Department for the Economy
www.economy-ni.gov.uk

PROPOSED INCREASES TO THE MONETARY ELIGIBILITY LIMITS FOR DEBT RELIEF ORDERS IN NORTHERN IRELAND

Public Consultation

March 2022

Contents

General Information

Purpose of this consultation

To be eligible for a debt relief order the total amount of debt which an individual has, the total value of their assets, their surplus monthly income and if they have a vehicle for domestic use, its value, must all be below limits set down in legislation.

Legislation has been made to increase the limits which apply under the debt relief scheme in England and Wales.

The purpose of this consultation is to seek views as to whether there should be corresponding increases to the limits under the Northern Ireland scheme.

Issued: 2 March 2022

Respond by: 28 April 2022

Enquiries to:

Eileen Glenn
Legislation Unit
Insolvency Service
Department for the Economy
Fermanagh House
Ormeau Avenue
Belfast, BT2 8NJ
Email: eileen.glenn@economy-ni.gov.uk
Web: Consultations | Department for the Economy (economy-ni.gov.uk).

This consultation is relevant to: individuals with debt which they are unable to pay, individuals and organisations engaged in the provision of debt advice, trade bodies, creditors and their representatives and insolvency practitioners and their professional bodies.

In the current circumstances, we would welcome queries by e-mail where possible.

We are also willing, during the consutation period, to meet with respondents who wish to discuss the consultation proposals.

Any requests for a meeting should be sent to Eileen Glenn at the postal or email address above. In current circumstances any meeing is likely to be held virtually.

How to Respond

Responses are invited to the proposals set out in this consultation document and/or on the accompanying draft Regulatory Impact Assessment, Equality Screening Form and Rural Needs impact Assessment.

All responses should include the name and postal address of the respondent.

When responding please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation response form.

Your response will be most useful if it is framed in direct response to the questions asked, although further comments and evidence are also welcome.

A consultation response form is also available for download from the Consultations | Department for the Economy (economy-ni.gov.uk)

The downloaded form may be submitted by email or by letter to:

Email: eileen.glenn@economy-ni.gov.uk

Postal Address:

Legislation Unit
Insolvency Service
Department for the Economy
Fermanagh House
Ormeau Avenue
Belfast BT2 8NJ

The consultation will close on 28 April. Any responses received after that date will not be considered as part of this consultation process.

Alternative format and additional copies:

This consultation document is being produced primarily in electronic form and may be accessed on the "Consultations" page on the Department's website at Consultations | Department for the Economy (economy-ni.gov.uk)

Please contact us if you require this document in hard copy, or in an alternative format- e.g. Braille, disk, audio cassette or in a minority ethnic language. You may make copies of this document without permission. **This consultation paper contains public sector information licensed under the Open Government Licence v3.0.**

Confidentiality and data protection

We will summarise all responses received and place this summary on the Department for the Economy website. This will include a list of the organisations that responded but will not include people's personal names, addresses or other contact details.

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure under access to information legislation (primarily the Data Protection Act 2018/the General Data Protection Regulation 2018; Freedom of Information Act 2000; and the Environmental Information Regulations 2004).

For this reason you should identify in your response any information which you do not wish to be disclosed and explain why this is the case. Please note that an automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

If we receive a request for disclosure of this information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances.

For further information about how we process your personal data, please see our Privacy Notice at Annex A.

Consultation Process

This consultation has been carried out in accordance with the UK Government's Consultation Principles 2018.

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to the Insolvency Service's Complaints Officer, Susan Copeland, at Susan.Copeland@economy-ni.gov.uk.

If you are not satisfied with the response from the Insolvency Service's Complaints Officer you should contact the Departmental Complaints Officer at DfEmail@economy-ni.gov.uk. Details of the Department's Complaint Process can be found at:

Customer Service Complaints Procedure

Impact Assessments

The Department conducted an Equality Screening and Regulatory and Rural Impact assessments for this policy proposal. Currently we do not anticipate that the policy will result in any adverse impacts on any of the Section 75 groups or that the impact on those who live in rural areas will be any different from the impact on those who live in urban areas. However, if any potential issues are raised as part of this consultation process we will review our impact assessments at that stage and amend if required.

Our initial regulatory impact assessment will be reviewed at legislation drafting stage where we can assess in more detail the regulatory impact of the policy proposal.

This consultation document includes a summary of initial impacts at Annex B.

