

<b>Title: Changing to eligibility for Debt Relief Order and to the level of a creditor petition bankruptcy</b>  <b>IA No:</b> BISINSS016  <b>Lead department or agency:</b> BIS  <b>Other departments or agencies:</b> Insolvency Service	<b>Impact Assessment (IA)</b>	
	<b>Date:</b> 01/12/14	
	<b>Stage:</b> Final	
	<b>Source of intervention:</b> Domestic	
	<b>Type of measure:</b> Secondary legislation	
<b>Contact for enquiries:</b> David Miller 0207 637 6445		

<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b>
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Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as
-2.99	-2.03	£1.05m	Yes	IN

**What is the problem under consideration? Why is government intervention necessary?**

This impact assessment describes the impact of two legislative changes: 1) Increasing the entry criteria for Debt Relief Orders 2) Increases to the bankruptcy creditor petition limit. Debt Relief Orders (DRO) were introduced in 2009 to help the most vulnerable debtor access debt relief. Since then changes in prices and wages means that intended targeted group of vulnerable debtors may need to change. Government intervention is the only mechanism that can update the entry criteria for a DRO.

A creditor can initiate bankruptcy proceedings if they are owed £750, this limit was set in 1986 and needs to be changed to account for changes in the economy and debt recovery landscape. The current low level has led to bankruptcy proceeding being initiated in disproportionate circumstances. Government intervention is necessary to reduce this enforcement mechanism in cases that Parliament had not originally intended to be available.

**What are the policy objectives and the intended effects?**

The overall aim of this legislation is to provide the best mechanism for people to obtain debt relief. Following on from the introduction of DROs in 2009, a review of DROs was necessary to make sure that the regime is working correctly and if any changes need to be made to ensure it is achieving what it was originally set out to do.

An increase in the creditor petition limit is necessary to ensure that the strongest of debt recovery tools is only used at appropriate times.

This will ensure protection for the most vulnerable debtors and increase the overall efficiency of the insolvency regime in the UK.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Option 1: Do nothing: The most vulnerable debtors will not be able to access low cost debt relief and bankruptcy proceedings will be initiated for disproportionate debt levels

Option 2 (preferred option):

From 1 October 2015, change entry criteria for a DRO from £15,000 qualifying debts to £20,000, increase qualifying assets from £300 to £1,000.

Increase the bankruptcy creditor petition limit from £750 to £5,000.

The levels take into account the views of stakeholders expressed via the call for evidence and were chosen to increase access to low cost debt relief for vulnerable debtors without placing significant costs on creditors and to bring bankruptcy petitions more in line with other forms of debt recovery.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 10/2020

Does implementation go beyond minimum EU requirements?	N/A
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Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent) N/A			<b>Traded:</b> n/a	<b>Non-traded:</b> n/a	

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible MINISTER

Jo Swinson

Date: 14th Jan 2015

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Changes to the entry parameters of Debt Relief Orders and increase bankruptcy creditor petition deposit

## FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -5.02	High: -1.04	Best Estimate: -2.99

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.0	1.2	10.2
High	0.0	1.7	14.2
Best Estimate	0.0	1.4	11.9

### Description and scale of key monetised costs by 'main affected groups'

Changes to DRO eligibility - There is a cost to competent authorities from administering the additional demand for DROs of around £1.2m per year. They will also incur one off familiarisation and training costs of around £0.03m. Creditors will lose out on a small amount of dividend payment estimated to be less than £ 0.01m per year

Increase in the Creditor Petition limit – It has been estimated that the reduced ability of creditors to initiate bankruptcy proceedings may cost creditors around £0.25m per year.

### Other key non-monetised costs by 'main affected groups'

There are no non-monetised costs of this policy.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.0	1.1	9.2
High	0.0	1.1	9.2
Best Estimate	0.0	1.1	9.2

### Description and scale of key monetised benefits by 'main affected groups'

Debtors following a DRO route instead of a bankruptcy route will save between £0.57 and £1.14m in reduced costs. A benefit to the insolvency service, which would be passed on to creditors in reduced fees, of around £0.5m from reduced staffing costs.

### Other key non-monetised benefits by 'main affected groups'

Improving access to debt relief orders will help vulnerable debtors gain access to debt relief. An annual benefit to debtors from being able to access debt relief orders of around £60m. Effective debt relief can provide a number of non monetised benefits including better relationships with family and friends, improvements in mental health and better employment prospects. Creditors may no longer incur the cost of debt recovery for debts where the recovery levels will likely exceed the cost of recovery.

### Key assumptions/sensitivities/risks

Discount rate (%)

3.5

There is a risk that the forecasted changes in bankruptcy and debt relief orders may prove to be significantly different from reality leading to potentially larger costs to creditors and competent authorities than anticipated. There is also a small risk that providing greater access to inexpensive debt relief may lead to more reckless borrowing by individuals.

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 1.1	Benefits: 0.0	Net: -1.1	Yes	IN

## Background and problem under consideration

1. The overall aim of the changes in this legislation is to protect the most vulnerable consumers with debt problems. To achieve this objective it is proposed to change two areas in insolvency proceedings: debt relief orders and bankruptcy creditor petition limits.
2. Generally, if a person has debt problems there are various options to help them make arrangements with their creditors:
  - the debtor can contact his/her creditors and negotiate an agreement to repay all or some of the debts owed;
  - a debtor can apply to a lender for a loan to reorganise or clear his/her debts;
  - a debtor can go to a debt management company who will negotiate with his/her creditors and manage his/her payments to them. The arrangement the company negotiates for the debtor with his/her creditors is called a debt management plan (DMP);
  - a debtor can ask the court to make an administration order (County Court Administration order), under which the debtor must make weekly, monthly or quarterly payments from his/her income to the court, which shares them among his/her creditors, in proportion to the amounts he/she owes them;
  - a debtor can go to an insolvency practitioner who will prepare, negotiate and administer an Individual Voluntary Arrangement (IVA) for him/her to repay his/her creditors; and two more options which were recognised to need a change,
  - the debtor can enter a Debt Relief Order;
  - the debtor can become Bankrupt.
3. Debt Relief Orders (DRO) - assist a lot of the neediest people with their over-indebtedness but there is a need to review the eligibility for a DRO because of changes in prices and income.
4. Bankruptcy - a creditor may petition a court to make a debtor bankrupt if they owe the creditor in excess of £750. This limit was set in 1986 and due to the effect of inflation and income changes this has given creditors an enforcement option over low levels of debts, which Parliament had not originally intended them to have.
5. This IA will describe the impact of changes to both Debt Relief Orders and the Bankruptcy Creditor Petition limit.

