

The Standard Debt Solutions Protocol Principles

March 2015 version

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DEBT SOLUTIONS PROTOCOL

Purpose and scope of the Protocol

1. Background and purpose of the Protocol

- 1.1 In February 2014 the Debt Solutions Protocol Steering Group began to develop a Protocol which can be used by Personal Insolvency Practitioners when making proposals for standard Debt Settlement Arrangements and standard Personal Insolvency Arrangements to Creditors. The steering group is a representative group, its membership reflecting the participants in the Debt Settlement Arrangement and Personal Insolvency Arrangement processes (Debtor, Creditor, Personal Insolvency Practitioner, representative bodies and the Insolvency Service of Ireland). The terms of reference of the steering group and details of its current membership are available on the Insolvency Service of Ireland website: www.isi.gov.ie.
- 1.2 The purpose of the Protocol is to facilitate the efficient handling of standard Debt Settlement Arrangements and standard Personal Insolvency Arrangements (as described below). The Protocol recognises that the Debt Settlement Arrangement and the Personal Insolvency Arrangement support a valid public policy objective by providing debt relief for individuals in financial distress. The eligibility criteria for a Debt Settlement Arrangement are set out in Appendix 1 and for a Personal Insolvency Arrangement in Appendix 2. The Protocol also recognises that at the centre of this process there is a person, who needs to understand the process and the associated paperwork as well as the impact that the relevant Arrangement will have on his or her life.
- 1.3 The efficient operation of the Protocol will be monitored and reviewed by an oversight committee.

2. Scope of the Protocol

- 2.1 The Protocol provides an agreed standard framework for dealing with model standard Debt Settlement Arrangements in the form attached at Annex 1 (“Standard Debt Settlement Arrangement”) and model standard Personal Insolvency Arrangements in the form attached at Annex 2 (“Standard Personal Insolvency Arrangement”) and applies to both Personal Insolvency Practitioners and Creditors who have subscribed to the Protocol. A list of the contact details for all Creditors who have subscribed to the Protocol is available to Personal Insolvency Practitioners from the Insolvency Service of Ireland.

By accepting the content of the Protocol, Personal Insolvency Practitioners and Creditors agree to follow the processes and use the agreed documentation that forms part of the Protocol.

A Standard Debt Settlement Arrangement or Standard Personal Insolvency Arrangement is one in which the standard terms and conditions wholly apply. Personal Insolvency Practitioners indicate their acceptance of the content of the Protocol by drawing up a proposal which is based on the standard documentation, and which states that it follows the Protocol. Creditors are expected to abide by the terms of the Protocol in relation to proposals drawn up on that basis. Where a Personal Insolvency Practitioner is proposing a Standard Arrangement they will use the model

attached at Annex 1 for a Standard Debt Settlement Arrangement or Annex 2 for a Standard Personal Insolvency Arrangement.

The Protocol does not require that the Debtor has to follow the Protocol process, even though his or her situation may fit within the parameters of a Standard Arrangement. Where this occurs, but elements of the Protocol are still used, this should be highlighted in the proposal (including the Summary) by pointing out the non-standard terms and conditions used in the proposal.

Personal Insolvency Practitioners are encouraged to use as many as possible of the standard terms where these are appropriate to the Arrangement.

- 2.2 Creditors who are members of the Banking and Payments Federation Ireland (BPFI) have indicated their support for the Protocol process. A list of BPFI members and associates can be found at www.bpfi.ie. The Irish League of Credit Unions and the Credit Union Development Association have agreed to recommend to their members that they too support the Protocol process. Personal Insolvency Practitioner representatives from the Association of Personal Insolvency Practitioners, the Irish Society of Insolvency Practitioners and individual Personal Insolvency Practitioners support the Protocol.
- 2.3 The Protocol will be implemented by participating Creditors. Creditors will endeavour to vote in favour of Standard Arrangement proposals or, where unable to do so, will expound to the relevant Personal Insolvency Practitioner why they declined to do so, unless prevented by law or, in exceptional circumstances, by other commercial reasons from disclosing the reason(s).
- 2.4 It is accepted that an Arrangement is a regulated process under statute, which requires certain work to be undertaken. This work may have a cost unconnected with the size of the debts covered by the Arrangement.
- 2.5 Personal Insolvency Practitioners and Creditors may not be in a position to comply with the Protocol where compliance would result in a breach of any laws or regulations that may apply to them.
- 2.6 References to a “Creditor” in this Protocol apply to both Creditors and the agents who vote on their behalf and act in accordance with their instructions in relation to an Arrangement.
- 2.7 A Standard Arrangement under this Protocol is suitable for both homeowners and non-homeowners. Where the Debtor is a homeowner there will be no circumstances in which he or she would be forced to cease to occupy his or her principal private residence.
- 2.8 A Standard Arrangement under this Protocol is suitable for employees, the self-employed and those who are unemployed.
- 2.9 References in the Protocol to a “section” are, unless otherwise stated, references to sections of the Personal Insolvency Act 2012, and reference to the “Act” are, unless otherwise stated, references to the Personal Insolvency Act 2012. Terms used herein and defined in the Act have, unless the context otherwise requires, the meanings set out in the Act.