The Equality screening and Regulatory and Rural Impact Assessment documents can be viewed at:

Equality Screening - The Insolvency (Monetary Limits) (Amendment) Order (Northern Ireland) 2022 and the Insolvency (Amendment) Rules 2022

Rural Needs Impact Assessment - The Insolvency (Monetary Limits) (Amendment) Order (Northern Ireland) 2022 and the Insolvency (Amendment) Rules 2022

Introduction

The Insolvency Service in England and Wales csrried out a consultation on proposed increases to the monetary eligibility limits for Debt Relief Orders in England and Wales during the period 12 January to 26 February 2021. The consultation and UK Government response documents were:

Debt Relief Orders: Consultation on changes to the monetary eligibility criteria - GOV.UK (www.gov.uk)

Summary of responses and Government response - GOV.UK (www.gov.uk)

These documents set out the rationale for the increases made to the eligibility limits applying in England and Wales and we would recommend that you consider them as you develop your response to this consultation.

They have resulted in the making of two Statutory Instruments applying in England and Wales:

The Insolvency Proceedings (Monetary Limits) (Amendment) Order 2021 (legislation.gov.uk)

The Insolvency (England and Wales) (Amendment) Rules 2021 (legislation.gov.uk)

What the Debt Relief scheme is

There are two debt relief schemes in the UK, one for England and Wales and one for Northern Ireland The two schemes are in most respects identical.

The scheme in England and Wales started in April 2009, the Northern Ireland scheme in June 2011.

The schemes provide low cost, easy access to debt relief for individuals burdened by debt which they cannot afford to repay, but whose overall level of indebtness is relatively low. The schemes offer individuals in this position the opportunity of a fresh start by enabling them to obtain discharge from liability for their debts at substantially lower cost than they would incur by petitioning the courts to be made bankrupt.

The schemes are delivered in partnership with the debt advice sector. Application to the scheme is made through a debt adviser who has been approved to act as an intermediary. Approval is by one of four competent authorities designated by, in the case of the Northern Ireland scheme, the Department for the Economy.

The intermediary usually completes the application form on behalf of the debtor and it is only intermediaries who can submit completed forms. Submission is done electronically and the form goes to the Insolvency Service's Debt Relief Order team.

Once the intermediary has submitted the application the debtor has to pay a £90 fee, to, in the case of the Northern Ireland scheme, the Department for the Economy. This is the only cost to the debtor.

Once the £90 fee has been paid the application is processed by the Department's Debt Relief Team. If the debtor meets all of the eligibility conditions for the scheme the Official Receiver will make a Debt Relief Order. A Debt Relief Order protects the debtor from enforcement action by creditors in respect of the debts listed in the Order for a twelve month period, at the end of which they are fully discharged from liability to pay these debts.

Between the scheme becoming operational on 30 June 2011 and 30 June 2021 a total of 4,531 people in Northern Ireland have availed of it to free themselves from debt burdens.

The current monetary eligibility limits

The Debt Relief schemes in England and Wales and Northern Ireland are intended for use by individuals with comparatively low overall levels of debt and no means to pay their creditors and for whom bankruptcy would be a disproportionate remedy.

To ensure that it is only such individuals who can access the schemes the eligibility criteria include four monetary limits.

At the time the schemes were set up these were that,

- total debts, other than unliquidated debts and excluded debts, did not exceed £15,000,
- the debtor's total assets. other than essential household items such as bedding and furniture and tools needed for work, were not worth more than £300,
- the value of a single vehicle, for domestic use by the debtor, and which had not been adapted because of disability, did not exceed £1,000,
- the debtor did not have more than £50 surplus income each month, after paying tax, national insurance and normal household expenses.

Two of these limits were increased in England and Wales on 1 October 2015 by the Insolvency Proceedings (Monetary Limits) (Amendment) Order 2015. The limit on total debt was increased to £20,000 and the limit on total assets to £1,000.

In Northern Ireland the limits on total debt and total assets were respectively increased to £20,000 and £1,000 on 30 November 2016 by the Insolvency (Monetary Limits) (Amendment) Order (Northern Ireland) 2016.

The number of additional people who have been able to obtain Debt Relief Orders as a result of the limits on total debt and total assets being increased in 2016

The increase to the limits on total debts and total assets in 2016 has enabled a total of 426 people who would previously have been ineligible for a Debt Relief Order to obtain one in the period between 30 November 2016 and 30 June 2021. A breakdown of the numbers is follows;

- 371 or 19% of the total number of those who obtained Debt Relief Orders in that period had liabilities in excess of the former £15,000 limit
- 47 or 2.4% of the total had assets worth more than £300
- 8 or 0.41% of the total had liabilities of more than £15,000 and assets worth more than £300.

The Increases in 2021 to the monetary limits applying in England and Wales

The limits for all four criteria were increased in England and Wales on 29 June 2021.