### **Debt Relief Orders**

6. Debt Relief Orders were introduced in April 2009 and were aimed at providing much needed debt relief to a specific group of individuals in financial difficulty, i.e. those with a low level of liabilities (£15,000), no assets over and above a nominal amount (£300) and no surplus income with which to pay creditors (£50), and for whom bankruptcy is a disproportionate remedy. The process and structure of going through a DRO was made as simple as possible to ensure the cost of entry, which has been set to cover costs, would not exclude debtors. The entry fee is £90. It was also designed to support the financial rehabilitation of debtors as its low cost provided debtors with an incentive to address their debt issues earlier. This is an administrative rather than a court based procedure and can only be obtained once every 6 years. The applications can only be processed by financial intermediaries working for one of the recognised competent authorities. After 12 months the debtor emerges debt free with no payments made to

creditors. In the five years since debt relief orders were introduced, over 140,000 people have received debt relief.

**Table 1: Number of DROs since the system was introduced in April 2009**

Year	Orders Made
2009/10	17,475
2010/11	26,326
2011/12	30,118
2012/13	30,501
2013/14	26,876
April - July 2014	9,565
<b>Grand Total</b>	<b>140,861</b>

Source: Insolvency Service

7. A recent survey<sup>1</sup> of people who have been through a DRO found that the overwhelming majority of people who had been surveyed admitted that they would not have been able to deal with their debts if the DRO had not been available to them. Most of them were experiencing problems with debt for one to five years before going through DRO. Cancelling debts through the DRO had a positive impact on debtors' health. When asked about their current situation, most said they do not have any debt or have debts below £5,000 and feel that their current level of debt is manageable. The survey also showed the majority (61%) have not wanted to access credit since they completed the DRO process.

However, the limits for a DRO were set out in 2009 and now it is essential to check if they are still reasonable and helpful for the people at whom they are aimed.

### **Bankruptcy Creditor Petition Limits**

8. A more severe form of debt relief is being made a bankrupt, where the debtor is divested of almost all the assets that form part of their estate. A court makes a bankruptcy order only after a bankruptcy petition has been presented (by debtors or creditors). The creditor bankruptcy petition level was set at £750 in 1986 when the average wage was £3.87 per hour<sup>2</sup>. In 2013, the average full-time employee in the UK earned around £13.13 per hour excluding overtime<sup>3</sup>, a cash increase of 239%.

Bankruptcy requires the petitioner to pay an upfront deposit and court fees before an order can be obtained: in the case of debtor petitioner the amount required is £705: £525

<sup>1</sup> *The Insolvency Service – Debt Relief Order survey* was conducted in August, September and October 2014, the sample size was 560, of which 403 have completed the DRO process and had their debts cancelled.

<sup>2</sup> ONS, *Earnings have risen by 62% (after adjusting for inflation) since 1986, Part of Earnings in the UK over the Past 25 Years*, 2012 Release, Released: 09 February 2013 [accessed via: <http://www.ons.gov.uk/ons/rel/lmac/earnings-in-the-uk-over-the-past-25-years/2012/sty-pay-over-25-years.html> (17/09/14)]

<sup>3</sup> ONS, *Release: Annual Survey of Hours and Earnings, 2013 Provisional Results, Part of Annual Survey of Hours and Earnings*, 2013 Provisional Results Release, Released: 12 December 2013, Table 1.5a Hourly pay - Gross (£) - For full-time employee jobs: United Kingdom, 2013 (median = £13.13) [accessed via: <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-328216> (18/09/14)]

deposit and £180 court fee, of which the latter can be waived or reduced in hardship cases.

A creditor petitioner requires a deposit of £750 and a court fee of £280. Any assets that are realised through the bankruptcy are used (after payment of bankruptcy costs) to pay all creditors not just the petitioning creditor.

9. Table 2 shows the number of bankruptcy orders in the last few years. Debtors' petitions make up the majority of bankruptcy cases (about 80%). The total number of bankruptcy orders has decreased from 74,670 in 2009 to 24,571 in 2013. Unsurprisingly creditor petitioners are the minority of cases as it is generally not in the best interest of creditors to initiate bankruptcy because they are likely to see very little return on the money lent.

**Table 2: Number of Bankruptcy orders by petitioner, 2009 to 2013**

Year	Total Bankruptcy Orders	Creditors' petitions		Debtors' petitions	
		Count	%	Count	%
2009	74,670	10,866	14.6	63,804	85.4
2010	59,173	8,542	14.4	50,631	85.6
2011	41,876	7,803	18.6	34,073	81.4
2012	31,787	6,595	20.7	25,192	79.3
2013	24,571	5,377	21.9	19,194	78.1

Source: Insolvency Service

10. Bankruptcy imposes a cost which is not seen as proportionate in cases of relatively small amounts of debt. Recently there have been a number of cases where individuals had been placed into bankruptcy through a creditor petition for a low value debt, but who had ended up facing far larger debts through the bankruptcy process. One example in a Newsnight piece on 23 April 2014 was of a person originally with a £1,350 council debt that became a debt of £80,000 through the cost of fees and legal expenses from bankruptcy. Another example was a couple with a £7,000 debt which turned into a £100,000 debt through the fees charged in bankruptcy, and whose house was forcibly sold for £110,000, eventually only seeing £15,000 back. In addition the Secretary of State has over the years received a number of complaints from aggrieved bankrupts complaining about the low level of the creditor petition level which has been used to put them into bankruptcy.
11. There have also been a number of legal rulings where the appropriateness of using bankruptcy as a tool for recovering small level debts has been questioned. For instance in *Ford v Wolverhampton CC* the Ombudsman found that there had been maladministration by the local authority insofar as it had obtained a bankruptcy order against the debtor in respect of arrears of council tax of £1,105. In another case, *Hunt v Fylde BC* the issue of human rights was raised by the district judge, "as we contemplate

an individual losing his home for a small tax liability when the more proportionate remedy of a charging order subject to court control is better”.

12. Any change to the creditor petition limit would cover England and Wales only (like in DRO). Bankruptcy (sequestration) is devolved to Scotland where the petition limit for bankruptcy in Scotland was changed to £3,000 in April 2008. In Northern Ireland the creditor petition limit is £750.

