



STATUTORY INSTRUMENTS.

S.I. No. 226 of 2016

PERSONAL INSOLVENCY ACT 2012 (RENEWAL OF
AUTHORISATION OF PERSONAL INSOLVENCY PRACTITIONERS)
REGULATIONS 2016

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The Insolvency Service of Ireland, in exercise of the powers conferred on it under section 3 and section 161 (as amended by section 94 of the Courts and Civil Law (Miscellaneous Provisions) Act 2013 (No. 32 of 2013)) of the Personal Insolvency Act 2012 (No. 44 of 2012), with the consent of the Minister for Justice and Equality and following consultation with the Minister for Finance hereby makes the following regulations:

Citation and Purpose

1. (1) These Regulations may be cited as the Personal Insolvency Act 2012 (Renewal of Authorisation of Personal Insolvency Practitioners) Regulations 2016.

(2) These Regulations are made for the purposes of section 161 and section 166 of the Act.

Scope

2. These Regulations apply to individuals who hold an authorisation to carry on practice as a personal insolvency practitioner and who wish to renew that authorisation.

Definitions

3. In these Regulations:

“Act” means the Personal Insolvency Act 2012 (No. 44 of 2012);

“accountant’s report” means a report in the prescribed form by a duly qualified accountant that appropriate financial systems and controls are still in place for the protection of moneys received from debtors by the applicant;

“applicant” means a personal insolvency practitioner applying for the renewal of his or her authorisation to carry on the practice as a personal insolvency practitioner;

“renewal of an authorisation” means renewal of an authorisation to carry on practice as a personal insolvency practitioner.

Renewal of an Authorisation

4. (1) The application form set out in the Schedule to these Regulations is hereby prescribed for the purposes of section 166(2)(a) of the Act.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 10th May, 2016.*

(2) The accountant's report as set out in Part G of the prescribed application form is hereby prescribed for the purposes of section 166(4)(b) of the Act.

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

(4) At any time before the renewal of an authorisation, or refusal to renew such an authorisation, the Insolvency Service may request the applicant to clarify the information provided or to supply further information in respect of the applicant's character, competence or financial position or may make such enquiries as may be necessary for the purpose of evaluating the application properly and comprehensively.

(5) Failure by an applicant to comply with Regulation 4(3) or a request made pursuant to Regulation 4(4) will be taken into account by the Insolvency Service when determining an application for renewal of an authorisation and may be regarded as a reason to refuse to renew that applicant's authorisation.

SCHEDULE

APPLICATION TO THE INSOLVENCY SERVICE OF IRELAND FOR
THE RENEWAL OF AN AUTHORISATION TO CARRY ON
PRACTICE AS A PERSONAL INSOLVENCY PRACTITIONER

Part A — Details of Applicant

1. Full Name

2. Trading Name or Business Name (if different to the above)

3. Address of your place of Business

4. Personal Insolvency Practitioner Authorisation Number

Part B — Professional Status

1. Please tick the appropriate professional status / qualification which applies to you:

(a) I am a solicitor in respect of whom a practising certificate (within the meaning of the Solicitors Acts 1954 to 2015) is in force.

(b) I am a barrister at law called to the Bar of Ireland.

(c) I am a qualified accountant and a member of a prescribed accountancy body (within the meaning of section 4 of the Companies (Auditing and Accounting) Act 2003).

(d) I am a qualified financial advisor who holds a current qualification from the Life Insurance Association of Ireland (LIA), the Insurance Institute or the Bankers School of Professional Finance.

(e) I hold a qualification in either law, business, finance or other appropriate similar qualification to the satisfaction of the Insolvency Service of

Ireland recognised to at least level 7 of the National Qualifications Framework by Quality and Qualifications Ireland (or equivalent).

If your professional status has changed since your authorisation to carry on practice as a personal insolvency practitioner, please provide details:

2. The following questions must be answered and apply to conduct in this jurisdiction and any other jurisdiction (please tick as appropriate). If the answer to any of the following questions is YES, you are required to provide full details in writing with your application.