The Insolvency Proceedings (Monetary Limits) (Amendment) Order 2021 provided,

- for the limit on maximum total debts to be increased from £20,000 to £30,000,
- for the limit on the total value of assets to be increased from £1,000 to £2,000, and
- for the limit on monthly surplus income to be increased from £50 to £75

The Insolvency (England and Wales) (Amendment) Rules 2021 raised the value up to which a single domestic vehicle not adapted for use because of disability can be disregarded from £1,000 to £2,000.

Proposed changes to the Monetary Limits under the Northern Ireland Debt Relief scheme

Normal policy and practice is to keep insolvency legislation in Northern Ireland in parity with that applying in England and Wales. This ensures that those affected by insolvency are treated the same way as they would be in England and Wales and simplifies matters for creditors from outside Northern Ireland.

It is proposed to make the same increases to all four monetary eligibility limits applying under the Northern Ireland scheme as have been made in England and Wales.

The existing limits and the amounts to which they would be increased are shown in the following table:-

Eligibility criterion	Existing limit	Proposed new limit
Total debt	Must not exceed £20,000	Must not exceed £30,000
Value of total assets, other than excluded items	Must not be worth more than £1,000	Must not be worth more than £2,000
Value of single domestic vehicle	Must not exceed £1,000	Must not exceed £2,000
Surplus income each month	Must not exceed £50	Must not exceed £75

Subordinate legislation will be needed to make the increases.

The rationale for making the same increases to the monetary eligibility limits applying in Northern ireland as have been made in England and Wales

The policy behind the scheme in Northern Ireland is that people in need of debt relief should have the same access to it, on the same terms, as people in England and Wales.

It is in keeping with this policy that the same increases to the monetary eligibility criteria are being proposed for Northern Ireland as have been implemented in England and Wales.

The estimated impact of the proposed changes in terms of the likely increase in the number of applicants

Making the same increases to the monetary eliegibilty limits for Debt Relief Orders in Northern Ireland as have been made in England and Wales will give more people with low levels of assets and low income who have problem debt access to a suitable and proportionate option for debt relief.

The consultation carried out by the Insolvency Service in England and Wales referred to,

- a greater need for people in financial distress to have access to an appropriate debt solution due to the highly uncertain economic outlook as a result of the Coronavirus pandemic,

- it being appropriate to consider whether the DRO limits then applying needed to be changed because of the potential impact of the pandemic on personal indebtedness,
- research indicating that, compared to the 2008-09 recession, households with low to middle incomes were more likely to have entered the Coronavirus situation with problem debts and to be struggling to pay for essentials,
- an estimated 1 in 5 of those who have fallen behind with their household bills being unable afford essentials, and
- an expectation that additional funding provided by the Government for debt advice will result in increased demand for Debt Relief Orders.

There is no reason to believe that the situation in Northern Ireland is any different, and additional money was allocated by the Department for Communities for the provision of debt advice to deal with the impact of the pandemic during 2020/21.

It is estimated that the proposed increases to the asset, income, domestic vehicle value and debt limits will result in an annual increase of 253 in the number of people eligible for a DRO in Northern Ireland, representing a 51% increase on the number of individuals who obtained one in 2019/20.

Consultation Questions

1. Do you agree that the monetary eligibility criteria for Debt Relief Orders in Northern Ireland should be increased to the same amounts as now apply in England and Wales, that is to £30,000 for total debt, £2,000 for total assets, £2,000 for a single domestic vehicle not adapted because of disability and £75 for surplus monthly income?

2. If you do not agree with any of the proposed amounts, what do you think they should be? Please state your reasons, including why you think that the limit in Northern Ireland should be different from that in England and Wales .

3. Do the proposed changes strike the right balance between ensuring that the most vulnerable individuals are able to access low cost debt relief and at the same time protecting the interests of creditors by maintaining the "can pay will pay" ethos? Would these levels of assets lead to a return to creditors in a different debt relief solution? Please state your reasons.

4. Are there any other comments you would like to make?

Annex A: Privacy Notice- Consultation on proposed increases to the monetary eligibility limits for Debt Relief Orders in Northern Ireland

Data Controller Name: Department for the Economy

Address: Insolvency Service, Department for the Economy, Ormeau Avenue Belfast BT2 8NJ

Email: jack.reid@economy-ni.gov.uk

Why are you processing my personal information?

The Department for the Economy (DfE) will process personal data provided in response to consultations for the purpose of informing the development of our policy, guidance, or other regulatory work in the subject area of the request for views. We will publish a summary of the consultation responses, but this will not contain any personal data. We will not publish the names or contact details of respondents, but will include the names of organisations responding.

We will use the contact details provided to ensure each respondent receives a copy of the Departmental Response to the consultation at the end of the process.

Under which lawful basis are you processing this information?