## **Rationale for intervention**

13. Government intervention is necessary to update the eligibility for Debt Relief Orders. The policy was introduced in 2009 using limits and criteria that were based on 2005 prices levels. Changes in wages, prices and income since that time are likely to mean that some of the intended target population will no longer be eligible for a DRO. Updating the legislation will overcome this problem.
14. Reviewing the eligibility for a DRO will enable more people, who meet the entry criteria, to have a ‘fresh start’ from their indebtedness by unburdening them from their debts after 12 months. Effective debt relief provided by DROs has wider social and economic impacts than just debt relief. There is a consensus of opinion between academics and the advice agencies on the links between financial distress and stress and anxiety (and even more serious mental health issues), relationship problems, and the consequential detrimental impact on the family. These additional social costs of indebtedness can be corrected in some part by Government intervention.
15. The minimal amount of debt a creditor needs to be owed in order to petition the court for someone’s bankruptcy has been £750 since 1986. This has given creditors, due to the effect of inflation, an enforcement option over low level debts, which Parliament had not originally intended them to have.
16. Furthermore, bankruptcy is an extremely expensive way of recovering low level debts. It is a judicial process, which will involve fees to cover the actions by the Official Receiver, court costs including solicitor costs for creditors, and in cases taken on by insolvency practitioners where there are sufficient assets to realise, their fees. As a tool for returning money to creditors in low value cases it is largely ineffective. Government intervention is the only available means by which the limit can be raised.

## **Policy objective**

17. The overall aim of this legislation is to provide the best mechanism for people to obtain debt relief and provide a mechanism to deal with creditors in an orderly and fair way. This is being achieved via changes made to Debt Relief Orders following a review of the regime and, in parallel, an increase in the creditor petition limits.
18. The DRO regime provides debt relief for the most needy in society as an alternative to bankruptcy. Following on from the introduction of DROs in 2009, the aim of the review was to make sure that the regime was working as intended and if any changes need to be made to ensure it is achieving what it was originally set out to do.
19. The purpose of the creditors’ petition review was to establish whether the £750 debt limit at which a creditor can petition for a person’s bankruptcy, set in 1986, is still suitable. As this is the strongest of debt recovery tools, it is necessary to ensure that it is only used at appropriate times.

20. Both of these reviews were important to guarantee that the insolvency regime provided for the most vulnerable people to be given the opportunity to start again in an appropriate way without overly punitive measures being imposed upon them. This will provide a more proportionate means of resolving debt problems for low asset cases and at the same time strike the right balance between the right of creditors for repayment and debtors to receive relief from debts both of which will increase the overall efficiency of the insolvency regime.

**Description of options considered (including do nothing);**

21. Do nothing: The option would mean that many of the most needy and vulnerable in society would continue to not have access to low cost debt relief when they have no means, or prospect, of repaying their debts. It would also mean that some creditors would continue to pursue disproportionate bankruptcy proceedings on low levels of debt.
22. **Preferred option: Change the criteria and limits on Debt Relief Orders and Creditor Petition Bankruptcies.** Table 3 lists the changes that will be made to the DRO and Creditor Petition limit. Under current implementation plans the new limits will come into force from 1 October 2015. A call for evidence ran from 6 August 2014 till 9 October 2014 which received 50 responses from a wide range of stakeholders. Annex A shows the range of opinion received from stakeholders on DRO debt and asset limits. The levels chosen reflect the weight of opinion from the call for evidence.
23. Stakeholders suggested a variety of changes for the creditor petition limit including no change and an inflation change resulting in a limit £1,600. However, the balance of opinion believed that a significant increase to the limit of £3,000, £5,000 or £10,000 would be more effective at reducing petitions from very low debts and would encourage the use of other more effective means of recovering low levels of debts, such as the small claims court. The limit chosen balances the objective of reducing low debt bankruptcy petition without placing significant costs on creditors.

**Table 3: Changes to Debt Relief Orders and Creditor Petition Limit (preferred option)**

<b>Debt Relief Orders</b>	
<b>Current</b>	<b>New criteria from 1 October 2015</b>
<b>Qualifying debt limit</b>	<b>Qualifying debt limit</b>
£15,000	£20,000
<b>Surplus income</b>	<b>Surplus income</b>
£50	£50



<b>Asset limit</b>	<b>Asset limit</b>
£300  (Excludes certain items such as a motor vehicle (up to £1,000), approved pensions and basic belongings such as clothes, bedding and furniture)	£1,000  (Excludes certain items such as a motor vehicle (up to £1,000), approved pensions and basic belongings such as clothes, bedding and furniture)
<b>Bankruptcy Creditor Petition limit</b>	
<b>Current</b>	<b>Limit from 1 October 2015</b>
£750	£5,000

24. The preferred option delivers real terms increases in the level of assets and debts that are eligible for inclusion in a DRO. The levels are similar to amounts suggested by the competent authorities so should not lead to a significant burden on them to meet the extra demand for their services. A greater increase would place a significant burden on competent authorities as well as lead to larger losses to creditors.

25. No other aspects of DROs and the creditor petition limit will be changed with this legislation.

### **Monetised and non monetised costs and benefits of preferred option**

26. This section contains a description of the likely costs and benefits of the preferred option by the main effected groups. The preferred policy option should have an impact on 6 groups: debtors, creditors, Insolvency Practitioners, Competent Authorities, the Insolvency Service and the courts. This IA will discuss the benefits and costs on each of the groups from the legislation changes regarding Debt Relief Orders and Creditor Petition Levels.

### **Benefits**

#### **Benefits to Debtors**

#### **Access to Debt Relief Orders**

27. The main benefit from increasing the qualifying limit for DROs would be that more vulnerable people facing financial difficulty with relatively small levels of debt and minimal assets would be able to access debt relief by the simple and cheap process of a DRO. Currently these people may be excluded from bankruptcy or other remedies due to the

cost, lack of income or not fulfilling the criteria for a DRO. Analysis by the Insolvency Service estimates that the number of new people who will now be able to access a debt relief order is around 1,626 in year 0, 3,613 in year 1 and 3,706 in years 2 -9<sup>4</sup>. **In the absence of data on the debt levels of these individuals we have to assume that the mid point between the previous debt limit and the new one, £17,500, is a fair reflection of the debt level. Using this midpoint implies an annual benefit to these debtors of between £60 and £65m from year 1.**

28. As well as new people now able to access debt relief orders a number of people with low level of liabilities will now no longer need to use bankruptcy as a method of debt relief. Using historical administrative data it is possible to get an indicative estimate of the number of debtors that would switch from bankruptcy to a DRO.

29. This is a one off static analysis of the impact on the number of debtor cases and does not account for current bankruptcy forecasts. Existing forecasts for the next two financial years show a drop in the number of bankruptcy cases irrespective of the changes from this legislation so we assume the number of debtors switching from bankruptcy to a DRO will also decrease. Forecasts after this period are not available so the level of bankruptcies from the last forecast has been projected forward to account for the remainder of 10 year appraisal period. The 10 year profile of bankruptcies cases switching to DROs is shown in Table 4.

