

*These notes refer to the Debt Relief Act (Northern Ireland)
2010 (c.16) which received Royal Assent on 15 December 2010*

Debt Relief Act (Northern Ireland) 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 2: Conditions for making a debt relief order

Section 2 inserts a new Schedule 2ZA into the 1989 Order. Schedule 2ZA sets out the conditions for making a debt relief order.

Part 1 - Conditions which must be met

This part of the schedule sets out conditions that the debtor must meet in order to obtain a DRO. The debtor must be domiciled in Northern Ireland on the application date or at any time during the period of three years ending with that date have been ordinarily resident in or carried on business in Northern Ireland. The debtor must not,

- be an undischarged bankrupt;
- be subject to an individual voluntary arrangement;
- be subject to a bankruptcy restrictions order;
- be subject to a debt relief restrictions order;
- have had a debt relief order made within the 6 years prior to the determination date.

If the debtor has presented a bankruptcy petition a Debt Relief Order can only be made if,

- (a) proceedings on that petition have been disposed of or,
- (b) the Court has referred the debtor to an intermediary under Article 248A(2) of the 1989 Order for the purposes of making an application for a debt relief order.

If a creditor has presented a petition to have the debtor made bankrupt a Debt Relief Order can only be made if,

- (a) proceedings on that petition have been disposed of or,
- (b) whoever presented the petition has consented to the debtor applying for a Debt Relief Order.

The schedule imposes limits on the permitted level of overall indebtedness (the amount of which is to be prescribed in an order), a limit on the debtor's permitted surplus monthly income (also to be prescribed in an order), and a limit on the value of the debtor's property (also to be prescribed in an order).

Part 2 - Other conditions

This part of the schedule sets out other conditions which the debtor must meet in order to obtain a DRO, specifically that he must not have entered into a transaction at an undervalue or given a preference to another person within the two years prior to the application date, and the determination date. This is in order to avoid a situation where the debtor has disposed of his assets in order to meet the permitted criteria for obtaining a debt relief order, and to protect the position of creditors.