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# Relate

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# Mortgage arrears

A new Mortgage Arrears Information and Advice Service has been established for borrowers who are having problems paying their mortgages on their principal private residence. There are now a number of procedures in place to help find a resolution for people in mortgage difficulties. Information and advice may be available to you at the various stages of the procedures.

The service will be free to the borrowers and will be paid for by the lending institutions. You may use this service after your lender has proposed a long-term solution to dealing with your mortgage. You must already have been through the Mortgage Arrears Resolution Process (MARP) with your lender before this new service becomes relevant to you.

Almost 85,000 mortgages had been restructured by the end of June 2012. This means that the mortgage holders have agreed terms with their lenders to pay less than they owe, for example, interest only or a proportion of interest. Statistics are not published on the numbers of mortgage holders who have agreed some debt forgiveness.

The Citizens Information Board website **keepingyourhome.ie** has detailed information on all procedures involved. The Board operates a Mortgage Arrears Information Helpline (see *Relate*, September 2012).

The Money Advice and Budgeting Service (MABS) provides help and advice on budgeting and on dealing with your lender. Website: **mabs.ie**.

# The steps you must take

All of the steps outlined here are relevant to you if you are having problems paying your mortgage on your home. They do not necessarily apply to mortgages on investment property.

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#### Contact your lender

If you are having difficulties paying your mortgage and have already built up arrears or you are in danger of building up arrears, your first step should be to contact your lender. All commercial mortgage lenders operating in Ireland (other than credit unions) are subject to the Central Bank's Code of Conduct on Mortgage Arrears (CCMA). MABS has issued a detailed guide to the CCMA. Information on local authority mortgages is given below.

#### The Mortgage Arrears Resolution Process

The CCMA provides that your lender must have a Mortgage Arrears Resolution Process (MARP) in place to deal with you if you are in arrears or are in danger of falling into arrears (usually referred to as *pre-arrears*). This process means that both you and the lender take on certain obligations. In particular, the lender may not take legal action against you for 12 months while you are in the MARP; you must cooperate with the process for this to apply. Lenders must have dedicated Arrears Support Units to deal specifically with people in difficulties.

Lenders use a Standard Financial Statement that has been developed by the Central Bank for use in the MARP process. You and your lender complete this statement which involves detailed information about your income and expenditure. On the basis of the information in this statement, the lender assesses your situation and looks at options for repayment arrangements. These options may include paying interest only for a period or paying a proportion of interest or extending the period of the mortgage. These options do not generally involve writing down your debt – also known as debt forgiveness. You have to pay the full amount at some stage. Your lender may offer some debt forgiveness but there is no obligation to do so.

The lender is obliged to have an internal appeals mechanism that you can use if you are not satisfied with the process.

#### Long-term arrangements

After you have been through the MARP, the lender may make a proposal or proposals for long-term arrangements that could include the mortgage-to-rent scheme, a split mortgage, a trade-down arrangement or long-term interest only repayments. It is at this point that you may avail of the new service. The accountant will discuss the proposal(s) with you and what they mean for you. This may involve one or two meetings. You may then meet the lender to discuss the proposal. You may accept or reject it. The accountant is paid a fee of €250 by the lender.

The service is being provided by accountants who are members of the recognised accountancy bodies. You may choose an accountant from the panel of accountants. The list will shortly be available on the Citizens Information Board website: **keepingyourhome.ie**. The new service will be evaluated in June 2013.

### Local authority loans

If you have a local authority loan and you are having difficulty paying your mortgage, you should contact the local authority. The Department of the Environment, Community and Local Government has recently issued new guidance to local authorities on handling mortgage arrears. It essentially means that local authorities apply the same general approach as is set out in the Central Bank's Code of Conduct. Further information is available on **environ.ie**.

# Personal Insolvency Bill

The Personal Insolvency Bill 2012 (see *Relate*, August 2012) has completed Committee Stage in the Dáil. Some amendments were made. Many were technical changes in wording or clarifications. The following are the main substantive changes that were made:

#### Freedom of information

The Freedom of Information (FOI) Acts will apply only to the Insolvency Service records that deal with the administration of the service. This means that personal information about you as a debtor (for example, the details of your financial situation) will not be available. Certain information about you will be available on the publicly available registers that will be compiled by the service.