**Table 4: Change in bankruptcy cases and DROs over 10 years**

Year	Forecasted bankruptcy cases	Number of cases transferring from bankruptcy to DRO	People able to access DROs for first time	Total new DRO cases
Year 0 <sup>5</sup>	16,316	820 <sup>6</sup>	1,626	2,446
Year 1	15,200	1,279 <sup>7</sup>	3,613	4,892
Year 2 and	15,132	1,186 <sup>8</sup>	3,706	4,892

<sup>4</sup> The Insolvency Service estimates are based on data provided by the two largest competent authorities Citizens Advice Bureau and StepChange Debt Charity who together accounted for 71 per cent of DRO applications in 2013/14. It is estimated that there would be an increase of around 11.5 per cent in the eligible population and using the current conversion rates for eligible clients in to number of DRO applications 3 per cent StepChange and 5 per cent Citizens Advice Bureau this means that around 3,474 people (2,589 from CAB + 885 from Step Change) would now apply for a DRO. Grossing this up to account for the remaining 29 per cent of DRO applications means there will be a total of 4,892 new DRO cases. However, it is estimated that around 1,279 people could shift from bankruptcy to DRO with £20,000 debt limit and £1,000 assets limit. Therefore, we could have 3,613 new cases outside bankruptcy entering in to a DRO in year 1 (4,892-1,279). Similar analysis completed by the Money Advisory Service also showed a similar increase in the eligible population.

<sup>5</sup> The numbers are significantly smaller in year zero because the proposed implementation of October 2015 means that there will only be limited amount of time for the policy to impact.

<sup>6</sup> Of which 784 are debtor petition cases and 36 are creditor petition cases.

<sup>7</sup> Of which 1,146 are debtor petition cases and 133 are creditor petition cases.

<sup>8</sup> Of which 1,063 are debtor petition cases and 123 are creditor petition cases.

for the remainder of the 10 year appraisal period				
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Source: Insolvency Service analysis

30. There is a significant saving to debtors from switching from bankruptcy to a DRO. A DRO application costs a debtor £90, while a debtor petitioned bankruptcy costs the debtor £525 deposit and £180 court fee, with the court fee often reduced or waived in cases of hardship. Unfortunately recent data is not available on the number of cases where the fees is waived or reduced but analysis completed for the introduction of the DRO in 2009 identified that 70% of debtors paid in full, 8% paid half and 22% paid nothing. Assuming these proportions remain an accurate reflection of payments by debtors this will lead to an estimated annual benefit of between £0.11m and £0.16m<sup>9</sup> as shown in Table 5.

**Table 5: Benefit to debtors over 10 years from lower fees from entering a DRO**

	Year 0 <sup>10</sup>	Year 1	Year 2 and for the remainder of the 10 year appraisal period
Savings for debtors paying deposit and court fee in full - £m	0.34	0.49	0.46
Savings for debtors paying half of the £180 court fee - £m	0.09	0.13	0.12
Savings for debtors paying none of the court fee - £m	0.03	0.04	0.04
Cost to debtors paying for a DRO where previously they would have had a creditor petition	0.01	0.01	0.01

<sup>9</sup> We assume that a small number of debtors who under the previous limits would have had a creditor's petition brought against them, would choose to enter a DRO. These debtors will incur the £90 cost of entering the DRO where previously they did not incur an up front fee from entering bankruptcy. These costs have been netted off the saving to debtors from transfer from debtor petition bankruptcies to DROs.

<sup>10</sup> The numbers are significantly smaller in year zero because the proposed implementation of October 2015 means that there will only be limited amount of time for cases to switch.

<b>Total saving to debtors - £m</b>	<b>0.55</b>	<b>0.67</b>	<b>0.63</b>
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Source: Insolvency Service analysis

31. This ongoing benefit to debtors is likely to be an overestimate as in some cases charities and trusts contribute towards the cost of the bankruptcy petition on behalf of the debtor.
32. Improving access to debt relief will provide a number of non monetised benefits for example allowing debtors to achieve a quicker and cheaper solution to their problem. Furthermore, there is a consensus of opinion between academics and the advice agencies on the links between financial distress and stress and anxiety (and in some cases more serious mental health issues), relationship problems, and the consequential detrimental impact on the family.
33. The recent survey of people who have been through a DRO stated that the process had a positive impact on their health and wellbeing. When asked about their current situation, most said they did not have any debts or had debts below £5,000 and felt that their current level of debts were manageable. The survey also showed that the majority (61%) have not wanted to access credit since they completed the DRO process.
34. Additionally, a report by the Save the Children Fund<sup>11</sup> stated that measures which help to put low-income families back in control of household finances are essential to tackle child poverty. The report considers the impact of carrying debt on families struggling to heat their homes, buy clothes for their children and provide basic household items such as a cooker and a fridge.
35. The impact on debtors' mental health and well being is also difficult to quantify but for the UK as a whole mental health problems such as stress, depression and anxiety contributed to a 15.2 millions lost work days in 2013<sup>12</sup>.
36. A recent StepChange Debt Charity report claims that solving people's problems with debt has additional benefits to debtors, such as improving their mental and physical health and reducing: risk of debt recycling, likelihood of being NEET "Not in Education, Employment, or Training", risk of children being taken into care, risk of losing home and risk of relationship breakdown<sup>13</sup>.
37. Table 6 presents the StepChange estimates of the overall gains from solving problem debts by beneficial area:

<sup>11</sup> The Save the Children Fund, 2009. *The impact of debt on the UK's lowest earning families*, [accessed via: [http://www.savethechildren.org.uk/en/docs/Debt\\_brief.pdf](http://www.savethechildren.org.uk/en/docs/Debt_brief.pdf) (19/09/2014)].

<sup>12</sup> ONS, Full Report: *Sickness Absence in the Labour Market*, February 2014 [accessed via: [http://www.ons.gov.uk/ons/dcp171776\\_353899.pdf](http://www.ons.gov.uk/ons/dcp171776_353899.pdf) (02/10/2014)].

<sup>13</sup> Clifford, J. Ward, K. Coram, R. Ross, C. (2014) StepChange Debt Charity: Social Impact Evaluation of certain projects using Social Return on Investment, [Leeds], StepChange Debt Charity [accessed via: [http://www.stepchange.org/Portals/0/documents/media/reports/Transforming\\_lives.pdf](http://www.stepchange.org/Portals/0/documents/media/reports/Transforming_lives.pdf) (08/10/2014)]. This evaluation uses a social return on investment (SROI) methodology to evaluate the benefits of StepChange Debt Charity's activity with clients. Over the year evaluated for this report, September 2012-August 2013, it gave independent support and advice to over 235,000 clients, of which 109,397 (47%) were evaluated using the SORI methodology.