- | | Yes | No |
|---|------------|-----------|
| (a) Has your entitlement to carry on practice as a personal insolvency practitioner since the last application made by you been suspended or subject to conditions? | | |
| (b) Since you were last authorised as a personal insolvency practitioner have you, in any jurisdiction: | | |
| (i) Failed to comply with the Personal Insolvency Acts 2012 to 2015, or with any regulations made under those Acts? | | |
| (ii) Been convicted of any offence involving fraud, dishonesty, breach of trust, tax offences or of aiding and abetting tax evasion, including any conviction related to financial crime or breach of statutory or regulatory requirements? | | |
| (iii) Been a director or manager of an entity or business that was, during your period as a director or manager, convicted of an offence involving fraud, dishonesty, breach of trust, tax offences or of aiding and abetting tax evasion, including any conviction related to financial crime or breach of statutory or regulatory requirements? | | |
| (iv) Been adjudicated bankrupt, or entered into | | |

any compromise with your creditors related to bankruptcy or insolvency or are you currently the subject of bankruptcy or insolvency related proceedings or measures or are you aware of any such proceedings or measures pending?

- (v) Failed to satisfy a judgment debt under a court order within one year of the making of the order?
- (vi) Been disqualified or restricted, by a court from acting as a director of a company or equivalent, or from acting in the management or conduct of the affairs or control of any company, partnership, or unincorporated association?
- (vii) Been refused entry to any profession or been dismissed or compelled to resign from any office or position of trust, whether or not remunerated?
- (viii) Been prohibited, suspended, refused or restricted in the right, to carry on any trade, business or profession for which a specific licence, registration or other authority is required?
- (ix) Been the director or equivalent of an entity, which has gone into liquidation, receivership or examinership or similar or analogous measures or steps in any other country and, in such circumstances, entered into any arrangements with its creditors which gave rise to a loss to the creditors either while you were a director or equivalent or within one year of your ceasing to be a director or equivalent?
- (x) Been associated, as a director, manager or shareholder, with any entity that has been compulsorily wound up or equivalent, either while you were associated with it or within one year after you ceased to be associated with it?

- (xi) Been concerned with the management, conduct of affairs or control of any entity that, by reason of any matters relating to a time when you were so concerned, has been censured, disciplined, restricted, sanctioned, fined, convicted or publicly criticised, by any enquiry, by any government, judicial or statutory authority, by any professional body?
- (xii) Been concerned with the management, conduct of affairs, or control of any entity which applied for regulatory approval in respect of any business and, by reason of any matter relating to a time when you were so concerned, was refused the application or had the approval subsequently withdrawn, suspended or restricted?

Part C — Business Information

Since your authorisation to carry on practice as a personal insolvency practitioner, are you engaging or do you intend to engage in any other forms of business of which you have NOT previously advised the Insolvency Service of Ireland?

Yes **No**

If the answer is YES, please provide details of the other business areas. To the extent that any such other business areas could give rise to a conflict of interest, be open to abuse or conflict with a personal insolvency practitioner's confidentiality obligations and functions under the Personal Insolvency Acts 2012 to 2015, please provide details of how such business areas are appropriately segregated from your role as a personal insolvency practitioner.

Please confirm that your resources (including financial capacity), policies, procedures, systems and controls necessary to comply with your obligations under the Act and regulations made under the Act remain adequate and in place.

Confirmed Not Confirmed **Part D — Professional Indemnity Requirements**

Please note that it is a mandatory requirement, set out in section 171 of the Personal Insolvency Act 2012, that all personal insolvency practitioners hold a policy of professional indemnity insurance (“PII”). Regulation 6 of the Personal Insolvency Act 2012 (Authorisation and Supervision of Personal Insolvency Practitioners) Regulations 2013 (S.I. No. 209 of 2013) sets out the requirements prescribed by the Insolvency Service of Ireland in relation to PII.

