EXPLANATORY MEMORANDUM TO

The Insolvency (Amendment) Rules (Northern Ireland) 2024

SR 2024 No. 224

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 £2,000. This Rule changes that amount to £4,000.

3. Background

3.1. The debt relief scheme became operational on 30 June 2011 and 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. In order to be able to apply for a DRO a person must meet strict monetary eligibility criteria.

3.2. The debt relief scheme is modelled on a similar scheme in England and Wales.The eligibility criteria are the same; they are that an individual's total debts, the value of any assets, the level of surplus monthly income, and the value of a single motor vehicle for domestic use, must not exceed specified amounts.

3.3. The monetary limits for access to the England and Wales scheme were increased from 29 June 2021. Following on from this the Department carried out a public consultation on whether corresponding increases should be made to the limits under its scheme.

3.4. The intention was, therefore, to amend the Northern Ireland limits in line with those in E&W. However, due to the absence of the Assembly the only limit which could be increased was the limit on the value of a motor vehicle for domestic use. This was increased from £1,000 to £2,000 by the Insolvency (Amendment No. 2) Rules (Northern Ireland) 2023, which were made on 19 December 2023 and came into force on 1 February 2024. It was possible to make these rules because, unlike the legisaltion which

would have been required to increase the other limits, rules are subject to negative resolution procedure and Assembly approval is not required.

3.5. The Chancellor announced further increases to two of the limits under the scheme in England and Wales in his 2024 Spring Budget. The increases were to the limits on total debt and the value of a motor vehicle which had applied since 29 June 2021 and would result in these respectively increasing from £30,000 to £50,000 and from £2,000 to £4,000.

3.6. Taking into consideration that the responses to the Department's 2022 consultation had been unanimously in favour of the proposed increases and that some of the respondents had advocated that some of the increases should be higher, it was decided to proceed with all of the increases which had been made in E&W, including the two further increases announced in the 2024 Spring budget, without further consultation.

3.7. The new limits will be, that a person must not own assets worth more than £2,000 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 £75 surplus income each month, after paying tax, national insurance and normal household expenses and have debts of £50,000 or less. A single domestic motor vehicle will be excluded from being counted towards the asset criterion if it is not worth more than £4,000.

4. Consultation

4.1. A full public consultation was carried out between 2 March 2022 and 28 April 2022. The consultation, a summary of responses and the government response 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 there 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 that made by the Insolvency (England and Wales) (Amendment) Rules 2024 (S.I. 2024 No. 622).

11. Additional Information

11.1. The limits on overall indebtedness, monthly surplus income and the total value of property a debtor can own, have been increased by the Insolvency (Monetary Limits) (Amendment) Order (Northern Ireland), which came into operation on 8 July 2024.