Transparency and co-operation

3. Transparency

- 3.1 The Creditor, Debtor and the Personal Insolvency Practitioner are obliged to comply with the requirements of the Act. All relevant details regarding the Arrangement proposal will be disclosed to Creditors, unless such disclosure is prevented by law.
- 3.2 The proposal should provide an overview of the Debtor's circumstances giving essential relevant information. This should ordinarily include the Debtor's family background, employment background and the reason(s) for his or her current financial difficulties. The overview should include the trigger(s) which led the Debtor to apply for an Arrangement.

4. Co-operation with the Oversight Committee

- 4.1 An oversight committee will monitor and review the efficient operation of the Protocol. Information required for this purpose will be determined by the oversight committee. Such information, other than that which is commercially sensitive or which needs to be withheld for reasons of confidentiality, will be provided by any representative on the oversight committee, where requested to do so by the oversight committee.
- 4.2 Similarly, behaviour which does not comply with the terms of the Protocol may be reported to the oversight committee. The oversight committee will not override existing regulatory procedures.

Obligations on Personal Insolvency Practitioners

5. Advertising

- 5.1 Advertising by Personal Insolvency Practitioners will conform to any regulations made by the Insolvency Service of Ireland. These will be published on the following website: www.isi.gov.ie.

6. Advice

- 6.1 When approached by an individual in financial difficulty, the Personal Insolvency Practitioner will ensure that the individual receives appropriate advice in light of his or her particular circumstances.
- 6.2 The Personal Insolvency Practitioner will advise the Debtor on the options for addressing his or her financial difficulties, his or her eligibility under the Personal Insolvency Act 2012 to make a proposal for a Debt Settlement Arrangement or a Personal Insolvency Arrangement and the Personal Insolvency Practitioner's opinion as to whether it would be more appropriate for the Debtor to enter into a Debt Settlement Arrangement or a Personal Insolvency Arrangement.

- 6.3 The advice given should include the other option or options (if any) available to the Debtor and the general effect of any such option or options, including advice relating to:
- 6.3.1 negotiation with a Creditor or Creditors with a view to adjusting the terms of a debt owed to that Creditor or Creditors;
 - 6.3.2 becoming a specified Debtor as respects a Debt Relief Notice; and
 - 6.3.3 bankruptcy.

7. Costs

- 7.1 Where a Personal Insolvency Practitioner proposes to recover certain case costs in respect of an Arrangement, these costs should be fully disclosed as far as possible within the Arrangement.
- 7.2 Costs are only permissible where there is specific necessary expenditure which is both directly referable to the Debtor in question and is payable to a third party who is independent of the Personal Insolvency Practitioner.

8. Home equity (Net worth)

- 8.1 In developing a proposal the Personal Insolvency Practitioner shall have regard to any material equity in the Debtor's principal private residence.

9. Surplus

- 9.1 If, at the end of the Arrangement, up to €200 remains in the Arrangement the Personal Insolvency Practitioner will return this money to the Debtor as surplus and this will not affect the Debtor's discharge from the debts covered by the Arrangement.
- 9.2 If €200 or more remains in the Arrangement the Personal Insolvency Practitioner will pay this money to the Creditors as an increase to their final Dividends under the Arrangement.

