www.lawsociety.ie/gazette/in-depth/ten-years-of-personal-insolvency-law>> accessed 7 March 2026.

¹¹⁰⁴ Personal Insolvency Act 2012

¹¹⁰⁵ Sorcha Corcoran, 'Renaissance and Reformation' (Law Society Gazette2025) <<https://www.lawsociety.ie/gazette/in-depth/2025/november/renaissance-and-reformation/>> accessed 7 March 2026.

law made a number of debt solutions for people who are bankrupt, in addition to the option that was already available: bankruptcy. It also combined the Office of the Official Assignee, which dealt with bankruptcy, with the new ISI. Personal Insolvency Arrangements (PIAs) are the most common solution for mortgage debt. They aim to keep the debtor in their family home and make up 40% of all solutions sought. In terms of mortgage debt, the ISI's research found that the three most common changes that practitioners make as part of a PIA are splitting the mortgage, extending the term, and lowering the principal. One important part of the act is that it gives debtors the same rights and options for getting out of debt, no matter who they owe money to (for example, a main pillar bank, an investment fund, a credit union, a utility company, etc.). This is a big plus for debtors and for anyone else who is helping them with ongoing loan sales to investment funds, also known as "vulture funds."¹¹⁰⁶

Since the Personal Insolvency Act 2012 was passed, Irish insolvency law has changed in response to the economy getting stronger, changes in the law, EU directives, and the significant alterations that Brexit triggered. This article looks at important changes in both personal and business bankruptcy, such as the creation of an EU-linked online bankruptcy register, stronger rules for directors to keep creditors' interests in mind, better protections for employees in cases of employer bankruptcy, and new ways for judges to recognise Northern Ireland's arrangements after Brexit. It also talks about new trends in the number of bankruptcies, which are a sign that corporate failures are becoming more common after the pandemic, as well as ongoing discussions about fairness and equity in personal debt relief, especially in high-profile cases. The discussion, which originates from the collation of a variety of sources explored in a research trail, shows that the system has become more advanced

and able to help people who have been in crisis, but it still has problems with making issues easier for everyone, being predictable across jurisdictions, and treating debtors and creditors fairly in a changing economy.

DEVELOPMENTS IN INSOLVENCY LAW

As reported by the 'Law Society Gazette' in 2018, by the middle of 2019, all EU member states were obligated to have in place an online bankrupts' register that is the same as the system used in the EU. These were be linked to the main EU justice portal. In the second phase, the register would connect to cross-border bankruptcy lists and the Insolvency Service of Ireland register, but it will not take the place of the latter. The register would also have personal bankruptcies, corporate bankruptcies, and insolvency arrangements. The bankruptcy register showed cases from the most recent to the oldest, which goes back to the foundation of the Free State in 1922. It displays the cases in both chronological and numerical order.¹¹⁰⁷

Another development occurred in 2020, when the High Court ordered a personal insolvency practitioner to pay €6,000 in legal fees for giving misleading data about their client. Mr. Justice Denis McDonald said that the practitioner had falsely claimed when they said they had checked their debtor's income, according to personal insolvency rules. This is the first time a practitioner had been fined with a costs order for how they operated in a personal insolvency arrangement application. The amount was about two-thirds of what the personal insolvency practitioner would have made if the arrangement had worked out.¹¹⁰⁸

'Irish Legal News' outlined in 2023 how, under common law, Irish courts have long acknowledged that directors of bankrupt companies are required to take creditors'

¹¹⁰⁶ Cormac Keating, 'A Second Bite at the Cherry' (Law Society Gazette 2019) <<https://www.lawsociety.ie/gazette/in-depth/a-second-bite-at-the-cherry>> accessed 7 March 2026.

¹¹⁰⁷ Bankrupts 'Personal Info to Stay Online Permanently' (Law Society Gazette 2018) <<https://www.lawsociety.ie/gazette/top-stories/2018/10-october/bankrupts-register-goes-onlinenew-page/>> accessed 7 March 2026.