**Table 6: Selected result from estimated social and economic gains from solving problem debts for 47% of StepChange client group**

Type of Benefit	Total Benefit
Employment	£35,459,727
Mental health	£8,190,038
Creditor recovery	£80,435,546
Relationships	£4,209,886
Physical health	£211,675
Total gains	£195,830,603
Others <sup>14</sup>	£67,323,731
Displacement (due to additional welfare benefits claimed – included within above values)	(£21,106,622)

Source: Clifford, J. Ward, K. Coram, R. Ross, C. (2014) StepChange Debt Charity: Social Impact Evaluation of certain projects using Social Return on Investment, [Leeds], StepChange Debt Charity

38. Extrapolating these findings to estimate the benefit for the remainder of the population the StepChange report estimated that the total social cost of problem debt for all people affected amounted to £8.3 billion<sup>15</sup>. These benefits relate to all types of debt problems of which the small value debts with no assets that would be from DRO clients would make up a small share.

## Benefits to creditors

39. The cost of recovering debt is part of the business as usual expenses for creditors. Creditors incur costs from administration of these systems or by using specialist collection agencies. Pursuing debtors through the court system is also a significant cost to creditors. A 2010 Friends Provident report estimated that the UK creditor industry spend £1.3bn<sup>16</sup> (2010 prices) on debt recovery. The more recent report from StepChange also estimated that helping people to solve their debts problems reduced creditor recovery cost and the administration of debt collecting. They estimated that from 109,397

<sup>14</sup> Other include housing, small business, care homes, debt recycling, children taken in to care, disengaged children and desperation crime.

<sup>15</sup> *Cutting the cost of problem debt*, StepChange Debt Charity, October 2014, [accessed via: [http://www.stepchange.org/Portals/0/documents/media/reports/8\\_billion\\_challenge.pdf](http://www.stepchange.org/Portals/0/documents/media/reports/8_billion_challenge.pdf) (08/10/2014)].

<sup>16</sup> *The Impact of Independent Debt Advice Services on the UK Credit Industry*, Jackie Wells with John Leston and Mary Gostelow, Friends Provident Foundation, 2010 [accessed via: [http://www.friendsprovidentfoundation.org/wp-content/uploads/2013/03/Jackie\\_Wells\\_-\\_Debt\\_Advice\\_-\\_Full\\_Report.pdf](http://www.friendsprovidentfoundation.org/wp-content/uploads/2013/03/Jackie_Wells_-_Debt_Advice_-_Full_Report.pdf) (02/10/2014)].

(47%) StepChange clients, creditors gained £80,435,546<sup>17</sup>. No information was available to allow an estimate of what share of this was likely to be attributed to DROs.

40. Creditors should only be incurring the cost of recovering debt if the value to be recovered exceeds the costs of collection. However in cases of low asset, debt and income cases the actual debt recovered is likely to be very small and would generally exceed the cost of recovery. Information provided as part of the call for evidence told us that in these cases creditor groups commenced bankruptcy proceedings to try and bring a resolution to a long running debt collection process after the exhaustion of all other means of solving the issue. Creditor groups told us that there are occasions when bankruptcy is used as part of the debt collection process in order to conduct an investigation of the debtors estate because of the creditors belief that the debtor may have not been truthful about available assets or income.

### **Benefit to the public sector (judicial system)**

41. Debt Relief Orders are an administrative rather than a court based system. Making more cases eligible for DROs instead of bankruptcy will reduce the burden on the judicial system. Increasing the level of creditor petition will also reduce the number of creditor petition cases going through the court system. In accordance with HM Treasury Managing Public Money principles both creditor and debtor court fees charged are designed to cover the court cost and so are neutral in terms of cost impact on the judicial system.

### **Costs:**

### **Costs to Competent Authorities from changes to Debt Relief Orders**

42. Debt advice can be provided through a number of channels but only a limited number of financial intermediaries working for 1 of the 12 competent authorities recognised by the Secretary of State for Business Innovation and Skills are authorised to process applications for DROs. Table 7 shows the most recent breakdown of intermediaries, their authorising authority and the number of DRO applications processed.

**Table 7: Competent authorities and the number of DRO applications made**

Name of competent authority	Number of intermediaries and % of total, 2014/15	Number and % of DRO applications, 2013/14 <sup>18</sup>
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<sup>17</sup> Clifford, J. Ward, K. Coram, R. Ross, C. (2014) StepChange Debt Charity: Social Impact Evaluation of certain projects using Social Return on Investment, [Leeds], StepChange Debt Charity.

Advice UK	147 (9%)	827 (3%)
Baines and Ernst	8 (0%)	229 (1%)
Christians Against Poverty	6 (0%)	1097 (4%)
Citizens Advice Bureau	1,154 (69%)	14,520 (53%)
Debt Release Direct	1 (0%)	120 (0%)
Insolvency Practitioners Association	2 (0%)	225 (1%)
Institute of Money Advisors	289 (17%)	3,707 (14%)
National Debtline	12 (1%)	1,227 (4%)
Payplan	12 (1%)	269 (1%)
Shelter	10 (1%)	40 (0%)
StepChange Debt Charity	31 (2%)	4,962 (18%)
Think Money	5 (0%)	106 (0%)
<b>Total</b>	<b>1,667</b>	<b>27,329</b>

43. In addition to the information provided as part of the call for evidence, 7 of the 12 competent authorities (including all three of the largest competent authorities) responded to an additional request for information on the costs of updating DRO criteria. Competent authorities were asked about the costs of training, disseminating information and updating any processing systems. Most authorities told us the cost of familiarisation and training for staff would be close to zero as existing processes for disseminating information and training authorised intermediaries could be used. A few intermediaries said they would send staff on training courses at a cost of £99 per intermediary.