Verification of information contained in the proposal

10. Assets

- 10.1 The Personal Insolvency Practitioner should ensure that the value of all the Debtor's assets is appropriately reflected in the Prescribed Financial Statement. This may require independent evidence of valuation to be obtained in the case of material assets.

11. Income

- 11.1 Income for a PAYE or a self-employed Debtor should be verified by the Personal Insolvency Practitioner having regard to Appendix 3.
- 11.2 Where income is uneven or unpredictable (e.g. a Debtor with more than 20% of his or her income coming from bonuses, commissions or other variations) this should be highlighted in the proposal and the Summary.
- 11.3 Financial contributions from other members of the household to the Debtor should be counted as income of the Debtor.

12. Expenditure

- 12.1 Reasonable Living Expenses are the amounts of money that the Debtor will use for his or her living expenses before any payment is made to Creditors under the Arrangement.
- 12.2 The Personal Insolvency Practitioner should take account of the Debtor's expected expenditure levels over the term of the Arrangement and should have regard to the Guidelines on a Reasonable Standard of Living and Reasonable Living Expenses as published by the Insolvency Service of Ireland under section 23.
- 12.3 The Personal Insolvency Practitioner will outline in the proposal any anticipated changes in the Reasonable Living Expenses of the Debtor over the duration of the Arrangement (e.g. increasing ages of the dependent children).
- 12.4 There should not be unexplained deviation from the Reasonable Living Expenses Guidelines.
- 12.5 Where additional expenditure is proposed as necessary, for example increased food costs due to special dietary requirements or increased heating bills due to caring for elderly relatives or increased travel costs due to work-related travel, this should be clearly explained in the proposal.
- 12.6 Where only one adult resides in the household, the Reasonable Living Expenses for that adult and any dependents will be fully attributed to that adult.
- 12.7 Where two adults reside in the household then it will be presumed that the Reasonable Living Expenses of the household are split equally between them, though a Debtor may rebut this presumption and produce evidence to show that he or she pays a different proportion of these Reasonable Living Expenses.
- 12.8 Where adults reside together in a house-sharing arrangement, the Reasonable Living Expenses of the Debtor should be based on those of a single person. In such cases, the Personal Insolvency Practitioner should assess the reasonableness of the rent based on the portion which the Debtor pays rather than the rent of the property.
- 12.9 A Personal Insolvency Practitioner should ensure that he or she is in receipt of sufficient documentation to verify expenditures. In verifying expenses a Personal Insolvency Practitioner will have regard to the documents listed at Appendix 3.

13. Excludable Debts

Debts which Creditors have to specifically agree are included in the Arrangement

- 13.1 Where excludable debts are included in the Arrangement as permitted debts, the Personal Insolvency Practitioner should confirm within the proposal that consent was requested from the relevant Creditor regarding their inclusion and clarify whether this was received or the Creditor was deemed to have consented in accordance with section 58 or section 92, as the case may be.
- 13.2 Where excludable debts are not permitted debts, the Debtor will be obliged to continue to pay these debts outside the Arrangement. The amount payable should be set out in the proposal.

14. Excluded Debts

Debts which cannot be included in the Arrangement

- 14.1 If the Debtor has any liability in respect of excluded debts as defined in the Act, these debts are not subject to the Arrangement. The Debtor will have to pay these debts in full and the amount payable if applicable should be set out in the proposal.
- 14.2 Examples of debts which are excluded debts are those arising under court orders regarding payment of a domestic support order, personal injuries compensation or fines.

15. Use of standard documentation

- 15.1 The use of standard documentation during the proposal phase will streamline the Arrangement process and enable Creditors to quickly identify those cases which are standard and also the key information contained in them.
- 15.2 For Standard Debt Settlement Arrangements, Personal Insolvency Practitioners should use the model Standard Arrangement proposal attached at Annex I. There is no standard format for Part IV of an Arrangement proposal as this will change depending on the individual circumstances of the Debtor though it is expected that a proposal will include a number of common features set out in the sample Part IV attached at Annex I for illustrative purposes only.
- 15.3 For Standard Personal Insolvency Arrangements, Personal Insolvency Practitioners should use the model Standard Arrangement proposal attached at Annex 2. There is no standard format for Part IV of an Arrangement proposal as this will change depending on the individual circumstances of the Debtor though it is expected that a proposal will include a number of common features set out in the sample Part IV attached at Annex 2 for illustrative purposes only.
- 15.4 The proposal should indicate clearly that the Arrangement follows the Protocol, that the Standard Arrangement document has been used to formulate the proposal and which version of the Standard Arrangement has been used.
- 15.5 The benefits of using standard documentation extend to the post-approval phase of the Arrangement. Standard documents for notices of variation, review, failure and completion of a Standard Arrangement have been developed under the Protocol.