¹¹⁰⁸ Personal Insolvency Practitioner Ordered to Pay Legal Costs after Misleading Court (Irish Legal News 30 January 2020) <<https://www.irishlegal.com/articles/personal-insolvency-practitioner-ordered-to-pay-legal-costs-after-misleading-court/>> accessed 7 March 2026.

interests into account. The European Union (Preventive Restructuring) Regulations 2022,¹¹⁰⁹ which added section 224A to the Companies Act 2014,¹¹¹⁰ have strengthened this idea. According to this clause, a director must take into account the interests of creditors, take action to prevent insolvency, and refrain from wilful or egregiously careless behaviour that jeopardises the company's viability if they believe or have reasonable grounds to believe that a company is or is likely to be unable to pay its debts. If a company's liabilities exceed its assets, if it is unable to pay its debts on time, or if certain statutory demands or judgements are still outstanding, it is considered unable to pay its debts. Enforcement usually takes place through the company or its liquidator because these obligations are owed to the company rather than directly to creditors. Although their use is not required, the Regulations also introduced early warning tools to assist directors in identifying possible financial difficulties. Furthermore, although not legally binding in Éire, the UK Supreme Court's ruling in *BTI v. Sequana* [2022]¹¹¹¹ made it clear that directors' obligations to take creditors into account arise when insolvency is likely or the company is on the verge of insolvency rather than when there is only a real risk of insolvency. This ruling is likely to be persuasive and broadly aligns with the Regulations' approach.¹¹¹²

In 2024, RTÉ reported that a new Protection of Employees (Employers' Insolvency) Bill¹¹¹³ was being drafted to make workers safer when their employer goes bankrupt. The Bill will make it easier for more people to get help from the Insolvency Payments Scheme. This includes employees of businesses that stop doing business without going through formal bankruptcy, receivership, or liquidation, as well as employees of sole traders who are in

personal insolvency arrangements other than bankruptcy. It would also cover Circuit Court awards for gender discrimination and claims that go back to October 1983. All payments made through the scheme would be subject to a legal limit of €600 per week. Ministers stressed that the law would make it easy for workers to receive back what they are owed, even if the case is old or the employer has simply walked away. The Office of the Attorney General was tasked with writing the Bill.¹¹¹⁴

A recent Irish High Court ruling, *Re Keating (application for recognition of IVA of Raymond Hugh Gallogly)*,¹¹¹⁵ has been hailed by Philip Lee lawyers as a significant development for cross-border insolvency following Brexit. The case concerned a Northern Ireland-agreed Individual Voluntary Arrangement (IVA), a legal debt-resolution procedure that permits a debtor to pay creditors according to predetermined terms rather than filing for bankruptcy. As the debtor had ties to Ireland, the IVA supervisor, Séamas Keating, filed an application with the Irish High Court to have the agreement recognised and upheld there. In addition to recognising the IVA, the court imposed a stay that prohibits creditors from acting until the agreement is finalised. The ruling is important because, prior to Brexit, the EU Insolvency Regulation (Recast)¹¹¹⁶ automatically recognised UK bankruptcy proceedings throughout all EU member states. Following the conclusion of the Brexit transition period, UK proceedings are no longer subject to this automatic recognition regime. In order to acknowledge and support UK insolvency procedures, the courts must now rely on their inherent jurisdiction and common law principles. The court's strategy probably involved determining whether the Northern Irish IVA was sufficiently comparable to Irish personal insolvency mechanisms under the Personal Insolvency Act 2012, even though a

¹¹⁰⁹ European Union (Preventive Restructuring) Regulations 2022

¹¹¹⁰ Companies Act 2014

¹¹¹¹ [2022] UKSC 25

¹¹¹² Analysis: Directors' Duties to Consider Creditors — Navigating Recent Developments (Irish Legal News 21 February 2023) <<https://www.irishlegal.com/articles/analysis-directors-duties-to-consider-creditors-navigating-recent-developments>> accessed 7 March 2026.

¹¹¹³ Protection of Employees (Employers' Insolvency) Bill

¹¹¹⁴ Brian O'Donovan, 'New Law to Protect Workers If Employer Becomes Insolvent' RTE.ie (30 May 2024) <<https://www.rte.ie/news/business/2024/0530/1452217-workers-pay-insolvency/>> accessed 7 March 2026.

¹¹¹⁵ High Court Record No, H.M.CA.2025.0000534

¹¹¹⁶ (Regulation 848/2015)

written judgement has not yet been released. The decision reflects Ireland's changing strategy for handling cross-border insolvency outside of the EU. Additionally, it is noteworthy because it deals with personal insolvency as opposed to corporate insolvency. The case adopts a similar strategy to that of the High Court in *Re Mercer Agencies Limited (In Administration) and an Application for Recognition and Orders in Aid of Foreign Insolvency Proceedings* [2025],¹¹¹⁷ wherein the court's inherent jurisdiction was used to recognise Northern Ireland's administration proceedings. According to Philip Lee, the ruling implies that an IVA may still be made effective across the border through court recognition in cases where a debtor has assets or exposure in both Ireland and Northern Ireland. According to the firm, *Re Keating* is the first instance of an Irish court recognising and upholding a foreign insolvency outside of the European Union insolvency regulation regime. The court granted a stay on creditor action in Ireland in addition to recognising the arrangement and enforcing its terms.¹¹¹⁸ According to 'Irish Legal News,' the decision makes cross-border debt solutions on the island of Ireland more predictable and useful, and it also makes things clearer for professionals who work on cross-jurisdictional insolvency cases.¹¹¹⁹