Under provision inserted into the Insolvency (Northern Ireland) Order 1989, by the Debt Relief Act (Northern Ireland) 2010, eligible individuals can apply to the Official Receiver, who is an official in DfE, for a debt relief order. DfE is responsible for the policy in relation to the the making of debt relief orders; this consultation process is necessary before any amendments to this policy may be introduced. Personal data collected in this consultation exercise will be used for analysis and reporting of consultation responses under the lawful basis of public task (i.e. Article 6(1)(e) of the GDPR: the processing is necessary for the Department to perform a task in the public interest or for our official functions, and the task or function has a clear basis in law).

What categories of personal data are you processing?

Personal data collected as part of the public consultation process is: name, postal/email address and status/category (i.e. individual or organisation). As part of the consultation response you will be asked if you are responding as an individual or on behalf of an organisation.

Where do you get my personal data from?

Information is collected from your consultation response.

Do you share my personal data with anyone else?

We process the information internally (within DfE), for the above stated purpose. We will not share your personal data with any third party as part of the consultation process. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure under access to information legislation (primarily the Data Protection Act 2018 / UK General Data Protection Regulation 2018 or the Freedom of Information Act 2000). For this reason you should identify in your response any information you do not wish to be disclosed and explain why this is the case. Please note that an automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

If we receive a request for disclosure of this information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances.

Do you transfer my personal data to other countries?

No.

How long do you keep my personal data?

The data you provide in your response will be stored on the DfE Record Management system and will be retained for five years after the end of the consultation period, and destroyed in line with the DfE Retention and Disposal Schedule. Categorisation data will be anonymised and will also be held in line with the Department's Retention and Disposal Schedule.

What rights do I have?

• You have the right to obtain confirmation that your data is being processed, and access to your personal data.

• You are entitled to have personal data rectified if it is inaccurate or incomplete.

• You have the right to 'block' or suppress processing of personal data, in specific circumstances.

• You have the right to object to the processing, in specific circumstances.

• You have rights in relation to automated decision making and profiling.

How do I complain if I am not happy?

If you are unhappy with any aspect of this privacy notice, or how your personal information is being processed, please contact the Department's Data Protection Officer:

Data Protection Officer: Bernard McCaughan

Email: DPO@economy-ni.gov.uk

If you are still not happy, you have the right to lodge a complaint with the Information Commissioner's Office (ICO):

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

Annex B: Considered Impacts

A full Regulatory Impact Assessment has been prepared. The impacts which have been considered are outlined below:

Business impacts

Costs

- Familiarisation costs to approved intermediaries that are authorised to process DRO applications. This may include costs to train staff, disseminate information and to update any processing systems.
- Cost to approved intermediaries from increased DRO demand. Changing the eligibility criteria for DROs to make more people eligible should lead to an increase in demand from debtors for DROs. Approved intermediaries would therefore have to service this additional demand and where necessary invest to increase capacity.
- Cost to creditors from a limited number of cases where an individual is now able to access debt relief compared to an alternative solution which would have provided a distribution. In a DRO, the debts of the debtor are completely written off and so no distribution is made to creditors. This differs to other solutions for example an Individual Voluntary Arrangement (IVA) or Debt Management Plan where debts are repaid to creditors over a period of time.
- Insolvency Practitioners (IPs) are involved in certain procedures and charge fees to cover their remuneration. A limited number of IP led procedures, such as IVAs, may be impacted by the measure resulting in a loss of IP fee income from these debtors entering a DRO instead.

Benefits

- Benefits to creditors from reduced administration and recovery costs. In low asset and debt cases the actual debt recovered is likely to be very small and would generally exceed the cost of recovery. Writing off debt in these cases can result in a net benefit for creditors against the status quo.

Debtor impacts

Benefits

- Benefit to debtors from having access to a DRO for the first time, enabling write-off of their debts.
- Benefits to debtors from improved social outcomes. There is a consensus of opinion amongst academics and debt advice agencies on the link between financial distress and productivity, relationships, physical and mental health.
- Benefit to debtors from lower fees. It is anticipated some debtors will transfer from bankruptcy to DROs. The fees for DROs are lower than for bankruptcy, which will result in a cost saving for the debtor.

Public sector impacts

Costs

- Reduced official receiver service fee (ORS) income. There will be a cost to the Insolvency service from the transfer of bankruptcy cases to DROs in the form of reduced income.
- Staffing costs to deal with increased demand for DROs. There will be a cost to the Insolvency Service to service additional demand.
- Cost to public sector creditors. The public sector is a significant creditor in insolvency and therefore the cost to creditors from individuals accessing debt relief and their debts being written off will have an impact.

Benefits

- Savings for the Insolvency Service ORS function due to the transfer of bankruptcy cases to DROs.
- Additional fee income from DROs. The increased demand for DROs may result in a small increase in fee income.