It also means that information about the internal decision-making processes of the Insolvency Service will not be available under FOI.

#### **Eligibility for Debt Relief Notice**

One of the conditions for getting a Debt Relief Notice is that you must have no realistic prospect of paying your debts within a period of time – this period is reduced from the original five years to three years. The period of supervision remains at three years. (There are no similar changes to the time periods applying to Debt Settlement Arrangements and Personal Insolvency Arrangements.)

# Value of household equipment and equipment needed for employment

The original Bill provided that essential household equipment and appliances and books, tools or equipment needed for employment or business would not be taken into account in measuring the total value of assets for the purposes of Debt Relief Notices. This provision is now subject to an overall limit of €6,000. (The Minister for Justice and Equality has said that he may introduce a further amendment at Report Stage to allow for certain items of educational equipment used by children of the debtor to be excluded from the assessment of assets, for example, a computer.)

#### Value of car

The limit of €1,200 on the value of a car remains but the Minister has said he will reconsider it before Report Stage. It has been clarified that the exemption for a vehicle adapted for a person with a disability includes such a vehicle for a person with a disability who is a dependant of the debtor.

#### Creditors' objections

The time period during which creditors may object to either a Debt Settlement Arrangement or Personal Insolvency Arrangement will be 14 days. There was some confusion about this in the original Bill.

#### Clawback if security is sold

In the Personal Insolvency Arrangement, secured debtors may get a clawback if the security is sold subsequent to their accepting less than its value.

There are a number of amendments clarifying exactly how this will operate.

### Personal insolvency practitioners

New provisions have been included in the Bill to allow for the Insolvency Service to publish guidelines for personal insolvency practitioners in relation to their duties – this may include a model form of a Debt Settlement Arrangement or Personal Insolvency Arrangement. Practitioners must have regard to these guidelines.

Another new provision provides for the making of regulations on the charging of fees by practitioners – these regulations will be binding.

It is intended to introduce further amendments at Report Stage to deal with the regulation of personal insolvency practitioners.

#### **Role of the Courts**

The Minister has said that he is considering further amendments setting out the precise role of the Courts. It is intended that the involvement of the Courts will be mainly through the registrars rather than through judges.

#### Next stage

It is expected that the Report Stage of the Bill will be taken in October 2012. Meanwhile, the Insolvency Service is being established and its director will take up office in October.

# Gluten-free products

Your entitlement to free or subsidised prescribed drugs and medicines is to those products which are approved by the Minister for Health for the purposes of the Medical Card scheme, the Drugs Payment Scheme and the Long-Term Illness Scheme.

There is a system in place for the approval and control of drugs. The Irish Medicines Board (IMB) is the authority for the testing, approval and licensing of drugs and medicines. Approval by the IMB is necessary before the drugs can be sold at all. Approval by the IMB does not necessarily means that the drugs and medicines will be approved for the free and subsidised schemes. There are other factors involved in the approval process, including cost.

It was recently announced that the schemes would no longer cover gluten-free products (among a range of other drugs and medicines). If you require such products and you have a very low income you may be able to qualify for a diet supplement under the Supplementary Welfare Scheme. The costs of gluten-free products may be included in a claim for tax relief under the tax credit arrangements for medical expenses.

#### Diet supplement

You can get a diet supplement for a prescribed diet if you:

- Have a specified medical condition
- Are getting a social welfare payment and
- Satisfy a means test

The supplement is part of the Supplementary Welfare Allowance (SWA) scheme so the general conditions and the means test for SWA apply.

In general, in order to get a diet supplement, a hospital consultant or a hospital registrar must certify:

- That you or your adult or child dependant has been prescribed a diet because of a specified medical condition
- The type of diet prescribed
- How long you will need the prescribed diet

However, the need for a gluten-free diet may be prescribed by your family doctor (GP). You do not need to have this certified by a consultant. In some cases, a long-term illness scheme book may be accepted as verification that such a diet has been prescribed – for example, for people with cystic fibrosis.

