Personal Insolvency Practitioners Explained

WHAT IS A PERSONAL INSOLVENCY PRACTITIONER?

A Personal Insolvency Practitioner or PIP for short, is a specialist on debt matters who can act for you if you are insolvent and wish to offer a proposal to your creditors for either a **Debt Settlement Arrangement** or **DSA** or for a **Personal Insolvency Arrangement** or **PIA** under the Personal Insolvency Act 2012 which was passed into law in Ireland at the end of 2012.

You cannot avail of either of these two insolvency solutions without engaging the services of a PIP. The Insolvency Service of Ireland or ISI has of April 2014 licensed about one hundred and thirty PIPs all over Ireland with new PIPs being licensed regularly.

WHAT DOES A PERSONAL INSOLVENCY PRACTITIONER DO?

In broad terms, a PIP advises and guides the insolvent debtor in relation to the various personal insolvency solutions that are now enshrined in law which include the DSA and PIA mentioned above as well as the Debt Relief Notice or DRN and the last resort of bankruptcy.

Ultimately it is the debtor who decides which solution if any to opt for and the PIP must decide whether he or she will act on the debtor's behalf. If in doubt about their legal or financial position, the debtor should take appropriate professional advice or contact a PIP, as appropriate.

WE HAVE 4 IN-HOUSE PIPS TO HELP YOU

FIRST CONTACT WITH A PERSONAL INSOLVENCY PRACTITIONER

When a debtor is thinking of seeking a DSA or a PIA, they should first consider the information and guides provided by the Insolvency Service of Ireland or ISI on its website: www.isi.gov.ie, and should then consult with a PIP who will at the outset provide details in writing of the fee arrangements and the likely costs involved in entering into either a DSA or a PIA.

Such fees and costs can be expected to form part of the DSA or PIA and creditors will have an opportunity to vote on them. The debtor will not normally have to pay any fees to the PIP directly.

The ISI do however charge a separate application fee which the debtor will have to pay when applying for a Protective Certificate, amounting to €250 for a DSA and €500 for a PIA.

NEED HELP WITH YOUR DEBTS?

Call us on 074 917 0029
or 01 526 7359

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ELIGIBILITY FOR A DSA OR A PIA

The PIP first determines that the debtor:

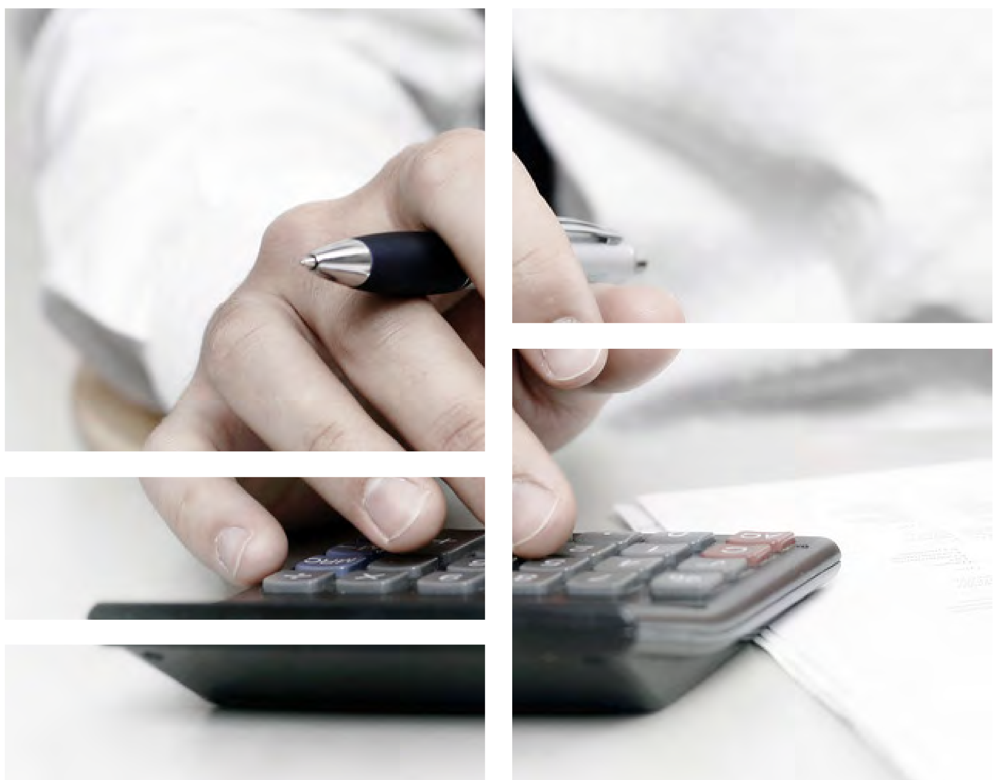
- is insolvent i.e. unable to pay their debts as they fall due;
- has, in the case of a DSA, one or more unsecured creditors and unsecured debts of €20,000 plus;
- has, in the case of a PIA, at least one secured creditor (holding security over Irish property or assets, where the secured debts total €3 million or less) and has co-operated under a mortgage arrears resolution process (MARP) for a period of six months with their secured creditor in respect of their principal private residence and no alternative repayment arrangement was agreed or the creditor confirmed that it would not put in place such an arrangement (exceptionally, this condition does not apply if the PIP believes that even if the debtor were to enter into MARP, it is unlikely that they would become solvent within five years);
- is domiciled in the Republic of Ireland.

