

EXPLANATORY MEMORANDUM TO

The Insolvency (Northern Ireland) Order 1989 (Amendment) Order (Northern Ireland) 2016

S.R. No. 369

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 241(3) of the Insolvency (Northern Ireland) Order 1989 and is subject to the affirmative resolution procedure.

2. Purpose

- 2.1. The purpose of this Order is to increase the minimum level of debt at which a creditor may petition to have a debtor made bankrupt.

3. Background

- 3.1. A creditor can petition the High Court to make an individual, who owes them money, bankrupt. The current level of debt, at which a creditor can take this action, is £750, which was set in 1989 by Article 241(3) of the Insolvency (Northern Ireland) Order 1989.
- 3.2. The bankruptcy level in England and Wales has been increased from £750 to £5,000, which took effect from the 1st October 2015.
- 3.3. Historically, insolvency law in Northern Ireland has always maintained parity with Westminster legislation. This ensures equality of treatment in the two jurisdictions and simplifies matters where there are parties to insolvency proceedings in both jurisdictions.
- 3.4. This Order will make the same increase in line with that which is already in force in England and Wales.

4. Consultation

- 4.1. A public consultation took place between 17 September and 12 November 2015. A total of 3 substantive responses were received. All of the respondents agreed that the level should be increased, with one of the respondents stating that the increase should be lower.

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. Businesses would no longer be able to use bankruptcy as a way of dealing with non-payment of debts of up to £5,000. They would have to consider the alternative of obtaining judgement and lodging it for enforcement.
- 6.2. A Regulatory Impact Assessment has been prepared and will appear on the Department's website after the legislation has been approved by the Assembly.

7. Financial Implications

- 7.1. There are no identifiable direct costs to the public purse or the Assembly.

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 proposed Rule does not contravene this section.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. The corresponding legislation in GB is the Insolvency Act 1986 (Amendment) Order 2015 (S.I. 2015 No. 922) which came into force on 1st October 2015.

11. Additional Information

- 11.1. Not applicable