44. Therefore we estimate the total cost of familiarisation and training for intermediaries would be between zero and £99 per head giving a total cost of between zero and £0.16m, **the best estimate has been chosen as the mid point of these two estimates or £0.08m. This one off cost of the new legislation impacts on civil society organisations and so is in scope of One-In Two- Out (OITO).**

45. Most competent authorities complete a one to one interview when processing DRO applications and told us they would not incur any costs from changing IT systems from

<sup>18</sup> The number of applications in 2013/14 differs from the orders made in 2013/14 (table 1) for two reasons, 1) a number of applicants failed to complete the process and 2) their application is filed at the end of one year and the order made in another.

any change in criteria. One of the larger competent authorities however uses a phone based interview system with an accompanying IT infrastructure to establish the most appropriate form of debt relief for their clients, it was estimated that **this system would require a one off cost of £0.025m to update the relevant information and ensure compliance with the new legislation. This one off cost is also a direct cost to a civil society organisation and is within scope of OITO.**

46. Increasing the number of people who are eligible for a DRO should lead to an increase in demand from debtors for DROs. Competent authorities are responsible for processing DRO applications and any increase in applications would either have to be met by existing capacity or through investment by competent authorities in additional authorised intermediaries. Discussing the issue with competent authorities yielded a mixed response with some saying they would be able to accommodate small increases with no problem, others stated their existing plans to expand capacity would be able to meet the forecasted increase in demand and a few stating that they would take on additional staff. Competent authorities have told us it is very difficult to estimate the cost of administering a DRO application with CAs using different delivery systems but an estimate of around £200-£300 per case would cover an average case. **Using this estimate and the forecasted increase in DRO applications we estimate that the cost to competent authorities of the increase in demand would be between £0.49 to £0.73m in year 0 and between £0.98 and £1.47m in year 1 and thereafter. This ongoing cost to competent authorities is a direct cost of the policy and is within scope of OITO.**

## Costs to Creditors

### Changes to DRO limits

47. After accounting for the costs of completing the process the office holder administering the bankruptcy proceeding distributes whatever assets are left over to creditors. The amount distributed will of course depend on the level of assets. The lack of any assets for debtors in a DRO means that a DRO differs by completely writing off all debts included in the order and so no distribution is made to creditors. Following the changes to eligibility this means that some cases that would have previously qualified for bankruptcy would now qualify for a DRO. The cases that would transfer would have to have relatively low levels assets (£1,000 or less) to qualify for a DRO. These assets would be completely used up in the administration fee (£1,850) that the Insolvency Services charges against the estate in all bankruptcy cases meaning that there would be no assets to distribute to creditors. Therefore there will be no cost to creditors of these cases transferring from bankruptcy to DROs.



## Access to Debt Relief Orders

48. Under the benefits to debtors section it was estimated that current cost of bankruptcy was preventing some people from accessing a debt solution and following the increases in the DRO limits new people would now be able to access a debt solution. Earlier table 4 showed the estimated number of new people who will now be able to access a DRO was between 1,626 and 3,706. The average annual benefit to debtors from having access to a DRO for the first time was estimated to be between £60 and £65m. This is not an equivalent cost to creditors in economic terms because debt is already allocated and effectively has sunk value.
49. The actual lost money to creditors will be a small fraction of this lost debt. Analysis of Insolvency Service Administrative data shows that low asset cases return on average around £2 per case to creditors. Using this as an approximate estimate of the lost dividend payment to creditors and multiplying by the number of debtors now able to access debt relief orders gives a cost to creditors after a full year of implementation of around £0.007m, this money will now stay with debtors.
50. Office holders distribute funds to a range of creditors according to a prioritisation set out in statute. The groups include secured creditors (often banks), preferential creditors such as former employees, floating charge holders (again usually banks) and unsecured creditors including HMRC and other businesses. All of these groups will be impacted by the loss of funds but not all of them are within scope of OITO, which purely relates to direct business impacts.
51. Analysis of a random un weighted sample of 125 records filed at Companies House over a 3 year period and a OFT market study<sup>19</sup> of insolvency practitioners estimated that non businesses accounted for around 10 per cent of the returns to creditors. Table 8 shows the cost impact on creditors and the estimated cost that is within scope of OITO.

**Table 8: Estimated cost to creditors from debtors now able to access a debt solution**

Year	Cases	Lost dividend income to creditors (of which in scope of OITO) £m
Year 0 <sup>20</sup>	1,626	0.003(0.003)
Year 1	3,613	0.007(0.007)
Year 2 and for the remainder of	3,706	0.007(0.007)

<sup>19</sup> [http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.of.gov.uk/shared\\_of/reports/Insolvency/oft1245](http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.of.gov.uk/shared_of/reports/Insolvency/oft1245)

<sup>20</sup> The numbers are significantly smaller in year zero because the proposed implementation of October 2015 means that there will only be limited amount of time for the policy to impact.

## Changes to the creditor petition limits

52. Around a fifth of bankruptcy petitions come from creditor petitions, increasing the amount of debt that must be owed from £750 to £5,000 is likely to reduce the number of creditor petitions. Creditors with debts between £750 and £5,000 will no longer be able to petition. For creditors with debts towards the upper end of the new limit the change is only likely to lead to a delay in when they could petition. Also as long as creditors with debts above the new limit continue to petition then the creditors with debts between £750 and £5,000 will not be worse off under the new limits. Even so the reduced ability to petition for some creditors is likely to lead to some loss in dividends. This cost to creditors is a direct impact of the policy and the majority of this cost (90 per cent) is within scope of OITO.

53. Estimating this cost to creditors is quite difficult as there is limited information available on the value of debt owed to the petitioning creditor. We believe the best way to estimate this cost is to assume all creditor petition cases for less than £5,000 would not occur and the dividend payment made from these cases would be lost to creditors. Administrative data held by the Insolvency Service estimates that some of these cases will be led by an official receiver and some of them would be led by an Insolvency Practitioner. Creditor petition cases led by an official receiver had an average distribution £42 per case. Table 9 shows the estimated forecasts for the number of cases that could no longer occur, the cost to creditors over 10 years and the proportion of cost that is within scope of OITO.

**Table 9: Estimated impact on official receiver creditor bankruptcies cases from an increase in petition level to £5,000**

<b>Year</b>	<b>Estimated number of creditor petition cases</b>	<b>Cost to creditors £m</b>	<b>Cost to creditors within scope of OITO £m</b>
Year 0 <sup>21</sup>	69	0.003	0.003
Year 1	250	0.011	0.009
Year 2 and	232	0.009	0.008

<sup>21</sup> The numbers are significantly smaller in year zero because the proposed implementation of October 2015 means that there will only be limited amount of time for the policy to impact.

for the remainder of the 10 year appraisal period			
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Source: Insolvency Service analysis