The next step is to compile, with the PIP's assistance and advice a Prescribed Financial Statement or PFS, which summarises the debtor's assets, liabilities, income and expenditure. The PIP advises as to which debts are to be included in the DSA or PIA, which debts may with the creditors' consent be included ('excludable debts') and which debts cannot be included ('excluded debts'). The debtor must make a statutory declaration that the PFS is true and accurate.

The PIP at this point, based on the information provided by the debtor, advises the debtor as to the options open to him or her for addressing their financial difficulties. The PIP also determines the debtor's eligibility for a DSA or a PIA and provides the debtor with a written statement, giving their opinion that the information in the PFS is true and accurate, that the debtor is eligible to make a proposal for a DSA or a PIA as the case may be, that having considered the PFS there is no likelihood of the debtor becoming solvent in the next five years and that if the debtor enters into a DSA or a PIA, as the case may be, there is a reasonable prospect that they will become solvent in the next five years.

APPOINTMENT OF A PIP

The debtor may at this point terminate discussions and walk away or decide to appoint the PIP to act, such appointment to be in writing.



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APPLICATION FOR A PROTECTIVE CERTIFICATE TO ISI AND COURT

Following appointment, the PIP submits an application for a Protective Certificate or PC to the ISI and if satisfied, it is forwarded to the court. If granted the PC is registered and the debtor's seventy days of protection from creditors' legal and other enforcement actions commences.

ENGAGEMENT WITH CREDITORS AND PROPOSAL PREPARATION

The PIP informs each creditor listed on the PC and enters into discussions with each class of creditor regarding how they wish to be dealt with. This process will form the basis of the debtor's proposal as creditors' responses may radically alter the initial course of action intended by the PIP.

Documents are prepared for the engagement with creditors modeling the likely outcomes based on the debtor's asset profile and repayment capacity. The PIP has discussions with creditors so as to verify any of the information provided. A draft proposal is drawn up taking into account the responses from creditors and the debtor's suggestions for dealing with these. The proposal may of course fail at this point if the debtor or creditors are not in a position to proceed. Assuming debtor and creditors are willing to proceed, the process continues until the DSA or PIA proposal is prepared and signed off by the debtor.

MEETING OF CREDITORS OR MOC

The PIP convenes an MOC, furnishing each creditor with the debtor's final proposal and all relevant documentation and giving adequate notice in accordance with law. Creditors vote on the proposal and the debtor must accept and approve any modifications to the proposal in writing for the process to continue. The PIP reports the outcome of the MOC in writing to creditors and furnishes details of any approved changes to the proposal and the voting details. If no creditor submits an objection within fourteen days, the court formally approves the arrangement.

SUPERVISION OF THE ARRANGEMENT

The PIP's post approval duties are extensive with a high level of oversight and administration. Payments from the debtor are set up and payments of fees and creditor dividends are administered as per the approved arrangement. The operation of the arrangement is reviewed regularly and reports issued to creditors at least annually. If the arrangement needs to be significantly varied due to changes in the debtor's financial circumstances then the PIP will convene further MOCs and report the outcome to the debtor, creditors, the ISI and the court.

COMPLETION OF THE ARRANGEMENT

On successful completion of the arrangement, the PIP reports to the ISI, the creditors and the debtor that all terms have been complied with and all dividends to creditors have been distributed. The debtor is now debt free and can start to repair their credit file and resume normal financial activities.

ABOUT MCCAMBRIDGE DUFFY

McCambridge Duffy have helped 1000's of people deal with their debts in the UK and Ireland. We have friendly staff, who are recognised for their exceptional customer service, empathy and understanding of your situation.Our company has been running for over 80 years, with a dedicated team of staff and several in-house Insolvency Practitioners operating in both the UK and Ireland. We are an ethical firm with the interests of both the debtor and creditor at heart.