#### **Qualifying diets**

The weekly cost of each prescribed diet is set by the Department of Social Protection. The following diets qualify for the diet supplement:

Qualifying prescribed diets	Cost of diet
Low-lactose, milk-free diet	€65.43
Gluten-free diet	€68.43
High-protein, high-calorie diet	€71.43
Altered consistencies (liquidised) diet	€74.93

#### Amount of diet supplement

If you are single or a lone parent, the supplement you receive is the cost of the diet as set by the Department of Social Protection less one-third of the level of your social welfare payment at 2007 rates. If you are married, in a civil partnership or cohabiting you get the cost of the diet less one-sixth of the level of your social welfare payment at 2007 rates (Jobseeker's Allowance was €309.12 for a couple in 2007).

If you are getting Rent Supplement or Mortgage Interest Supplement, the Supplementary Welfare Allowance personal rate for 2007, and qualified adult rate where applicable – the same as Jobseeker's Allowance in 2007 – is used to calculate the amount of the diet supplement. Any increases for children are not taken into account.

#### Child diet supplement

The diet supplement rates for a child are:

Qualifying prescribed diets	Paid to parent
Low-lactose, milk-free diet	€3.50
Gluten-free diet	€6.50
High-protein, high-calorie diet	€9.50
Altered consistencies (liquidised) diet	€13.00

You should apply to your local Department of Social Protection representative – formerly known as the Community Welfare Officer. Further information is available on **welfare.ie**.

#### Tax relief

You may get tax relief at the standard rate (20%) for various medical expenses you incur. (Tax relief at the marginal rate is available for nursing home expenses.) This covers expenses such as GP costs, the cost of drugs and medicines not covered by the State schemes and certain non-routine dental costs.

If you are a coeliac, you may claim tax relief on the costs of gluten-free food that has been specifically manufactured for coeliacs. The food need not be bought in a pharmacy – it may be bought in any shop or supermarket. In order to claim, you should submit a letter from your doctor to the Revenue Commissioners confirming that you are a coeliac. You should keep your receipts but you do not need to submit them to the Revenue unless you are asked to do so. In general, you should keep your receipts for six years.

The cost of food specifically for diabetics is also covered by the scheme. Further information is available on **revenue.ie**.

## **Constitutional Convention**

The Government has decided to establish a Constitutional Convention to consider a number of changes to the Constitution of Ireland. The Convention will discuss and make recommendations on the following issues:

- Reducing the Presidential term of office to five years (from seven at present) and aligning it with the local and European elections
- Reducing the voting age to 17 (18 at present)
- Review of the Dáil electoral system
- Giving citizens resident outside the State the right to vote in Presidential elections at Irish embassies, or otherwise
- Provision for same-sex marriage
- Amending the clause on the role of women in the home and encouraging greater participation of women in public life
- Increasing the participation of women in politics
- Removal of the offence of blasphemy from the Constitution and

 Following completion of the above reports, such other relevant constitutional amendments that may be recommended by it

There will be 100 participants in the Convention. A chairman will be appointed by the Government. There will be 66 citizens who will be randomly selected and be as representative as possible of Irish society – they must be people who are entitled to vote in a referendum. A polling company will be engaged to select 66 people from the electoral register who are representative of the population generally in terms of sex, age, social class and region.

The other members will be members of the Dáil and Seanad and a representative of each political party in the Northern Ireland Assembly that wishes to be represented.

The Convention will have an expert advisory group of academics, political scientists and constitutional lawyers.

The Convention will be required to report on the first two issues within two months of its first public hearing and to complete all listed issues within a year. The Government will respond to each report within four months.

### Use of the electoral register

The Constitutional Convention is being set up by means of a resolution of both Houses of the Oireachtas and not by statute.

The Electoral (Amendment) (No. 2) Act 2012 enables the electoral register to be used to select the 66 citizen members of the Convention.

The Electoral Acts provide that it is an offence to use information in the register other than for electoral or other statutory purposes (such as selection of members of juries).

There is an edited version of the register that may be used for any purpose. That register includes about 300,000 voters who have agreed to have their names included on it.

# Local government bodies

The Local Government (Miscellaneous Provisions) Act 2012 provides for a number of changes in the delivery of local government services and for some changes to local government boundaries.

