

One of the blocks of Royal Decree-Law 1/2015, dated 27 February (hereinafter, the "RDL") envisages the implementation of urgent measures to reduce the financial burden, introducing amendments mainly in the Insolvency Act, in Royal Decree-Law 6/2012, dated 9 March, concerning urgent measures to protect mortgage debtors without resources, and in Law 1/2013, dated 14 May, concerning measures to strengthen the protection of mortgage debtors, the restructuring of debt and low-income lease.

Below we analyse the most significant new aspects introduced by the RDL in respect of the Insolvency Act, namely, the measures adopted to reduce the financial burden.

Firstly, the RDL designs a second-chance mechanism for natural persons, aimed at establishing the necessary controls and guarantees to prevent strategic insolvencies or facilitate selective in lieu of payment (*dación de pago*). Accordingly, an exoneration system is established whereby the insolvent person who has liquidated all of his or her assets in favour of his or her insolvency creditors may have his or her pending debts cancelled provided (i) the person is acting in good faith and (ii) he or she has previously liquidated his or her assets (or the insolvency proceedings have been declared concluded due to insufficiency of the aggregate assets).

Consequently, for the second-chance mechanism to be effective, the RDL proposes making out-of-court payment settlements more flexible, to make their regulation more similar to the refinancing agreements contained in the fourth additional provision of the Insolvency Act.

Having complied with the previous conditions, a debtor may see his or her debts automatically discharged when the claims against the aggregate assets, claims with special preference and, unless an out-of-court payment settlement has been attempted, twenty-five percent of ordinary claims have been fully repaid.

Alternatively, in the event that the aforementioned claims have not been repaid and provided the person in insolvency proceedings agrees to submit to a payment plan for the next five years, he or she may be provisionally exonerated from all claims, although he or she will remain obliged to repay public claims and claims for food, claims against the aggregate assets and in general those that enjoy of general preference.

Furthermore, for the definitive release from debts, the person in insolvency proceedings must meet all non-discharged debts in the five-year period or, in the event, make a "substantial effort to do so", which means that the debtor should have used at least half of his or her income in the abovementioned period, not taking into account for this purpose non-sizeable items.

It is worth adding that, in terms of condoning the debt, creditors have not been left without protection, since they may ask the judge overseeing the insolvency proceedings to revoke the benefit of exoneration when a series of debtor circumstances are met, such as an improvement in his or her financial situation or failure to comply with the obligation to repay non-discharged debts in accordance with the payment plan.

Finally, as we have said, these urgent measures to reduce the financial burden have had an impact, as well as on the Insolvency Act, on regulations like Royal Decree-Law 6/2012, dated 9 March, concerning urgent measures to protect mortgage debtors without resources, since the subjective scope of said Royal Decree-Law is increased, by raising the annual threshold of the income of beneficiary families, by including new scenarios describing special vulnerability, and a new method for calculating the ceiling on the price of property assets acquired. In addition, Law 1/2013, dated 14 May, concerning measures to strengthen the protection of mortgage debtors, debt restructuring and low-income lease has also been modified, by including an extension until 2017 of the period of suspension of evictions from primary residences of especially vulnerable groups, and the broadening of the categories of groups that may benefit from this measure.