54. Insolvency Practitioner led creditor petition cases generally have higher levels of assets to distribute to creditors and so are likely to have higher average dividend payments even after accounted for the higher cost of completing the bankruptcy. In 2013/14, there were an estimated 1,861 IP led creditor petition cases of which around 16 per cent (298) were for cases where the creditor petition was less than £5,000.
55. IPs are required to file a final report to creditors when they have identified all available assets and distributed them to creditors, so to estimate the cost to creditors of the higher petition limit, we analysed all the available reports that have been stored on the Insolvency Service administrative database for closed IP led cases over the last 5 years. Data on the dividend payment made to creditors for petitions less than £5,000 was limited to 16 cases. This limited sample showed that the average gross payment per case was around £3,000 or a total gross payment to creditors of £0.87m<sup>22</sup>, but after taking account of the cost of the creditor deposit (£750), court fee (£280) and other expenses of the case which a creditor group estimated to be around £1,000. The net return to creditors would be around £900 per case or £0.27m across all eligible cases. **This ongoing cost is a direct result of the legislation and after adjusting for those creditors that are not businesses (10 per cent) around £0.24m is within scope of OITO.**
56. The implementation of the changes in October 2015 means that there will only be a limited impact in year 0 of the policy as fewer cases will be impacted. **It is estimated that the year 0 cost to creditors from IP led cases from the increase in creditor petition level is £0.07m with 90 per cent of this within scope of OITO or £0.06m.**
57. Unfortunately forecasts for IP led bankruptcy cases are not available so we assume the ongoing cost to business will remain constant after year 1.

## Costs to Insolvency Practitioners

<sup>22</sup> Number of cases (298) multiplied by average gross payment of £2,927.

58. An increase in the creditor petition limit could reduce the number of cases for IPs to administer. The fees charged by an IP will depend on the specific circumstances of the case but would generally depend on the amount of work involved in the case and the amount of assets that is available for distribution. IPs have told us that it is not uncommon in IP led bankruptcy cases for IPs to waive costs to ensure a distribution of some kind to creditors. Also a case where the initial assessment of asset valuation proves to be either an overestimate or the IP has been unable to realise the asset can also lead to minimal or no fee charges by IPs.
59. Analysis of the final report to creditors shows that fee levels in creditor petition cases under £5,000 varies considerably with zero fees being charged in just under half of the cases from our sample of 16. Fee levels for the remaining cases varied between £5,000 and £25,000, depending on the amount of assets available in the case and the amount of work that will be required to realise them.
60. As intermediaries in the process between debtors and creditors the costs to IPs are not a direct economic cost of the policy and the removal of these cases should allow IPs to complete more productive economic activity and therefore have a net beneficial effect to the economy.

### **Impact on the Insolvency Service**

61. The Insolvency Service is responsible for administering bankruptcy cases and DROs. The reduction in bankruptcy cases and the increase in DRO applications that will result from the legislative changes will impact on the Insolvency Service. Staffing cost makes up the majority of the cost of administering cases so any change in the level of work would likely mean a change in staff levels.
62. Based on the forecasts of reduced bankruptcy cases it has been estimated that there could be staff saving of between 30 to 35 posts, delivering a saving in staffing costs of around £0.5m. The small number of posts should be able to be met through natural staff turnover and should not require redundancies.
63. In contrast the forecasted increase in demand for DROs will likely be met by an expansion in the number of staff administering DRO applications. To meet the demand it is estimated that an additional 4 administrative staff will be required at an approximate total cost of between £0.08m and £0.1m per year. The additional applications will raise additional fee income and because the £90 fee is set to fully recover the DRO work the overall impact will be neutral in Net Present Value Terms.
64. Reducing costs from efficiencies and head count reduction generally takes longer to impact on the Services financial statement than the more immediate reduction in income

from bankruptcy caseload. The reduced caseload will mean lower fee income and fewer cases to contribute to overheads, leading to a higher share of fixed cost per case. To account for this, administration fees may need to be increased, and will be reviewed as part of the April 2016 fee review, where this legislative change will be considered alongside other changes to the bankruptcy administration regime.

65. As stated previously it is not intended for this policy to be implemented until October 2015.

## **Small and Micro business assessment**

### **Changes to the eligibility for Debt Relief Orders**

66. The proposed changes to the DRO entry parameters would be achieved via secondary legislation. We would anticipate a commencement date of October 2015. The measure could impact on small and micro business in a number of ways.

- **Competent Authorities**

67. DRO applications are made through financial intermediaries. These are highly trained debt advisors funded by competent authorities, of the 12 competent authorities 7 responded to the consultation and 1 told us they were a small or micro business. All competent authorities were in favour of increasing the access to DROs via an increase in the criteria, exempting the small and micro business from this legislation would put them at disadvantage in the Debt Advice market and would add confusion to debtors who would be faced with a two tiered advice system. As stated in the impact assessment the majority of the burden of adapting to the new limits will be the cost of additional intermediaries, this burden is likely to be felt by the competent authorities that are responsible for the majority of applications, 80 per cent of which are processed by large competent authorities.

68. Having an extended transition period for small and micro competent authorities will also place them at a commercial disadvantage for the period of transition because they will not be able to process certain applications.

- **Creditors**

69. According to the BIS Business Population Estimate 2013, small and micro businesses accounted for 98% of all private sector businesses in the UK (with fewer than 49 employees). The creditor population is likely to mirror this distribution in the number of creditors but the majority of the amount of credit extended is likely to be limited to a small number of large financial institutions.

70. **Impact of DRO measures** – Debtors eligible for DROs do not have sufficient assets or income to make payments to creditors. Widening DRO access to a higher number of debtors by increasing the level of exempt assets to £1,000 will still only capture those debtors who (after payment of insolvency fees) have insufficient assets to make payments to their creditors. It is anticipated that the policy will have minimal impact on creditors and so there is likely to be little or no impact on small creditors.

71. **Varying requirements by size of business** – it is not feasible to exempt a certain size of business or creditor from being included in the definition of creditors within the DRO process. This would mean that certain creditors would still be able to pursue debts, giving their debts preference over debts included in the DRO. This would not be equitable and would not achieve the aim of the policy to provide access to affordable debt relief for the most vulnerable debtors. It would completely undermine the basic principle of equal treatment of creditors.

- **Insolvency Practitioners**

72. R3, the Association of Business Recovery Professionals which represents 97% of IPs, estimate that 46% of its members can be classified as micro and small businesses.

73. **Impact of DRO measures** – IPs may advise debtors to make application for a DRO plus the measures are likely to result in debtors who would have previously entered bankruptcy proceedings being eligible to apply for a DRO. This would not impact on the fee income that IPs could achieve from administering a bankrupt's estate because the cases that would move from bankruptcy to DRO are those with assets of £1,000 or less, cases which, after payment of bankruptcy costs and expenses would not have resulted in any fee income. There is therefore likely to be no impact on the income of IPs from the change in DRO policy and so no impact on small IPs.

## **Change to creditor petition limits**

74. The proposed changes to the creditors petition limit would be achieved via secondary legislation. We would anticipate a commencement date of October 2015. The measure could impact on small and micro business in a number of ways.

