



STATUTORY INSTRUMENTS.

S.I. No. *216* of 2013

PERSONAL INSOLVENCY ACT 2012 (AUTHORISATION OF
APPROVED INTERMEDIARIES) REGULATIONS 2013

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The Insolvency Service of Ireland, in exercise of the powers conferred on it by Section 3 of the Personal Insolvency Act 2012 and with the consent of the Minister for Justice and Equality, for the purposes of prescribing the criteria for authorisation of persons as approved intermediaries, hereby makes the following regulations:

Citation and Purpose

1. (1) These Regulations may be cited as the Personal Insolvency Act 2012 (Authorisation of Approved Intermediaries) Regulations 2013.

(2) These Regulations are prescribed for the purposes of Section 47(5) of the Personal Insolvency Act 2012.

Scope

(3) These Regulations apply to applicants for authorisation to act as approved intermediaries under section 47 of the Personal Insolvency Act 2012.

Definitions

2. In these Regulations, unless the context otherwise requires:

“Act” means the Personal Insolvency Act 2012 [No. 44 of 2012];

“applicant” means a person, or class of person applying for an authorisation;

“authorisation” means an authorisation to carry on the practice of an approved intermediary in accordance with the Act.

Qualifying Criteria and Authorisation Requirements and Standards

Qualifying Criteria

3. (1) The Insolvency Service of Ireland may authorise a person or a class of person to perform the functions of an approved intermediary.

(2) A natural person may make an application to the Insolvency Service of Ireland to perform the functions of an approved intermediary if he or she can demonstrate to the satisfaction of the Insolvency Service of Ireland that he or she:

(a) has relevant training or experience in the provision of financial advice to persons in arrears;

(b) is sufficiently competent and proficient to undertake the role of an approved intermediary under the Act;

- (c) has a clear and comprehensive understanding of the relevant legal, regulatory and financial environment applicable to the role of an approved intermediary under the Act; and
- (d) has completed a course of study and passed an exam in relation to the law and practice in the State relating to the insolvency of individuals and in relation to the Act.

(3) A body corporate may make an application to the Insolvency Service of Ireland to perform the functions of an approved intermediary if it can demonstrate to the Insolvency Service of Ireland that it has at least one individual in the organisation that meets the criteria at Regulation 3(2) above, and any person within the organisation with responsibility for supervising the work of that individual is competent to so supervise and monitor compliance with the requirements of the Act and these Regulations.

(4) An applicant shall demonstrate to the satisfaction of the Insolvency Service of Ireland that he, she or it:

- (a) has, or has access to, adequate organisational capability and resources to carry on the practice of an approved intermediary under the Act; and
- (b) has submitted a completed application form approved by the Insolvency Service of Ireland together with such supporting information, documentation and mandates as the Insolvency Service of Ireland has requested.

Authorisation

4. (1) An applicant for authorisation as an approved intermediary shall submit to the Insolvency Service of Ireland a completed application form set out in the Schedule to these Regulations, together with such supporting documentation as required in that form.

(2) The Insolvency Service of Ireland shall grant authorisations on the basis of the information provided to the Insolvency Service of Ireland during the application process.

(3) An applicant shall take all reasonable steps to ensure that the information provided in support of an application is accurate and complete.

(4) An applicant shall comply with all requests for further information or clarification that the Insolvency Service of Ireland may issue during the assessment of an application in relation to any aspect of the application and within any time limits as may be specified by the Insolvency Service of Ireland.

Honest, Ethical and acting with Integrity

5. (1) A natural person applying for an authorisation, and in the case of a body corporate applying for an authorisation, the individual that meets the criteria set out at regulation 3(2) above, must be able to demonstrate to the satisfaction of the Insolvency Service of Ireland that his or her ability to act as

an approved intermediary under the Act or, as the case may be, to provide approved intermediary services on behalf of the body corporate, shall not be adversely affected to a material degree where he or she is, or has been, in any jurisdiction:

- (a) subject to any relevant disciplinary proceedings or has been issued a warning, censure, suspension, reprimand or other administrative or judicial sanction or its equivalent;
- (b) dismissed, or asked to resign and did resign, from a fiduciary appointment or a position of trust, whether or not remunerated;
- (c) a director (or equivalent) of a company that was struck off the register of companies (or its equivalent) by the Registrar of Companies (or its equivalent) on an involuntary basis;
- (d) disqualified or restricted from acting as a director in any jurisdiction or has been disqualified from acting in any managerial capacity;
- (e) convicted of an offence either of money laundering or terrorist financing (or their equivalents);
- (f) been convicted of an offence which could be relevant to the approved intermediary's ability to perform his, her or its functions under the Act;
- (g) subject to a finding, judgment or order made against him or her by any court, tribunal or administrative enquiry involving fraud, misrepresentation, dishonesty or breach of trust or is subject to any current proceedings or investigation for fraud, misrepresentation, dishonesty or breach of trust;
- (h) in the course of his or her employment or profession been the subject of enforcement action taken by a regulatory authority under applicable law.