### **Corporate bodies**

This Act deals mainly with corporate bodies established under the Local Government Services (Corporate Bodies) Act 1971 as amended. The 1971 Act provides for the establishment of corporate bodies to provide specified services to the local authorities or to the Minister for the Environment, Community and Local Government. Thirteen bodies have been established under that Act and seven were still in existence before the 2012 Act was passed. These were:

- Limerick Northside Regeneration Agency
- Limerick Southside Regeneration Agency
- Local Government Management Services Board
- Local Government Computer Services Board
- Affordable Homes Partnership
- Irish Water Safety
- Fire Safety Council

There has been some legal uncertainty about the establishment of corporate bodies under the 1971 Act. They were set up under secondary legislation (Statutory Instruments). The primary legislation (in this case, the 1971 Act) should set out the principles and policies underpinning the bodies that were established. The 2012 Act addresses this legal uncertainty.

The Minister will continue to have the power to set up corporate bodies. The 2012 Act sets out the principles and policies which the Minister must consider when deciding to establish a corporate body. These are the:

- Promotion of efficiency, effectiveness and economy in the organisation and provision of the services in question
- Resources available to the Minister or any authority to or for which services may be provided

- Desirability of consistency of standards in relation to the provision of the services in question
- Desirability of regionalisation or centralisation of the provision of the services in question
- Desirability of reducing the number of bodies providing the services in question

The services that may be provided in this way include the:

- Management and organisation of industrial relations and human resources activities, including representation, negotiation, training and development
- Provision of services, training and equipment relating to information technology and communications technology
- Provision of administration services
- Provision of shared and central services
- Promotion of public safety awareness and the organisation of training and safety measures in relation to public safety
- Provision of research, advisory and information services
- Provision of consultancy and strategic planning services
- Arrangement, co-ordination and provision of social and economic regeneration including the development and improvement of land and infrastructure
- Provision of procurement services
- Provision of agency services, including the collection of charges and late payment fees
- Supply of goods and related services

The existing bodies are all abolished by the 2012 Act and their functions are being undertaken by new bodies or subsumed into existing bodies.

#### **Local Government Management Agency**

The Local Government Management Services Board and the Local Government Computer Services Board (which had already been operating as a merged body) are now legally reconstituted as the Local Government Management Agency (LGMA). The LGMA has been established by SI 290/2012. The transfer of functions to it is contained in SI 289/2012 and SI 288/2012.

The LGMA provides services to local authorities – these include shared ICT services and collection of certain public charges, for example, the Household Charge. The LGMA has also taken on the remaining functions of An Chomhairle Leabharlanna (the Library Council) established by the Public Libraries Act 1947.

#### **Housing and Sustainable Communities Agency**

The Affordable Homes Partnership has been dissolved and its functions, as well as those of the Centre for Housing Research and the National Building Agency, have been merged into the Housing and Sustainable Communities Agency (HSCA). This had been done on an administrative basis before the Act was passed but the HSCA has now been established on a statutory basis by SI 264/2012.

The services to be provided by the Agency will be:

- Shared and central services
- Research, advisory, information and training services
- Consultancy, technical and strategic planning services
- Procurement services
- At the request of the Minister, the preparation, holding, management and publication of indices of residential property, including indices in relation to residential housing sales and residential property rents
- Arrangement, co-ordination and provision of social and economic regeneration, including the development and improvement of land and infrastructure
- Co-ordination of, and contribution to, the resolution of issues relating to unfinished housing developments

Under SI 265/2012, the Agency may provide services to:

- An approved housing body
- The Housing Finance Agency
- Housing and Sustainable Communities Limited
- The Institute of Public Administration
- · Irish Council for Social Housing,

- National Asset Management Agency
- National Association of Building Co-operatives
- Private Residential Tenancies Board

#### Fire Services Council

The work of the Fire Services Council has been absorbed into the Department of the Environment, Community and Local Government.

#### Limerick regeneration agencies

The Limerick regeneration agencies were originally established in 2007 for five years so their remit was due to expire in June 2012. Both are now dissolved and their functions have been taken over by Limerick City Council (and ultimately to the manager of the new Limerick unitary authority when this is appointed – see below). The relevant legislation is contained in SI 278/2012 and SI 279/2012.

#### **Irish Water Safety**

Irish Water Safety is dissolved but it is proposed to re-establish it under the 2012 Act. Its role is to educate people in best practice in water safety.

### Amalgamation of local authorities

It is intended to establish a single local authority to replace Limerick County Council and Limerick City Council and a single local authority to replace North and South Tipperary County Councils by the middle of 2014. Further legislation will be required to do this. The 2012 Act allows for the establishment of interim management arrangements – one manager may be appointed to the Limerick authorities and one to the Tipperary authorities pending the full merger.