16. During the Arrangement

- 16.1 The Act prohibits the Debtor, either alone or with any other person, from obtaining credit in an amount of more than €650 from any person without informing that person that the Debtor is subject to an Arrangement.

17. The Debtor's duties to the Personal Insolvency Practitioner

- 17.1 The Debtor must inform the Personal Insolvency Practitioner of any relevant change in his or her circumstances as soon as practicable but no later than 14 days from the change in circumstances. Examples of relevant changes in circumstances include, but are not limited to, moving house, redundancy or financial changes such as an increase or decrease in income or expenditure.
- 17.2 The Debtor must ensure that all payments he or she is required to make to the Personal Insolvency Practitioner are paid to the Personal Insolvency Practitioner on the date provided for in the Arrangement.
- 17.3 Where an asset is to be sold by the Debtor as part of an Arrangement the Debtor will ensure that the asset is sold at the best price reasonably obtainable.
- 17.4 Under a Standard Personal Insolvency Arrangement the Debtor will cooperate fully and in good faith with any receiver appointed in accordance with the Arrangement to enforce security over property against co-borrowers who are not parties to the Arrangement.
- 17.5 In accordance with section 81 and section 118 the Debtor for the duration of the Arrangement will be expected to:
- 17.5.1 give to the Personal Insolvency Practitioner such information and documentation as to his or her assets, liabilities and other affairs which are relevant to the performance of the Debtor's obligations under the Arrangement;
 - 17.5.2 engage on a constructive basis with the Personal Insolvency Practitioner; and
 - 17.5.3 comply with any reasonable request made by the Personal Insolvency Practitioner for the purpose of carrying out the functions and duties of the Personal Insolvency Practitioner under the Arrangement.

18. Reduction of Dividends

- 18.1 The Personal Insolvency Practitioner will be able to reduce the Dividends payable to Unsecured Creditors by up to 5% of the total monthly amount represented by the set costs element of the Debtor's Reasonable Living Expenses under the Arrangement. The Personal Insolvency Practitioner will provide a rationale for the reduction of Dividends to affected Creditors.

19. Payment Breaks

- 19.1 At the discretion of the Personal Insolvency Practitioner, a Debtor will be allowed Payment Breaks of between two and four months during the term of the Arrangement without the requirement for the Personal Insolvency Practitioner to propose a variation of the Arrangement. Payment Breaks must not be consecutive and are subject to an overall maximum of 12 months.
- 19.2 Unless the Debtor has previously made good the shortfall (i.e. the amount of the Dividend not paid during the Payment Break), the term of the Arrangement will be extended by the length of the Payment Break so that the Debtor will make the same number of contributions as agreed in the original proposal.
- 19.3 Under a Standard Personal Insolvency Arrangement the Personal Insolvency Practitioner will consult with a Secured Creditor holding first priority security over the Debtor's principal private residence and obtain such Creditor's consent prior to granting a Payment Break in respect of the related secured debt.
- 19.4 The Personal Insolvency Practitioner will provide a rationale for the Payment Break to Creditors who are affected by the Payment Break.

20. Windfall Assets

- 20.1 If the Debtor receives or becomes entitled to receive a windfall asset (in the form of an inheritance, gift or gaming win) of a value greater than €1,000 during the course of the Arrangement, he or she is obliged to make an additional amount available for distribution to the Unsecured Creditors.
- 20.2 Where the windfall asset is in the form of a gift or gaming win, the Debtor must make available to the Unsecured Creditors an amount equivalent to 100% of its net value over €1,000.
- 20.3 Where the Debtor receives an inheritance, the Debtor must make available to the Unsecured Creditors an amount equivalent to a percentage of its net value which will be specified in Part IV of the Arrangement proposal.

