

EXPLANATORY MEMORANDUM TO

The Insolvency (Amendment No. 2) Rules (Northern Ireland) 2023

S.R. No. 220

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 359 of the Insolvency (Northern Ireland) Order 1989 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. This Rule amends Rule 5A.14, of the Insolvency Rules (Northern Ireland) 1991 ("1991 Rules"), which lists property the official receiver must disregard for the purposes of determining the value of a person's property in connection with a Debt Relief Order (DRO). This includes a single domestic motor vehicle where the maximum potential realisable value is less than £1,000. This Rule changes that amount to £2,000.

3. Background

- 3.1. DROs were introduced on 30 June 2011. The debt relief scheme is delivered in partnership with the debt advice sector, DROs provide low cost, easy access to debt relief for those with relatively low levels of unmanageable debt, and no means with which to pay their creditors, providing a fresh start for the most vulnerable. At the end of the DRO period (usually 12 months) the debts included within the order are written off and the individual is no longer responsible for paying them.
- 3.2. In order to be able to apply for a DRO a person must meet strict monetary eligibility criteria which were last changed in 2016.
- 3.3. The current limits are that a person must: own assets that are not worth more than £1,000 in total (essential household items such as bedding, and furniture are excluded as are tools or other equipment that are essential for work); have no more than £50 surplus income each month, after paying tax, national insurance and normal household expenses; and have debts of £20,000 or less. In addition, one domestic motor vehicle worth no more than £1,000 is excluded from the asset criteria.
- 3.4. The debt relief scheme is modelled on a similar scheme in England & Wales where the monetary limits for access to the scheme were increased in 2021. The corresponding limits under the scheme in E&W were increased to £30,000 of debt, £2,000 of assets, £75 surplus monthly income; and £2,000 for a motor vehicle by a statutory instrument which took effect on 29 June 2021.
- 3.5. The intention was, therefore, to amend the Northern Ireland limits in line with those in E&W. However, this has not proved possible in the absence of an Assembly.

- 3.6. It has been identified, however, that the limit relating to the value of a motor vehicle can be increased. This is because it is subject to different legislative procedure and Assembly approval would not be required.

4. Consultation

- 4.1. A full public consultation was carried out between 2 March 2022 to 28 April 2022. The consultation and the government responses can be found at: <https://www.economy-ni.gov.uk/consultations/proposed-increases-monetary-eligibility-limits-debt-relief-orders-northern-ireland>

5. Equality Impact

- 5.1. A screening exercised identified that is no negative impact on any of the Section 75 groups

6. Regulatory Impact

- 6.1. A Regulatory Impact Assessment has been carried out and can be found at: <https://www.economy-ni.gov.uk/consultations/proposed-increases-monetary-eligibility-limits-debt-relief-orders-northern-ireland> .

7. Financial Implications

- 7.1. There is no cost to the public purse.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The provisions of this rule are considered to be compliant with section 24 of the Northern Ireland Act 1998, including that they are compatible with the Convention Rights as defined in the Human Rights Act 1998 and with Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement (rights of individuals).

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. The amendment is in line with S.I. 2021 No. 672 applying in GB

11. Additional Information

- 11.1. Legislation to bring the increases to the remaining three monetary limits will made once the Assembly is restored.