The Implementation Plan of the Tipperary Reorganisation Implementation Group has been published on **environ.ie**.

# Legislation update

# The Public Service Pensions (Single Scheme and other Provisions) Act 2012

This Act provides for a new, single pension scheme for all new entrants to the public service. The main features of the new scheme are:

- The pension will be based on career average earnings rather than on final salary
- Pension age will be increased in line with the age for State Pension, that is, 66 at present and increasing to 67 in 2021 and 68 in 2028
- The maximum pension age will be 70 but there are some exceptions to this, for example, elected officeholders
- Increases in pension will be based on the Consumer Price Index and not on pay

The new scheme will apply to new entrants in all areas of the public service, including the Civil Service, the education sector, the health sector, local authorities, the Garda Síochána, the Defence Forces, non-commercial State bodies and other regulatory or similar bodies.

# Qualifications and Quality Assurance (Education and Training) Act 2012

The Qualifications and Quality Assurance (Education and Training) Act 2012 has been passed. The main purpose of the Act is to amalgamate the National Qualifications Authority of Ireland (NQAI), the Higher Education and Training Awards Council (HETAC) and the Further Education and Training Awards Council (FETAC) into a new agency called the

Qualifications and Quality Assurance Authority of Ireland. The new agency will also be responsible for the external quality assurance of universities – this is currently carried out by a non-statutory body set up by the seven universities, the Irish Universities Quality Board. The NQAI carries out quality assurance for third-level bodies which are not universities but which award their own degrees, for example, the Dublin Institute of Technology and the Royal College of Surgeons. The NQAI also carries out quality assurance for the Advisory Council for English Language Schools.

# Electoral (Amendment) (Political Funding) Act 2012

This Act provides for a number of changes to the law on the funding of political parties and candidates for election. It restricts the amounts that individuals and companies may donate to election candidates and sets lower limits for declarations of donations. It also requires political parties to provide detailed public information about their funding. The Standards in Public Office Commission is responsible for policing political donations. Website: **sipo.gov.ie**.

This Act also provides for restricting the State funding of political parties in cases where they do not put forward a number of female candidates for election. A political party that does not select at least 30% female candidates at the next general election will lose half of their State funding for the lifetime of that Dáil. The required proportion will increase to 40% seven years after coming into operation. At the last general election (February 2011), just over 15% of the candidates were female.

# Microenterprise Loan Fund Act 2012

The Microenterprise Loan Fund Act 2012 provides for the establishment of a fund to provide access to credit for microenterprises. Over the next five years, the scheme will facilitate €40 million in additional lending to small businesses that employ less than 10 people. It may be extended for another five years at that stage with a further €50 million available to lend. The scheme will be operated by Microfinance Ireland. It is a subsidiary of Social Finance Foundation which was established in 2007 and is a not-for-profit company that provides loan finance to approved social lending organisations who provide loans at affordable interest rates to community-based projects and micro-enterprises. To date, these bodies have approved loans of €40 million.

Microfinance Ireland will provide loans to small businesses (including sole traders) who employ fewer than 10 people. In order to get a loan, your request for credit must have been turned down by the commercial banks. Your project must be commercially viable but may not meet the usual commercial risk requirements – for example, you may not be able to provide collateral. The maximum loan is €25,000.

You may get support to develop your proposals and business plans from your local County and City Enterprise Board.

#### **Credit Guarantee Act 2012**

This Act provides for the Department of Jobs, Enterprise and Innovation to provide a credit guarantee for small and medium enterprises. The Credit Guarantee Scheme applies to business employing up to 250 people. It provides a 75% guarantee to banks against losses on qualifying loans. The borrower pays a premium for the guarantee. Website: **enterprise.gov.ie**.

#### Gaeltacht Act 2012

This Act provides for changes to the functions of Údarás na Gaeltachta and for a statutory planning process to support the Irish language.

The Act provides for the designation of the existing Gaeltacht as a number of separate Gaeltacht Language Planning Areas.