21. Additional Income

- 21.1 Where the aggregate additional income (after deducting necessary taxes, charges and costs) received from time to time by the Debtor increases by over €100 per month he or she must make available to the Personal Insolvency Practitioner an amount equivalent to 50% of such additional income above €100 for distribution to the Unsecured Creditors.

22. Judgment Mortgages

- 22.1 Details of any Judgment Mortgage, which is a secured debt, will be set out in Part IV of a Personal Insolvency Arrangement. In accordance with section 102(7), a Creditor who has registered a

Judgment Mortgage against the Debtor more than 3 months before the issue of the Protective Certificate is a Secured Creditor for the purposes of a Standard Personal Insolvency Arrangement.

23. Clawback

23.1 Where there is a write-down of secured debt as part of a Standard Personal Insolvency Arrangement, the Debtor may be liable to make a payment to the Secured Creditor on the subsequent disposal of the property in accordance with the provisions at sections 103(4) to 103(13). The Personal Insolvency Practitioner will specify in Part IV of a Standard Personal Insolvency Arrangement where a Secured Creditor has agreed to waive his or her entitlement to a Clawback amount and the circumstances in which such waiver will apply.

24. Breach of the Arrangement

24.1 Where a Debtor is in breach of an Arrangement, for having failed to comply with any of his or her obligations under the Arrangement, the Personal Insolvency Practitioner will require the Debtor to remedy the breach.

24.2 If the Debtor fails to remedy the breach of an Arrangement, the Personal Insolvency Practitioner may either propose a variation of the Arrangement or issue a notice of termination.

25. Impact on other persons

What the Arrangement means for persons who may have jointly borrowed money with the Debtor and other persons who may have guaranteed the Debtor's borrowings

25.1 An Arrangement and the discharge of the Debtor upon completion of an Arrangement will not affect any rights that the Creditors have in respect of any liabilities owed by persons other than the Debtor.

25.2 This means that any persons who also borrowed money as a joint borrower with the Debtor or who guaranteed the payment of the Debtor's debts will continue to be liable to the respective Creditors notwithstanding the approval of the Arrangement.

26. Reporting to Creditors

26.1 The Personal Insolvency Practitioner will carry out a review of the Arrangement at least once a year which will include the preparation of a new Prescribed Financial Statement. Following this review a "Review Report" to Creditors will be prepared.

27. Hire Purchase

- 27.1 Hire Purchase is unsecured debt. The relevant Creditor, rather than the Debtor, holds title to the goods. Where Creditors party to a Standard Personal Insolvency Arrangement agree that the Debtor should retain the goods for the duration of the Arrangement (as, for example, where the Debtor needs a hire purchase vehicle for work), the Debtor will continue to make the payments due to the hire purchase Creditor. These may be the full payments or a lesser amount if agreed with the hire purchase Creditor.
- 27.2 Where the hire purchase goods are not to be retained, the hire purchase Creditor will claim in the Arrangement for a dividend and will confirm to the Personal Insolvency Practitioner the amount owed to the Creditor under the terms of the contract.

Obligations on Creditors

28. Co-operation with the Personal Insolvency Practitioner

- 28.1 Where a Protective Certificate has been issued by the court, Creditors will co-operate with the duly appointed Personal Insolvency Practitioner in relation to the efficient operation of the Arrangement process.
- 28.2 Where a Personal Insolvency Practitioner notifies a Creditor (or the Creditor's nominated agent) that, for whatever reason, the Creditor has received a Dividend payment erroneously, the Creditor (or the agent) concerned will return the payment(s) to the Personal Insolvency Practitioner.

29. Acceptance of Standard Arrangements

- 29.1 It is understood that one of the aims of the Protocol is to improve efficiency in the Arrangement process and to this extent Creditors and Personal Insolvency Practitioners will avoid the need for modifications of an Arrangement proposal wherever possible. This does not affect the right of Creditors to vote for or against an Arrangement proposal.
- 29.2 The Protocol envisages that Personal Insolvency Practitioners and Creditors will use their best endeavours to adhere to the timelines set out in this Principle. For the purposes of this Principle, the day of issuance of the Protective Certificate is day 1.
- 29.3 Personal Insolvency Practitioners will notify Creditors of the issuance of a Protective Certificate by close of business on the next working day following the court ruling. Where a Creditor has agreed, notification will be by electronic mail and will be supported by the Prescribed Financial Statement. The notification will request submissions and, where necessary Proof of Debt. A copy of the Protective Certificate will be forwarded to Creditors once received by the Personal Insolvency Practitioner.
- 29.4 Creditors will return a completed Proof of Debt by day 16 accompanied by submissions where the Creditors choose to submit them.