Please also note that section 166(4)(c) of the Personal Insolvency Act 2012 requires the Insolvency Service of Ireland, subject to section 167 of that Act, to refuse to renew an authorisation to carry on practice as a personal insolvency practitioner if the applicant does not satisfy the Insolvency Service of Ireland that there is available to the applicant the required level of PII.

PII cover

Indicate what PII cover you maintain in respect of your authorisation to carry on practice as a personal insolvency practitioner.

Excess Amount	Per Claim Cover	Aggregate Cover

Effective date of PII cover:

Expiry date of PII cover:

Name of insurer:

Number of the policy that includes your PII cover:

You must provide written evidence (copy of policy or similar) from the relevant insurer that the PII covers your practice as a personal insolvency practitioner and meets the level of cover specified in Regulation 6 of the Personal Insolvency Act 2012 (Authorisation and Supervision of Personal Insolvency Practitioners) Regulations 2013.

Part E — Tax Clearance Requirements**Tax Clearance**

For the purpose of the Insolvency Service of Ireland determining your application for renewal of authorisation, please provide your Tax Clearance Access Number and Tax Reference Number. These numbers will be used by the Insolvency Service of Ireland to verify your tax clearance.

Tax Clearance Access Number: _____

Tax Reference Number: _____

Part F– Personal Insolvency Practitioner Declaration

I, _____, (insert your name) apply under section 166 of the Personal Insolvency Act 2012 for the renewal of my authorisation to carry on practice as a personal insolvency practitioner on the basis of information supplied on this form and any additional information supplied to the Insolvency Service of Ireland in connection with 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 required or permitted by law.

I warrant that I have truthfully and fully answered the relevant questions in this application 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 or grounds for revocation of my authorisation to carry on practice as a personal insolvency practitioner to knowingly or recklessly:

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

I undertake 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 and, if this application is accepted, thereafter.

I confirm that I am not an undischarged bankrupt.

I confirm that I shall undertake continuing professional development which is relevant to my practice as a personal insolvency practitioner in such manner as may be specified by the Insolvency Service of Ireland from time to time.

I am aware of the provisions of the Personal Insolvency Acts 2012 to 2015 and reasonably believe that I can meet the requirements of those Acts and the Regulations made under them.

Signed: _____

Print Name: _____

Dated: _____

Part G — Accountant’s Report to the Insolvency Service of Ireland: Renewal of Personal Insolvency Practitioner Authorisation

Pursuant to section 166(4)(b) of the Personal Insolvency Act 2012, an application to renew authorisation to carry on practice as a personal insolvency practitioner must be accompanied by a report in the below prescribed form by a duly qualified accountant confirming that the appropriate financial systems and controls are still in place for the protection of moneys received from debtors.

Please note Section 2 of this report is to be completed by a qualified accountant who is a member of a recognised accountancy body within the meaning of the European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations 2010 (S.I. No. 220 of 2010) and holds a valid practising certificate.

To: The Insolvency Service of Ireland

Accountant’s Report: Renewal of Personal Practitioner Insolvency Authorisation

PART G, SECTION I — Applicant’s Declaration

1. _____[Full name of the applicant]
2. _____[Applicant address]
3. _____[Applicant personal insolvency practitioner authorisation number]

I, _____[Applicant name], am aware that appropriate financial systems and controls are required to be in place for the protection of moneys received from debtors.

I acknowledge the requirement—

(a) that there is in place a written procedure that establishes clear accountability for the handling of funds, which ensures that receipt of funds from debtors is properly accounted for, are protected, and the funds are identifiable to specific debtors;

(b) that there is a written procedure to ensure that all cheques and other negotiable instruments are promptly endorsed and a follow-up system has been established to ensure that post-dated cheques are always deposited on the date of the cheque or within appropriate time frames;

(c) that appropriate experienced personnel are engaged to monitor, on a constant basis, funds received versus funds due and payments made and they have the ability to investigate and resolve any differences that arise;

(d) that the duties of collecting or receiving funds, maintaining documentation, making deposits or payments and reconciling records is distributed between two or more appropriate experienced individuals.

