

## **Consultation - Personal Insolvency Acts, Part 3**

### **Amendment proposed by the Courts Service**

#### **Background/Issue/Reasons**

Currently, when there is a requirement to extend a Protective Certificate, the application must be lodged and heard whilst the Protective Certificate remains in force. Typically such applications are lodged very close to the expiry of the Protective Certificate. This places pressure on the Courts Service to ensure that the application is before a Court in the appropriate timeframe so as not to adversely affect any party. This is a time-sensitive pressure point for the Courts Service in carrying out our functions and a risk for the debtor that an application may not be listed before the Court in time which can simply be eliminated with an amendment to legislation.

#### **Summary of proposed change**

We propose the inclusion of a provision in the Act to provide that when a valid application is received while a Protective Certificate is still in force, then the Protective Certificate would be automatically extended-until such time as the application for an extension is determined. The current provisions already requires that these matters are dealt with expeditiously so any fears that this amendment would cause delay is alleviated. Furthermore they can only be extended by forty days in any event.

#### **Available Evidence/Likely Impact**

There have been common occurrences where these applications have arrived in very close to the deadline in the Court Office leaving very little time to put them before a Personal Insolvency Judge. The amendment is simply one which attempts to ensure that applications lodged within the existence of a Protective Certificate can be dealt with without the need to arrange an urgent hearing before its expiry, and to avoid unnecessary time-pressured applications on the basis of logistical arrangements needed to ensure that they do not currently fall, through an administrative error on behalf of the State. It will reduce this current pressure to arrange its determination by a Personal Insolvency Judge.