- 29.5 The Personal Insolvency Practitioner will circulate a proposal and notification of a Creditors' meeting by day 30 giving 25 days notice of this meeting.
- 29.6 Creditors will return any modifications to the proposal by day 44.
- 29.7 A revised proposal (if such is necessary) is to be circulated by the Personal Insolvency Practitioner by day 47. If a revised proposal is circulated, at least 14 days written notice of the meeting must be given in accordance with section 70(2) (Debt Settlement Arrangement) or as applicable section 106(2) (Personal Insolvency Arrangement).
- 29.8 Creditors will return a completed proxy form by day 51; and in any event not less than two working days prior to the meeting called to approve the proposal. This does not prejudice a Creditor's legal right to legitimately deliver a proxy up to 4pm on the last working day before the day in which the Creditors' meeting is scheduled to be held.
- 29.9 The meeting of Creditors will take place on day 55 with an approved proposal circulated to Creditors and the Insolvency Service of Ireland as soon as practicable thereafter which generally should be no later than day 58.

30. Use of agents

- 30.1 It will be the responsibility of Creditors to ensure that any agents carrying out instructions or acting on behalf of Creditors in relation to a Standard Arrangement do so in accordance with the Protocol.
- 30.2 Where a Creditor requires communication regarding the debt due or the Arrangement proposal to be sent via its agent, the Creditor should ensure that details of the appropriate contact are provided to relevant Personal Insolvency Practitioners.
- 30.3 Correspondence issued by Personal Insolvency Practitioners to officials or offices of a Creditor other than the contacts designated under clause 30.2 will be deemed not to have been received by the Creditor. A list of the contact details for all Creditors who have subscribed to the Protocol is available to Personal Insolvency Practitioners from the Insolvency Service of Ireland.

31. Electronic communications

- 31.1 A list of Creditors and Personal Insolvency Practitioners who have agreed to communicate with each other by electronic means, including for the purpose of section 134, is available from the Insolvency Service of Ireland.

Appendix 1

Eligibility Criteria for a Debt Settlement Arrangement

1. The debtor has confirmed that he or she is eligible to apply for a Debt Settlement Arrangement.
2. A debtor shall not be eligible to make a proposal for a Debt Settlement Arrangement unless he or she satisfies the following criteria—
 - (a) that the debtor—
 - (i) is domiciled in the State, or
 - (ii) within one year before the date of the application for a protective certificate has ordinarily—
 - (I) resided in the State, or
 - (II) had a place of business in the State;
 - (b) that the debtor is insolvent;
 - (c) that the debtor has completed a Prescribed Financial Statement and has made a statutory declaration confirming that the statement is a complete and accurate statement of the debtor's assets, liabilities, income and expenditure;
 - (d) that the personal insolvency practitioner has completed a statement under *section 54* in respect of the debtor;
 - (e) that the debtor is not—
 - (i) an undischarged bankrupt,
 - (ii) a discharged bankrupt subject to a bankruptcy payment order,
 - (iii) a person who is a specified debtor as respects a Debt Relief Notice which is in effect,
 - (iv) a person who, as a debtor, is subject to a Personal Insolvency Arrangement which is in effect, or
 - (v) a person who, as a debtor, is subject to an arrangement under the control of the court under Part IV of the Bankruptcy Act 1988;
 - (f) that the debtor has not—
 - (i) been the subject of a protective certificate issued under section 61 less than 12 months prior to the date of the application for a protective certificate,
 - (ii) had his or her debts discharged pursuant to section 46(1) less than 3 years prior to the date of the application for a protective certificate,
 - (iii) had his or her debts discharged pursuant to a Personal Insolvency Arrangement less than 5 years prior to the date of the application for a protective certificate, or
 - (iv) been discharged from bankruptcy less than 5 years prior to the date of the application for a protective certificate.
3. The criterion specified in subsection (1)(f) [section 57 of the Act] shall not apply where the debtor has, on notice to the Insolvency Service, made an application to the appropriate court and the court has made an order stating that it is satisfied that the current insolvency of the debtor arises by

reason of exceptional circumstances or other factors which are substantially outside the control of the debtor and that it would be just to permit the debtor to make a proposal for a Debt Settlement Arrangement.

