

EXPLANATORY MEMORANDUM TO

The Debt Relief (2010 Act) (Commencement) Order (Northern Ireland) 2011

SR 2011 No. 13 (C.2)

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Enterprise, Trade and Investment ("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 section 7(1) of the Debt Relief Act (Northern Ireland) 2010 ("the 2010 Act") and is not subject to any form of resolution before the Assembly.

2. Purpose

- 2.1. This Order commences all provisions in the 2010 Act except sections 5, 8 and 9, which, by virtue of section 14 of the Interpretation Act (Northern Ireland) 1954, are treated as having come into operation at the end of day before the date on which the 2010 Act received Royal Assent (it received Royal Assent on XX December 2010)
- 2.2. Commencement of the complete Act allows eligible individuals who are unable to pay their debts to apply to the Official Receiver for relief.

3. Background

- 3.1. The 2010 Act amends the Insolvency (Northern Ireland) Order 1989 to enable the Official Receiver to make debt relief orders, the effect of which is to create a moratorium period, normally lasting for one year, during which debtors are protected against action or proceedings in respect of debts covered by the order. Full discharge from liability for those debts takes place at the end of the moratorium.
- 3.2. The Act provides for eligibility conditions to apply, including that the debtor's total debts, monthly surplus income, and the total value of their property do not exceed amounts specified by order.
- 3.3. The Act allows for the making of Debt Relief Restrictions Orders by the High Court or the giving of Bankruptcy Restrictions Undertakings to the Department where there is evidence of culpability. Such orders or undertakings place debtors under continuing restrictions as regards taking credit, or the name in which they can trade, following discharge from their moratorium period.
- 3.4. The Act establishes a range of offences and penalties in connection with application for and making of debt relief orders.

4. Consultation

- 4.1. The Department carried out a policy consultation in respect of the 2010 Act during the period 11 February to 6 May 2009. As this Order only commences that Act and does not alter it no further consultation is required.

5. Equality Impact

- 5.1. Screening carried out during development of the 2010 Act did not show any impact on equality under section 75 of the Northern Ireland Act 1998. As the sole purpose of this Order is to commence the 2010 Act no further screening is considered necessary.

6. Regulatory Impact

- 6.1. Any Regulatory Impact derives from the 2010 Act itself, not from its commencement. A Regulatory Impact Assessment was carried out for the 2010 Act.

7. Financial Implications

- 7.1. These were assessed prior to the 2010 Act being passed.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department considers that the Order is compliant with section 24 of the Northern Ireland Act 1998]

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. Provisions contained in the Tribunals, Courts and Enforcement Act 2007 which apply in England and Wales and are equivalent to the 2010 Act were commenced by the Tribunals, Courts and Enforcement Act 2007 (Commencement No. 7) Order 2009 (S.I. 2009/382 (C. 19)).

11. Additional Information

- 11.1. Not applicable.