Community Law & Mediation

10 things you should know about the Land and Conveyancing Law Reform (Amendment) Act 2019

The Land and Conveyancing Law Reform (Amendment) Act 2019 will provide increased protection for borrowers defending repossession proceedings involving their home. This Act is new so it is still unclear what its effects will be but here are some things you should know about this new legislation.

1. The 2019 Act came into force of law on 1 August 2019

President Michael D Higgins signed the Land and Conveyancing Law Reform (Amendment) Act 2019 (the "**2019 Act"**) into law on the 10th July 2019. The 2019 Act commenced on the 1st August 2019.

2. The 2019 Act makes changes to the Land and Conveyancing Law Reform Act 2013

The 2019 Act amends and builds upon the protections included in the Land and Conveyancing Law Reform Act 2013 (the "**2013 Act"**).

The 2013 Act allowed a Court to grant an adjournment or delay of possession proceedings so that a borrower could consult a Personal Insolvency Practitioner ("**PIP**"). A PIP can help a borrower come to an agreement with their lender as to how they will resolve the borrowers debt. This is called a Personal Insolvency Arrangement ("**PIA**").

3. The 2019 Act may apply to you if you are involved in repossession proceedings involving your home

This Act applies to a borrower's Principal Private Residence. A Principal Private Residence is the borrower's home. The 2019 Act does not apply to a second home e.g. a holiday home or an investment property.

4. The 2019 Act does not apply to all repossession proceedings

This Act will only apply to a borrower where a lender applied to Court for an order for possession against a borrower's home and:

- where a Court has already adjourned proceedings to see if PIA can be agreed, but no PIA was agreed
- where the Court refused an application to adjourn proceedings to see if a PIA can be agreed

- where the proceedings have not been adjourned to see if a PIA can be agreed, but the borrower has (at some stage before the possession hearing in Court) agreed to participate in a Designated Scheme ; or engaged a PIP to see if his mortgage arrears situation can be resolved, but there was no PIA.

5. The 2019 Act includes new factors that a Court must consider before granting a possession order against your home

A Court must now take a number of considerations into account before granting an order for possession against a borrower's home.

These factors include:

- whether granting a possession order is a balanced approach (proportionate) considering all the circumstances of the case;
- the borrower's circumstances (and any dependents);
- whether the lender told the borrower if and how it would settle the case and allow the borrower to remain at home;
- any proposal made by the borrower to the lender which would allow them to remain at home or find alternative accommodation.
- any response from the lender to the borrower's proposal; and
- how the lender and the borrower have behaved towards each other to try and resolve the mortgage arrears.
- Other factors a Court considers appropriate

The Court may consider these factors in granting any other order in the case. For example, an adjournment of proceedings. An adjournment is a postponement or delay.

6. The 2019 Act allows a Court to consider other factors before granting a possession order against your home

When deciding whether it would be proportionate to grant a possession order, the court ***may*** (but does not have to) take into account:

- the amount of debt outstanding on the home
- the amount of arrears
- the advised market value of the home when proceedings began.

7. If you have participated in the Abhaile Scheme the 2019 Act might apply to you

The Minister for Justice has decided that Abhaile is a Designated Scheme which means that if a borrower has participated in good faith in the Abhaile Scheme, this Act applies.

Abhaile is a service to help homeowners find a resolution to their home mortgage arrears. It provides vouchers for free financial and legal advice and help from experts, which are available through MABS.

For more information on the Abhaile Scheme please contact the MABS Helpline: 0761 07 2000 (9am - 8pm, Monday - Friday) or contact your local MABS office.

8. The Mortgage-to-Rent Scheme is a Designated Scheme

The Mortgage-to-Rent scheme allows people who are having trouble with their mortgage switch from owning their home to renting their home as tenants of a housing association or a local authority. They will buy the home from the lender and rent it back to the borrower. In order to qualify the borrower must meet certain criteria. A lender may offer the borrower the opportunity to apply for the scheme but the borrower can also contact their lender about Mortgage-to-Rent.

More detail is available here - https://www.citizensinformation.ie/en/housing/owning_a_home/mortgage_arrears/mortgage_to_rent_scheme.html

9. The 2019 Act may be of assistance to you and you should seek expert financial advice on your circumstances

If you are seeking financial advice, the Money Advice and Budgeting Service is the State's money advice service, guiding people through dealing with problem debt over than twenty years. MABS runs a Helpline (0761 07 2000, Monday to Friday, 9am to 8pm) and also operates from over 60 locations nationwide.

10. If you think that the 2019 Act would be of assistance to you, you can seek legal advice from Community Law & Mediation

CLM operates a number of free legal advice clinics in its offices in the Northside Civic Centre in Coolock, Dublin 17. These clinics include the following

- Free Legal Advice Clinic - General Queries (every Thursday evening). This clinic is held every Thursday evening from 6:00 pm – 7:30 pm. No appointment is necessary; however, the Clinic operates on a "first come, first served" basis.
- Free Debt Law Advice Clinic (monthly). This clinic runs once a month alongside the general Thursday evening clinic. This clinic will be by APPOINTMENT ONLY and ONLY 4 clients will be seen in an evening. Please contact reception on 01-8477804 for the next clinic date and to make an appointment.