4. A debtor shall not be eligible to make a proposal for a Debt Settlement Arrangement where 25 per cent or more of his or her debts (other than excluded debts and secured debts) were incurred during the period of 6 months ending on the date on which an application is made under section 59 for a protective certificate.

Appendix 2

Eligibility Criteria for a Personal Insolvency Arrangement

1. The debtor has confirmed that he or she is eligible to apply for a Personal Insolvency Arrangement.
2. Subject to the provisions of section 91 and Chapter 4 of the Act a debtor shall not be eligible to make a proposal for a Personal Insolvency Arrangement unless he or she satisfies the following criteria—
 - (a) subject to subsection (4) [section 91 of the Act], that the aggregate of the debts of the debtor which are secured debts is less than €3,000,000;
 - (b) that the debtor—
 - (i) is domiciled in the State, or
 - (ii) within one year before the date of the application for a protective certificate has ordinarily—
 - (I) resided in the State, or
 - (II) had a place of business in the State;
 - (c) that at least one of the creditors of the debtor is a secured creditor holding security over an interest in property of the debtor situate in the State (whether the interest in the property relates to real property or personal property);
 - (d) that the debtor is insolvent;
 - (e) that the debtor has completed a Prescribed Financial Statement and has made a statutory declaration confirming that the statement is a complete and accurate statement of the debtor's assets, liabilities, income and expenditure;
 - (f) that the personal insolvency practitioner has completed a statement under section 54 in respect of the debtor;
 - (g) that the debtor has made a declaration in writing declaring that he or she has co-operated for a period of at least 6 months with his or her creditors who are secured creditors as respects the debtor's principal private residence in accordance with any process relating to mortgage arrears operated by the secured creditors concerned which has been approved or required by the Central Bank of Ireland and which process relates to the secured debt concerned and that notwithstanding such co-operation the debtor has not been able to agree an alternative repayment arrangement with the secured creditor concerned, or that the secured creditor has confirmed to the debtor in writing the unwillingness of that secured creditor to enter into an alternative repayment arrangement;
 - (h) that the debtor is not—
 - (i) an undischarged bankrupt,
 - (ii) a discharged bankrupt subject to a bankruptcy payment order,
 - (iii) a person who is a specified debtor as respects a Debt Relief Notice which is in effect,
 - (iv) a person who, as a debtor, is subject to a Debt Settlement Arrangement which is in effect, or

- (v) a person who, as a debtor, is subject to an arrangement under the control of the court under Part IV of the Bankruptcy Act 1988;

(i) that the debtor has not—

- (i) been the subject of a protective certificate issued under section 95 less than 12 months prior to the date of the application for a protective certificate,
- (ii) had his or her debts discharged pursuant to a final Debt Relief Notice less than 3 years prior to the date of the application for a protective certificate,
- (iii) had his or her debts discharged pursuant to a Debt Settlement Arrangement less than 5 years prior to the date of the application for a protective certificate, or
- (iv) been discharged from bankruptcy less than 5 years prior to the date of the application for a protective certificate.

3. The criterion referred to in subsection (1)(g) [section 91 of the Act] shall not apply where the relevant personal insolvency practitioner confirms in writing that, having regard to the financial circumstances of the debtor as disclosed in the Prescribed Financial Statement completed by the debtor, it is the belief of that practitioner that if the debtor were to have entered into an alternative repayment arrangement with the secured creditor concerned of a type provided for in any process relating to mortgage arrears operated by that secured creditor (being a process approved or required by the Central Bank of Ireland) the debtor would be unlikely to become solvent within the period of 5 years commencing on the date of the personal insolvency practitioner giving that confirmation.
4. The criterion specified in subsection (1)(i) [section 91 of the Act] shall not apply where the debtor has, on notice to the Insolvency Service, made an application to the appropriate court and the court has made an order stating that it is satisfied that the current insolvency of the debtor arises by reason of exceptional circumstances or other factors which are substantially outside the control of the debtor and that it would be just to permit the debtor to make a proposal for a Personal Insolvency Arrangement.
5. Where all of the creditors who are secured creditors consent in writing the limit of €3,000,000 referred to in subsection (1)(a) [section 91 of the Act] shall not apply.
6. A debtor shall not be eligible to make a proposal for a Personal Insolvency Arrangement where 25 per cent or more of his or her debts (other than excluded debts) were incurred during the period of 6 months ending on the date on which an application is made under section 93 for a protective certificate.