I hereby declare that appropriate financial systems and controls, as set out in matters (a) to (d) above, are in place for the protection of moneys received from debtors.

Signed:

Print Name:

Dated:

PART G, SECTION II — Accountant's Declaration

This report is given for the purposes of section 166(4)(b) of the Personal Insolvency Act, 2012.

_____ [Name of accountant], a qualified accountant who is a member of a recognised accountancy body within the meaning of the European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations 2010 (S.I. No. 220 of 2010) and holds a valid practising certificate, has examined the above declaration and matters (a) to (d) above and supporting documentation in respect of matters (a) to (d).

The applicant is responsible for making an application for renewal of an authorisation to carry on practice as a personal insolvency practitioner that is correct in all material particulars.

The applicant is also responsible for operating effective and appropriate financial systems and controls for the protection of moneys received from debtors. An appropriate framework of financial systems and controls provides reasonable, but not absolute, assurance that the moneys received from debtors are protected.

My responsibility is to examine the declaration and the supporting evidence; and to express an opinion as to whether the applicant has in place appropriate financial systems and controls as set out in matters (a) to (d) in the above declaration.

In my opinion, based on my examination, the applicant has [on the basis of representations made to me by the applicant,]* in place appropriate financial systems and controls, as set out in (a) to (d) above for the protection of moneys received from debtors during the course of providing personal insolvency services under the Personal Insolvency Acts 2012 to 2015.

I have received all the explanations and information I require to form my opinion.

Signed: _____ Date: _____

Accountant

Particulars of accountant

Firm's Name:

Firm's Address:

Accountancy body of which a member:

Membership Number:

***Delete where inapplicable**

Note for applicant:

Please note that the application will only be processed once this report is complete and received.

Part H — Application Process and Checklist

The completed application form and accompanying documents (set out in the checklist below) must be submitted to the Insolvency Service of Ireland in such manner as may be specified by the Insolvency Service of Ireland from time to time.

The application form must be accompanied by the prescribed fee. The fee is payable to the Insolvency Service of Ireland in such manner as may be specified by the Insolvency Service of Ireland from time to time.

In accordance with section 166(2)(b) of the Personal Insolvency Act 2012, an application for renewal of an authorisation to carry on practice as a personal insolvency practitioner must be made at least 6 weeks before the expiration of the authorisation.

The Insolvency Service of Ireland will NOT commence the processing of any application for renewal of authorisation if it is not complete in all respects. Applications will be treated as incomplete unless all questions raised in the application form are fully answered and all applicable supporting documentation (as outlined in the checklist below) has been received by the Insolvency Service of Ireland. Incomplete applications may be returned to you as invalid. An application that has to be re-submitted will be treated as a new application.

Applicant ISI USE
ONLY

Completed Application Form (signed and all questions answered)

PII Cover (Part D)

Written evidence of PII cover (copy of policy or similar)

Tax Clearance Requirements (Part E)

Tax Clearance Access Number and Tax Reference
Number

Signed Declaration (Part F)

Completed Accountant's Report (Part G)

Prescribed Fee

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



GIVEN under the Official Seal of the Minister for Justice and
Equality,
5 May 2016.

FRANCES FITZGERALD,
Minister for Justice and Equality.



GIVEN under the seal of the Insolvency Service of Ireland,
5 May 2016.

LORCAN O'CONNOR,
Director of the Insolvency Service of Ireland.

EXPLANATORY NOTE

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

These regulations set the renewal of authorisation requirements and regulatory standards which must be met for an individual to renew his or her authorisation by the Insolvency Service of Ireland to carry on the practice of a personal insolvency practitioner together with the prescribed application form to be completed by applicants, including the prescribed accountant's report.

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