EXPLANATORY MEMORANDUM TO

The Insolvency (Monetary Limits) (Amendment) Order (Northern Ireland) 2024

S.R. No.

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department for the Economy ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under Article 362(1)(b) and (2) of the Insolvency (Northern Ireland) Order 1989 and is subject to the draft affirmative resolution procedure.

2. Purpose

2.1. There are prescribed monetary limits that an individual must meet if they are to be eligible to apply for a Debt Relief Order (DRO).

2.2. This rule amends the prescribed amounts for a debtor's overall indebtedness (debts owed by the debtor) from £20,000 to £50,000, monthly surplus income from £50 to £75 and total value of property a debtor can own from £1,000 to £2,000. A separate piece of legislation to increase the limit at which a vehicle is exempt from being treated as an asset from £2,000 to £4,000 is being made by the Department of Justice.

3. Background

3.1. Debt Relief Orders were introduced in June 2011 and were aimed at providing debt relief to those who had no realistic prospect of repaying their debts and who met the following criteria – total debts of less than £15,000; assets limit of £300; and a surplus income of no more than £50 per month.

3.2. The limits on debt, assets and income are prescribed in the schedule to the Insolvency (Monetary Limits) Order (Northern Ireland) 1991 (S.R. 1991 No. 386).

3.3. In line with increases made in England and Wales, the limits on total debt and assets were respectively increased to £20,000 and £1,000 in November 2016.

3.4. A single domestic motor vehicle does not count towards the assets limit if its maximum potential realisable value is less than a prescribed amount. The prescribed amount can be found in Rule 5A.14(4)(a) of the Insovency Rules (Northern Ireland) 1991 ("Insolvency Rules") and is currently £2,000.

3.5. In June 2021, the Insolvency Service for England and Wales increased all four limits. The debt limit was increased from £20,000 to £30,000; the asset limit from £1,000 to £2,000; the limit on surplus monthly income from £50 to £75 and the vlaue of a motor vehicle from £1,000 to £2,000.

3.6. Historically, insolvency law in Northern Ireland has always maintained parity with Westminster legislation. Therefore, work commenced to increase the ceilings on eligibility for the debt relief scheme in line with the increases made in England and Wales

3.7. However, due to no sitting Assembly the Department was unable to progress similar increases; with the exception of the value of a motor vehicle, which has been increased from £1,000 to £2,000. This was possible as amendments to the Insolvency Rules are made by the Department of Justice and are subject to the negative resolution procedure.

3.8. Legislation is now being made in England and Wales which will raise the limit on total debt from £30,000 to £50,000 and the value up to which a motor vehicle is disregarded from £2,000 to £4,000. These increases will take effect on 28 June 2024.

4. Consultation

4.1. A full public consultation was carried out during March and April 2022 on proposals to increase the limit on total debt to £30,000, the limit on total assets to £2,000, the limit on surplus monthly income to £75 and the value at which a vehicle is disregarded to £2,000. Eight substantive responses were received. All were in favour of the increases; five thought that some of them should be higher. It is especially noteworthy that one advocated raising the ceiling on total debt to £50,000 and another that it should be done away with entirely. Five raised concerns that the proposed increase in the value at which a vehicle is disregarded was too low.

4.2. It has been decided that the limit on total debt should be increased to £50,000 and the value at which a vehicle is exempt from being treated as an asset to £4,000, without further consultation. Consultation is not considered to be necessary as these limits are in line with the views expressed in response to the consultation carried out in 2023. The consultation and the Department's response can be found on our website.

5. Equality Impact

5.1. A screening exercise was carried out and it was established that an equality impact assessment was not required as the policy will apply equally to everyone and will not, therefore, have any adverse impact on any of the section 75 groups.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment has been prepared and will be published along withe this Explanatory Memorandum on the legislation.gov.uk webside after the legislation has been approved by the Assembly and made. Copies can be obtained from the Legislation Unit, Insolvency Service, Fermanagh House, 20A Ormeau Avenue, Belfast BT2 8NJ.

7. Financial Implications

7.1. No expenditure will be incurred by government as a result of the planned changes.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that the Order is not incompatible with any of the convention rights, does not discriminate against a person or class of persons on the grounds of religious belief or political opinion and does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. The measure is to provide for the same financial eligibility limits to apply for the purposes of the Northern Ireland Debt Relief scheme as will apply for the purposes of the Debt Relief in England and Wales once the Insolvency Proceedings (Monetary Limits) (Amendment) Order 2024 has been made and brought into force.

11. Additional Information

11.1. Not applicable