As referred to, in *Re Mercer Agencies Limited (In Administration) and an Application for Recognition and Orders in Aid of Foreign Insolvency Proceedings* [2025], the High Court in Éire acknowledged administration proceedings in Northern Ireland pursuant to the Insolvency (Northern Ireland) Order 1989,¹¹²⁰ utilising common law principles within its inherent jurisdiction. The case happened after Brexit, when the automatic EU framework for cross-

border recognition under the Recast EU Insolvency Regulation no longer applied to UK insolvency proceedings. Mercer Agencies Limited, a UK company that does most of its business in Northern Ireland, went into administration in November 2024. Its joint administrators sought to be recognised in Éire so that they could collect a debt from a company registered in Éire and, if necessary, take the matter to Éire's courts. The Court looked at previous cases (*Re Mount Capital Fund Limited* [2012])¹¹²¹ and the Companies Act 2014 to see if Ireland's common law jurisdiction allowed recognition when the foreign administration and Irish insolvency regimes were similar and there was a valid reason for recognition. The Court decided that the 1989 Order's rules, such as the administrators' ability to sell assets and file lawsuits, were in line with Irish liquidation law. The administrators' goal of getting creditors' assets back was also a valid reason. As a result of this, the Court accepted the administration, the appointment of the joint administrators, and their right to act in Irish courts. The ruling is an important example of what will happen after Brexit: courts in Éire will recognise UK bankruptcy cases based on common law principles, as long as equivalence and a legitimate purpose are shown.¹¹²²

CRITICAL ANALYSIS

In 2025, an academic research article by Dr. Michael James Boland¹¹²³ looked at the recent rise in corporate bankruptcies in Ireland. He points out that most processes saw big increases in 2024, with liquidations rising by 133 compared to 2023. Receiverships went down a little in 2024, but they were increasing again in 2025, mostly attributable to non-bank lenders. This suggested that the leniency shown by creditors during the pandemic was fading. In

¹¹¹⁷ [2025] IEHC 261

¹¹¹⁸ "Important" High Court Decision on Insolvency 'Law Society Gazette 2026' <<https://www.lawsociety.ie/gazette/top-stories/2026/feb/important-high-court-decision-on-insolvency/>> accessed 7 March 2026.

¹¹¹⁹ Analysis: Irish High Court Recognises Northern Ireland IVA for the First Time 'Irish Legal News' December 2025 <<https://www.irishlegal.com/articles/analysis-irish-high-court-recognises-northern-ireland-iva-for-the-first-time>> accessed 7 March 2026.

¹¹²⁰ Insolvency (Northern Ireland) Order 1989

¹¹²¹ [2012] IEHC 97

¹¹²² Lorraine Kelly and Gail Nohilly, 'Irish High Court Recognises Northern Ireland Administration Proceedings' (William Fry 17 June 2025) <<https://www.williamfry.com/knowledge/irish-high-court-recognises-northern-ireland-administration-proceedings/>> accessed 7 March 2026.

¹¹²³ Michael James Boland, 'The Rise in Corporate Insolvencies - a Return to Normal or Something Deeper?' (2025) 32 Commercial Law Practitioner <<https://mural.maynoothuniversity.ie/id/eprint/20645/>> accessed 7 March 2026.

2024, corporate rescue processes like examinership and the Small Company Administrative Rescue Process (SCARP) were not used very often. There were only 10 and 30 cases, respectively. However, data from early 2025 shows that these processes are becoming more popular, which suggests that they are helpful. Boland puts these trends in context by talking about things like the end of the Revenue Commissioner's debt warehousing scheme in 2024, the return of the 13.5% VAT rate for hospitality, and other economic pressures that may have made companies less likely to try rescue processes because of the strict "reasonable prospect of survival" test. In 2024, a lot of businesses went bankrupt in the retail and hospitality sectors. These businesses may have chosen to go out of business, instead of being saved. Boland says that the 2024 numbers are simply a return to normal levels after being suppressed by the pandemic. The fact that there were fewer bankruptcies than expected in both 2024 and early 2025 shows that Irish businesses are generally strong. Prevailing trends pointed to a positive outlook as 2025 concluded and 2026 approached. Despite problems around the world, the rate of insolvency was likely to stay the same or improve.¹¹²⁴