- **Creditors**

75. According to the BIS Business Population Estimate 2013, small and micro businesses accounted for 98% of all private sector businesses in the UK (with fewer than 49 employees). The creditor population is likely to mirror this distribution in the number of creditors but the majority of the amount of credit extended is likely to be limited to a small number of large financial institutions.

76. **Impact of increase in creditor petition limits** – the reduced ability of creditors to petition for bankruptcy will mean some lost dividend income for creditors. The share of this impact on small creditors is likely to be a lot less than their 98 per cent proportion of the creditor population.

77. **Varying requirements by size of business** – it is not feasible to have different creditor petition limits dependent on the size of creditor. This would lead to debtor and creditor confusion, difficulties in defining business size and could have a perverse impact on debtor behaviour. Debtors may choose to repay small and micro businesses in preference to larger businesses to avoid bankruptcy or run up debts with larger businesses in the knowledge that a different petition level exists. This would not lead to equal treatment of creditors. It would also mean that some creditors would be able to put more pressure on debtors by threatening to present a bankruptcy petition for a lower amount, creating an unfair advantage for some creditors. This would not achieve the policy objective of ensuring that use of bankruptcy as a method of debt recovery is appropriate and proportionate.

- **Insolvency Practitioners**

78. **Impact of an increase in creditor petition limits** – As stated above, R3 has estimated that 46% of its members can be classified as micro or small businesses. Exempting smaller or micro business IPs from the creditor petition limit change is difficult to achieve. In normal circumstances an IP can't initiate a bankruptcy proceeding so should be unaffected by these changes but in certain circumstance IPs can on their own account initiate bankruptcy proceedings for example where an Individual Voluntary Arrangement fails. These occurrences are very rare and only make up very few bankruptcy cases but they do reduce duplication of effort and improve the efficiency of the insolvency process so exempting them would make the system less efficient and more costly.

## **Risks and assumptions**

79. There is a risk that the estimate of the increase in demand for DRO applications is below the level that can be reasonable met by competent authorities. A larger increase in demand would result in applications being processed slower and debtors taking longer to receive debt relief. A substantial increase would require significant new capacity, the cost of which to competent authorities would have to be covered via new funding streams.

80. There is a risk that the number of cases transferring from bankruptcy to a DRO is greater than expected which could lead to a greater impact on Insolvency Service income. If the transfers are greater than expected an operational deficit may occur in the Insolvency

Service funding which may require additional tax payer funding in the short term or greater fee increases which would ultimately be paid by creditors and debtors.

81. There is a risk that making it is easier for individuals to rid themselves of problem debts may lead to individuals borrowing more recklessly, this moral hazard may worsen individuals indebtedness instead of helping them. The Insolvency Service thinks the risk of this is low as a similar concern was raised when DROs were initially introduced in 2009 and we are not aware of any evidence linking reckless borrowing with the availability of DROs.
82. Finally a bankruptcy proceeding can be initiated jointly by creditors if their collective debts exceed the limit. A joint bankruptcy filing is relatively rare at present but the reduced ability of small value creditors to initiate bankruptcy may encourage them to initiate joint proceedings. This would reduce the impact of the objective to limit bankruptcy proceedings from relatively small amounts of debt. However, a significant co-ordination problem exists because one creditor is unlikely to know who other creditors are so they will have to incur costs to find out who other creditors are, so we believe the risk of a significant increase in joint bankruptcy filings is low.

## **Summary of direct costs and benefits to business calculations (following OITO methodology)**

### **Changes to the eligibility criteria for Debt Relief Order**

83. The legislation deregulates the debtor market by providing an expansion in a cheaper form of debt relief for those with little or no ability to repay their debts. The deregulation for debtors places an additional burden on competent authorities responsible for meeting the extra demand for DROs.
84. Competent Authorities will incur a small direct cost from the legislation because of the increased burden on financial intermediaries. In accordance with the Better Regulation Framework this is rated an IN with an **EANCB score of £0.88m.**
85. A description of the impacts that are within scope of OITO are below:
- One off familiarisation costs and IT changes for competent authorities of £0.033m
  - An ongoing costs of additional intermediaries hired to meet extra demand for DROs of £1.22m
  - An ongoing cost to business creditors from new debtors able to access DROs of £0.003m in year 0 (see table 9)
86. These estimates are presented in 2014 prices which after discounting to 2009 prices give the EANCB score above.



## Increases to the creditor petition limit

87. The legislation increases the regulatory barriers on creditors to initiate bankruptcy proceedings. Creditors with low levels of debt owed to them will no longer be able to initiate bankruptcy on their own account. This barrier is a direct cost to business creditors that is within scope of OITO. In accordance with the Better Regulation Framework this has been scored as an IN with **an EANCB score of £0.18m.**

88. A description of the impacts that are within scope of OITO are below:

- An ongoing cost to business creditors in Official Receiver cases from reduced ability to initiate bankruptcy of £0.003m in year 0 (see table 10)
- An ongoing cost to business creditors in Insolvency Practitioner cases from reduced ability to initiate bankruptcy of £0.06m in year 0 and then £0.24m.

89. These estimates are presented in 2014 prices which after discounting to 2009 prices give the EANCB score above.

## Overall

90. The changes to debt relief orders and creditor petition limits will be implemented at the same time on 1 October 2015. The overall EANCB score has been estimated to £1.05m. The 10 year profile of costs (best estimates 2014 prices) that are within scope of OITO are below:

**Table 10**

	<b>Year 0</b>	<b>Year 1</b>	<b>Year 2 and for the remainder of the 10 year appraisal period</b>
Familiarisation and IT costs £m	0.033	0	0
Additional cost of administering DRO applications £m	0.61	1.22	1.22
Lost dividend income from debtors able to access debt relief for the first time £m	0.003	0.007	0.007

Cost to business creditors from reduced ability to initiate bankruptcy (OR cases) £m	0.003	0.009	0.008
Cost to business creditors from reduced ability to initiate bankruptcy (IP cases) £m	0.006	0.24	0.24
<b>Total</b>	<b>0.655</b>	<b>1.476</b>	<b>1.475</b>

91. The combined effect of changing the DRO criteria and the increase in the bankruptcy creditor petition limits will increase regulation on creditors and so are classified as an IN under the Better Regulation Framework. **The total EANCB score for the two legislative changes has been estimated to be £1.05m.**

## Wider impacts

### Equalities impact assessment

92. A detailed equalities impact assessment has been completed that discusses the impact of the policy on protected groups.

93. The policy has been assessed as having no wider impacts other than those discussed.

## Annex A: Main Stakeholder views on new DRO and asset limits