Language plans will be agreed by the designated communities with the Minister for Arts, Heritage and the Gaeltacht. The aim is to strengthen the Irish language as the family and community language of Gaeltacht Language Planning Areas. Údarás na Gaeltachta will have a role in helping the designated communities with the preparation and implementation of language plans.

The Act also provides for the designation of Gaeltacht Service Towns (in or near the Gaeltacht Language Planning Areas) that play a significant role in the delivery of public services to those areas. These towns will also have language plans.

Irish Language Networks outside the Gaeltacht may also be designated and they will develop language plans. The Act provides for a number of changes to Údarás na Gaeltachta. It will no longer be directly elected, it will have language planning functions and the Minister for Arts, Heritage and the Gaeltacht may direct it to invest in particular enterprise sectors. Website: **ahg.gov.ie**.

# Health (Pricing and Supply of Medical Goods) Bill 2012

This Bill aims to introduce a system of generic substitution and reference pricing for prescribed drugs and medicines. It also sets out statutory rules to underpin the supply of prescribed drugs and medicines under the various State schemes for free or subsidised medicines. The Bill is currently being discussed by the Oireachtas.

#### Generic substitution and reference pricing

Generic substitution means that, if a particular brand of medicine is prescribed for you, you will be able to ask your pharmacist to substitute an interchangeable cheaper generic equivalent. The Bill provides for the establishment of a list of interchangeable medicinal products by the Irish Medicines Board. This list will be published on the Board's website, **imb.ie**.

The Citizens Information Board provides independent information, advice and advocacy on public and social services through citizensinformation.ie, the Citizens Information Phone Service and the network of Citizens Information Services. It is responsible for the Money Advice and Budgeting Service and provides advocacy services for people with disabilities.

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In general, pharmacists will be obliged to offer you the cheapest interchangeable item. Doctors may indicate on a prescription that for clinical reasons a branded interchangeable medicinal product should not be substituted.

Reference pricing involves setting a common reimbursement amount for groups of interchangeable medicines with only the reference price being paid for or reimbursed by the State.

There are provisions for appeals to the High Court against decisions on these issues.

#### Rules for prescribed drugs and medicines

The Bill sets out the criteria which the Health Service Executive (HSE) must apply when making decisions on whether or not particular drugs and medicines may be provided free or subsidised. Just under €2 billion was spent in 2011 on medicines and non-drug items such as dressings prescribed under the medical card scheme and the community drugs scheme.

The entitlement to free or subsidised prescribed drugs and medicines is governed by Section 59 of the Health Act 1970 as amended. The Bill provides that the HSE will establish and maintain a list of drugs, medicines and medical and surgical appliances for supply or reimbursement to patients under Section 59. This list will have to include the price of the item and be available on the internet. A supplier may apply to the HSE for inclusion on this list. The HSE will then agree a price with the supplier if it decides to include the product on the list. The HSE may attach conditions to the supply or reimbursement of any of these products. The HSE will have discretion to supply an item which is not on the list to a particular patient or patients.

# Jobseeker's Benefit and part-time work

The change to a five-day basis for payment was set out in *Relate*, September 2012. There was an error in the way the change was explained and so it is being described again.

Since 26 July 2012, the social welfare week for the purposes of payment of Jobseeker's Benefit (JB) has been changed from a six-day week to a five-day week.

This change affects you if you are working part-time involuntarily and if you get casual work and are getting JB. It means that you get paid less JB for your days of unemployment. The concept of a six-day week has been retained, so you must still be unemployed for three days out of six to claim Jobseeker's Benefit.

### What the change means

The current maximum rate of Jobseeker's Benefit is €188 a week. Before 26 July 2012 if you were eligible for this rate and were working some days, you would have had €31.33 a day deducted for each day of employment (i.e. €188 divided by 6 days). Your minimum payment would have been €94 ( $€31.33 \times 3$ ).

Since July 2012, you are paid for five days (even though you are still considered to be unemployed for six days). Now, if you are working some days €37.60 (i.e. €188 divided by 5 days) is deducted for each day of employment. Or, to put it another way, if you work one day you get 4/5 of the full Jobseeker's Benefit payment which is €150.40. If you work two days you are paid 3/5 of the JB payment which is €112.80. If you work three days you get the minimum payment of €75.20. If you work four days, you are no longer entitled to JB (because you are not unemployed for three days out of six). The rates for QA and QC increases are paid in a similar manner.

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