According to an RTÉ commentary, the *DJ Carey*¹¹²⁵ case shows how unfairly Ireland's personal bankruptcy laws and debt write-offs are used. Carey, who had previously played hurling for County Kilkenny, was sentenced to five and a half years in prison for falling claiming about having cancer to defraud people. However, his financial history attracted a lot of attention in 2023 when it came out that AIB had written down more than €9.5 million of his debt to just €60,000 in 2017. This made people wonder if high-profile debtors get better treatment than regular people. The goal

of Ireland's Personal Insolvency Act 2012, as well as changes made in 2015 and 2021, was to create a system that focused on the debtor and offered options to bankruptcy for people who couldn't pay their debts. Critics say that the system is still skewed toward wealthy or well-known debtors, who can often get big debt reductions and quickly get back on their feet financially. Reforms have tried to balance the needs of creditors and debtors. At the same time, regular debtors still face big problems, which raises concerns about a two-tier insolvency system that doesn't help those who need it most. The case shows how important it is to make more changes to the law so that personal bankruptcy processes are fairer, more open, and easier for everyone who really needs help with debt to use.¹¹²⁶

Critically, the post-Brexit jurisprudence exemplified by *Re Keating* and *Re Mercer Agencies*, while pragmatically addressing the gap left by the non-application of the Recast EU Insolvency Regulation, reveals a more profound structural vulnerability in Ireland's insolvency framework. Changing from automatic cross-border recognition to optional common-law equivalence testing will cause uncertainty, delays, and higher legal costs, especially for debtors and lawyers working on both sides of the Irish Sea. This judicial creativity, while appreciated, cannot replace a thorough statutory framework and may lead to inconsistent results or pressures to shop around for the best forum, which were mostly avoided before Brexit. When read alongside Dr. Boland's analysis of under-utilised rescue processes like SCARP and examinership, as well as the DJ Carey debt write-down's equity concerns, these changes show that a decade of reform has led to a system that is still reactive rather than resilient. It still relies too much on court intervention and professional expertise instead of providing accessible, predictable relief to

¹¹²⁴ Dr Michael James Boland Publishes Article 'the Rise in Corporate Insolvencies - a Return to Normal or Something Deeper?' (Maynooth University 2025) <<https://www.maynoothuniversity.ie/law/news/dr-michael-james-boland-publishes-article-rise-corporate-insolvencies-return-normal-or-something>> accessed 7 March 2026.

¹¹²⁵ *DPP v DJ Carey* (unreported, Dublin Circuit Criminal Court, Judge Martin Nolan, 3 November 2025).

¹¹²⁶ Karen O'Brien, 'Do Irish Personal Insolvency Laws Need to Be Reviewed?' RTE.ie (18 November 2025) <<https://www.rte.ie/brainstorm/2025/1118/1544534-ireland-personal-insolvency-laws-debt-writeoffs-dj-carey-banks/>> accessed 7 March 2026.

both debtors and creditors. Without more refinement to these laws, the promise of a contemporary, debtor-rehabilitative insolvency system may continue to be out of reach for those who need it most.

CONCLUSION

Over the last ten years, Irish bankruptcy law has changed considerably. It went from being very strict under the Bankruptcy Act 1988 to being more debtor-friendly under the Personal Insolvency Act 2012 and its later changes. The 2022 Preventive Restructuring Regulations tasks directors with more responsibilities, and the upcoming Protection of Employees (Employers' Insolvency) Bill will give employees more rights. In cases like *Re Keating* and *Re Mercer Agencies*, judges have been practical in dealing with cross-border issues after Brexit. These are all examples of a system that is trying to keep up with modern times and fit in with European and common-law principles. In 2024, examinership and SCARP, two company rescue processes, weren't used as much as they could have been. However, they are becoming more popular in 2025. Recent statistics on insolvency show that levels are relatively stable, which shows that the Irish economy is strong despite ongoing global pressures.

There are still some major weaknesses, though. Relying on discretionary common-law recognition in cross-jurisdictional cases makes litigation unclear and expensive. Rescue processes still have structural and economic problems, and high-profile cases like DJ Carey's make people think that the system favours debtors with a lot of money. These problems show that, even though components are now improved, the system is still more reactive than fair, or open to everyone. As Ireland advances towards 2030, it will need targeted reforms to build on what has been accomplished so far, fix unfairness, and make procedures more predictable, especially when it comes to personal bankruptcy access and cross-border consistency. If lawmakers fail to maintain a keen eye on the structure, it might not be able

to deliver the harmonious and remedial framework that was originally planned.

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