Appendix 3

List of documents which, where applicable, a Personal Insolvency Practitioner requires from a Debtor when seeking to understand and verify the financial circumstances of the Debtor

It is not intended that the Personal Insolvency Practitioner will furnish these documents to the Creditors. Where Creditors are in possession of information which contradicts that in the proposal, they will share this information with the Personal Insolvency Practitioner and may request the Personal Insolvency Practitioner to provide them with copies of some or all of the documents listed below in order to verify the information.

All types of Debtor:

- Bank statements:
 - for current / working account 6 months, and
 - deposit / loan accounts the latest annual statement.
- Confirmation that tax status is current.
- Where the Debtor(s) has expenses relating to special circumstances, appropriate confirmation of the associated costs. In the case of a medical condition, for example, confirmation from a medical practitioner of the illness, expected duration of the illness and the associated costs should be disclosed.
- Where the principal private residence has been restructured outside of the insolvency proposal, appropriate details of this arrangement.
- Details of payments under domestic support orders, other family maintenance agreements or income of any separation / divorce agreement, and any relevant impacting tax treatment.
- Where there is connected party debt or debt to Creditors other than regulated entities, written confirmation from all parties involved as to the evidence of that liability.
- Current pension statement(s) advising what contributions are compulsory, vesting date and ability to encash any funds.
- For Buy To Let property:
 - details of Capital Gains Tax (CGT), if applicable, application of any tax break sections or 'clawback', and
 - confirmation that all taxes, management fees, etc are up to date.
- Secured loan payments – verification by sight of relevant mortgage or bank statements.
- Rent – verification by sight of rent agreement or relevant bank statement entries.
- Local property tax – verification by sight of local property tax statement or relevant bank statement entries.
- Vehicle finance – verification by means of relevant Hire Purchase / Finance agreement.

- Where allowable other financial commitments such as endowment policies, life policies, health insurance and protection insurance – verification by reference to appropriate documentation.
- Schedule of household insurance, if applicable.

Employee:

- Most recent P60 along with last 3 pay slips or, where the Debtor(s) is in receipt of Social Welfare, the latest P60 (if recently unemployed), nature of benefit, evidence of payments and the associated timelines e.g. long term, expiry date etc.
- Where a person is paid weekly it is sufficient to check a selection of pay slips to cover the 3 month period though this should not be less than 3 months pay slips.
- In the absence of pay slips (e.g. if they have been lost), income should be verified by reference to bank statements.

Self-Employed Debtor:

- Most recent audited / certified accounts and management accounts for year to date – where management accounts are not signed off by qualified accountant then ‘year to date’ bank statements and / or latest VAT returns may be sought.
- The financial / management accounts for at least one year, or more if appropriate.
- Copies of Revenue income tax returns for last two years.
- A cash flow projection of at least one year, or more if appropriate.

Appendix 4

Post Approval Documentation for a Debt Settlement Arrangement

- Outcome of Creditors' Meeting
- Periodic Review Report
- Payment Break or Reduction of Dividends
- Variation Proposal Summary
- Variation – Outcome of Creditors' Meeting
- Failure Summary
- Completion Summary

Appendix 5

Post Approval Documentation for a Personal Insolvency Arrangement

- Outcome of Creditors' Meeting
- Periodic Review Report
- Payment Break or Reduction of Dividends
- Variation Proposal Summary
- Variation – Outcome of Creditors' Meeting
- Failure Summary
- Completion Summary

Annex 1

Standard Debt Settlement Arrangement – Version: July 2014

Annex 2

Standard Personal Insolvency Arrangement – Version: March 2015