

2011 No. 111

INSOLVENCY

**The Debt Relief (2010 Act) (Transitional Provision) Order
(Northern Ireland) 2011**

Laid before the Assembly in draft

Made - - - - 16th March 2011

Coming into operation - 30th June 2011

The Department of Enterprise, Trade and Investment (“the Department”) makes the following order in exercise of the powers conferred by section 5(1) of the Debt Relief Act (Northern Ireland) 2010(a)

Citation and commencement

1. This Order may be cited as the Debt Relief (2010 Act) (Transitional Provision) Order (Northern Ireland) 2011 and shall come into operation on 30th June 2011.

Debt relief restrictions orders

2. Where the High Court is considering whether or not a debt relief restrictions order should be made in relation to a debtor under Schedule 2ZB to the Insolvency (Northern Ireland) Order 1989(b), it shall not take into account any conduct of the debtor before 30th June 2011.

3. In determining whether or not it should accept a debt relief restrictions undertaking from a debtor under Schedule 2ZB to the Insolvency (Northern Ireland) Order 1989, the Department shall not take into account any conduct of the debtor before 30th June 2011.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 16th March 2011

(a) c. 16

(b) S.I. 1989/2405 (N.I. 19); Schedule 2ZB is inserted by section 3 of the Debt Relief Act (Northern Ireland) 2010 (c. 16)



Michael J Bohill
A senior officer of the
Department of Enterprise, Trade and Investment

EXPLANATORY NOTE

(This note is not part of the Order)

Section 1 of the Debt Relief Act (Northern Ireland) 2010 (2010 Act”) inserts into the Insolvency (Northern Ireland) Order 1989 (“1989 Order”) new Part 7A, on debt relief orders. Section 3 inserts a new Schedule 2ZB into the 1989 Order, which is given effect by new Article 208V of that Order, contained in new Part 7A, on debt relief restrictions orders and undertakings.

Debt relief restrictions orders may be made in respect of a debtor who is subject to a debt relief order where, broadly, the conduct of the debtor in relation to his insolvency is found to be culpable. Schedule 2ZB sets out who may apply for a debt relief restrictions order and possible grounds for obtaining one, and gives details as to the timing of an application and the duration of the order or undertaking. Such orders may have a duration of a minimum of 2 years and a maximum of 15 years and are intended to serve to protect the public from a culpable debtor. Whilst subject to a debt relief restrictions order, the debtor will remain subject to the same disabilities as those imposed by the original debt relief order – for example he will not be able to obtain credit beyond the prescribed amount without disclosing his status.

Short of an application being made to the High Court for a debt relief restrictions order, a debtor may offer a debt relief restrictions undertaking to the Department of Enterprise, Trade and Investment (“the Department”) which may accept the undertaking rather than apply for an order.

Section 5 of the 2010 Act, under which this Order is made, provides that the Department may, amongst other things, make any transitional provision which it thinks appropriate for the general purposes, or for any practical purpose of any provision of that Act. Article 208V of and Schedule 2ZB to the 1989 Order, inserted as explained above, permit the Court, on the application of the Department or the official receiver acting on a direction of the Department, to make a debt relief restrictions order if it thinks appropriate to do so having regard to the conduct of a debtor either before or after the making of a debt relief order (See paragraph 2(1) of Schedule 2ZB). However, since the provisions introducing debt relief orders and debt relief restrictions orders and undertakings do not come into operation until 30th June 2011, this Order prevents any conduct of the debtor before that date from being taken into account by the Court so as to prevent the provisions from having any possible retrospective effect.

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