Organisation and Management

6. (1) An applicant must be in a position to demonstrate to the satisfaction of the Insolvency Service of Ireland that he, she or it will have in place appropriate policies, systems, procedures and internal control mechanisms to monitor compliance with his or her or its statutory obligations if authorised by the Insolvency Service of Ireland as an approved intermediary.

(2) An applicant must be in a position to demonstrate to the satisfaction of the Insolvency Service of Ireland that he, she or it will have effective disaster recovery procedures in place to ensure continuity of his, her or its functions under the Act to debtors and creditors if authorised by the Insolvency Service of Ireland as an approved intermediary.

SCHEDULE

APPROVED INTERMEDIARY APPLICATION FORM

Part A — Details of Applicant

1. Full legal name of company / partnership / other

2. Trading Name, if different from 1 above (please submit a copy of your Registration of Business Name Certificate, if applicable)

3. Contact Details

Telephone Number of Principal Business	
Mobile number of person responsible	
Fax Number	
Postal Address	
Direct e-mail address (all correspondence from the Insolvency Service of Ireland will be sent to this address)	
Website Address	

4. Type of legal entity (e.g. limited company, partnership, charitable society or other)

5. Companies Registration Office Number

6. Date of establishment

6

7. Nature of your primary business

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8. Name of all Directors (including non-executive Directors) or Partners

First Name	Surname	Date of Appointment	Director Type

9. Details of Shareholders who directly hold shares or other interests representing 10% or more of the voting or capital rights of the applicant

First Name	Surname	% held	Date Acquired DD/MM/YY

Part B — Details of applicant, if an individual or the person who will provide approved intermediary services for the applicant who is a body corporate (responsible person)

1. Full name of individual or responsible person

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2. Date of Birth

Day		Month		Year	
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3. Private Address

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4. Personal Public Service Number (PPSN) (if any)

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Please complete Q. 5 and/ or Q. 6

5. Passport

Passport Number	
Country of Issue	
Expiry Date (dd/mm/yyyy)	

Or

6. Driving Licence

Driving Licence Number	
Country of Issue	
Expiry Date (dd/mm/yyyy)	

7. Contact Details

Telephone Number of Principal Business	
Mobile Number of Responsible Person	
Fax Number	
Direct e-mail address (all correspondence from the Insolvency Service of Ireland will be sent to this address)	
Website address	

Part C — Fitness & Probity

To be completed by an individual applicant and responsible person for approved intermediary services on behalf of a corporate body

1. Current Employment Details

Name of Employer	Address	Position Held	Start Date

2. Previous employer if changed in the last 12 months

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3. Qualifications

Please give the following details of any qualifications you have acquired (including membership of professional bodies/associations and the course of study you have completed and passed in relation to the insolvency of individuals and the Personal Insolvency Act 2012):

Nature of Qualification	Name of awarding institution/ professional association	Country	Date Obtained (mm/yyyy)

4. Relevant Training or Experience

Please give similar details in relation to any relevant training or experience you have in the provision of financial advice to persons in arrears:

Name of Training/ Experience	Name of Institution/ professional association/Employer	Duration of training/ Length of experience	Date Completed (mm/yyyy)

5. The following questions are to be answered by entering a tick in the appropriate box. Where the response to a question is YES the individual applicant and/or responsible person should provide the following on a separate sheet and referenced to the appropriate question:

(a) full details;

(b) a submission on why such act will not adversely affect, to a material degree, his or her ability to act as an approved intermediary or provide approved intermediary services for the applicant.

	Are you or have you ever been:	Yes	No
A	subject to any disciplinary proceedings or issued with a warning, censure, suspension, reprimand or other administrative or judicial sanction or its equivalent?		
B	dismissed or asked to resign and did not resign from a fiduciary appointment or a position of trust whether or not remunerated?		
C	a director (or equivalent) of a company that was struck off the register of companies (or equivalent) by the Registrar of Companies (or its equivalent) on an involuntary basis?		
D	disqualified or restricted from acting as a director in any jurisdiction or disqualified from acting in any managerial capacity?		
E	convicted of an offence which could be relevant to an approved intermediary's ability to perform his, her or its functions under the Act?		
F	subject to a finding, judgment or order made against you by any court, tribunal or administrative enquiry involving fraud, misrepresentation, dishonesty or breach of trust or are you currently subject to any proceedings or investigation for fraud, misrepresentation, dishonesty or breach of trust?		
G	in the course of your employment or profession been the subject of enforcement action taken by a regulatory authority under applicable law?		

Part D — Approved Intermediary Declaration

I, _____(applicant name / responsible person for Approved Intermediary services on behalf of applicant company) apply for authorisation under section 47 of the Personal Insolvency Act 2012 on the basis of information supplied on this form and any additional information supplied to the Insolvency Service of Ireland in the course of this application.

I acknowledge that the Insolvency Service of Ireland may process and disclose such information in the performance of its statutory functions or otherwise as may be specifically authorised by law.

I warrant that I have truthfully and fully answered the relevant questions in this application form and disclosed any other information which might reasonably be considered relevant for the purpose of this application.

I am aware that it may be grounds for refusal of my application and/or grounds for revocation of an authorisation approval granted on foot of this application to knowingly or recklessly:

- a. Provide false or misleading information and/or to make a false or misleading statement (which I acknowledge may include the withholding by me of relevant information) in this application for approval and/or;
- b. Fail to inform and/or withhold from the Insolvency Service of Ireland details of any material change in circumstances/new information which is relevant and/or material to this application.

I warrant that I will promptly notify the Insolvency Service of Ireland of any changes in the information I have provided, and supply any other relevant information which may come to light in the period during which the application is being considered by the Insolvency Service of Ireland.

I hereby give permission to the Insolvency Service of Ireland to contact my employer during the period this application is being considered to confirm my employment status and also that I am fit and proper to practise as an approved intermediary.

Signed: _____ (Applicant/responsible person)

Print Name: _____ (Applicant/responsible person)

Signed: _____ (on behalf of Employer)

Print Name: _____ (on behalf of Employer)

Date: _____

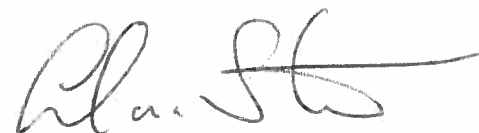
Part E — Checklist

The Insolvency Service of Ireland will NOT commence the processing of any application if it deems the application to be incomplete. Applications will be deemed incomplete unless all applicable supporting documentation (as outlined in the checklist below) has been received. Incomplete applications will be returned to you as invalid. An application that has to be re-submitted will be dealt with as a brand new application.

	Applicant	ISI USE ONLY
Completed Application Form (signed and all questions answered)	<input type="checkbox"/>	<input type="checkbox"/>
Registration of Business Name Certificate (Part A)	<input type="checkbox"/>	<input type="checkbox"/>
<p>If applicable, a business name registration certificate issued by the Companies Registration Office must be supplied in relation to all trading names (if different to the legal name) that the applicant wishes to use in relation to approved intermediary practice. Please contact the Companies Registration Office (www.cro.ie) if you have any queries in relation to your business name registration certificate.</p>		
Qualification Certificates (Part C)		
Signed Declaration (Part D)		

GIVEN under the Official Seal of the Minister for Justice and
Equality,

21/06/2013.



ALAN SHATTER,

Minister for Justice and Equality.

GIVEN under the seal of the Insolvency Service of Ireland,

21/06/2013.



LORCAN O'CONNOR,

Director of the Insolvency Service of Ireland.



CATHY CLARKE,

A member of the staff of the Insolvency Service of Ireland
authorised by the Director of the Insolvency Service of
Ireland to authenticate the seal of the Insolvency Service
of Ireland.

EXPLANATORY NOTE

(This note is not part of the Regulations and does not purport to be a legal interpretation.)

These regulations set out the qualification criteria and authorisation requirements which must be met for a person or a class of person to be authorised by the Insolvency Service of Ireland to carry on the practice of an approved intermediary.

The Minister for Justice and Equality consents to the making of the foregoing Regulations.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
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