

 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Changes to eligibility for debt relief orders and to the level of a creditor petition bankruptcy	
Lead Department/Agency	Department for Business, Innovation and Skills	
Stage	Final	
IA number	BISINSS016	
Origin	Domestic	
Expected date of implementation	1 October 2015 (SNR10)	
Date submitted to RPC	12 January 2015	
RPC opinion date and reference	20 January 2015	RPC14-BIS-2295
<i>Departmental assessment</i>		
One-in, Two-out (OITO) status	IN	
Estimate of the equivalent net cost to business (EANCB)	£1.05 million	
RPC overall assessment	GREEN	
<p>RPC comments</p> <p>The IA is fit for purpose. The RPC is able to validate the estimated equivalent annual net cost to business (EANCB) of £1.05 million.</p>		
<p>Background (extracted from IA)</p> <p>What is the problem under consideration? Why is government intervention necessary?</p> <p>The impact assessment describes the impact of two legislative changes to increase:</p> <ol style="list-style-type: none"> 1) the entry criteria for debt relief orders; and 2) the bankruptcy creditor petition limit. <p><u>Debt relief orders</u> (DRO) were introduced in April 2009. Applications can be processed only by financial intermediaries working for one of the recognised competent authorities. They are aimed at providing debt relief to those with low level liabilities (£15,000), no assets above a nominal amount (£300) and no surplus income with which to pay creditors (£50); and for whom bankruptcy is a disproportionate remedy. The structure and process of applying for a DRO were made as simple as possible to ensure that the cost of entry (£90 fee), which was set to cover costs, would not exclude debtors. The limits for a DRO were set in 2009.</p>		

A recent survey 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. Cancelling debts through the DRO had a positive impact on debtors' 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 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.

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 be able to access a DRO will grow to around 3,700 a year as a result of the proposals.

Bankruptcy creditor petition limit

A more severe form of debt relief is being made bankrupt, where debtors are divested of almost all assets that form part of their estates. A court makes a bankruptcy order only after a bankruptcy petition has been presented (by debtors or creditors). The creditor bankruptcy petition minimum debt level was set at £750 in 1986. Due to the effect of inflation, this has given creditors an enforcement option over low level debts, which Parliament had not intended. Bankruptcy imposes a cost which is not seen as proportionate in cases of relatively small amounts of debt.

Bankruptcy petitions require the petitioner to pay an upfront deposit and court fees before an order can be obtained. For debtor petitions, the amount required is £705 (£525 deposit and £180 court fee, of which the latter can be waived or reduced in hardship cases). Creditor petitions require a deposit of £750 and a court fee of £280. Any assets that are realised through bankruptcy action are used (after payment of bankruptcy costs) to pay all creditors not just the petitioning creditor.

What are the policy objectives and the intended effects?

The overall aim of the legislation is to provide the best mechanism for people to obtain debt relief. Following introduction of DROs in 2009, a review was undertaken to ensure that the regime is working correctly and to consider whether any changes needed to be made to ensure it is achieving its objectives.

The Government consider that an increase in the creditor petition limit is necessary to ensure that the strongest of debt recovery tools is used only at appropriate times, to ensure protection for the most vulnerable debtors and increase the overall efficiency of the insolvency regime in the UK.

Comments on the robustness of the OITO assessment

The IA states that the proposal is regulatory and would impose a net cost on business and civil society organisations (an IN) with an equivalent annual net cost to business of £1.05 million. Based on the evidence presented, this provides a reasonable assessment of the likely impacts and is consistent with paragraph 1.9.10 of the Better Regulation Framework Manual (July 2013).

Comments on the robustness of the small & micro-business assessment (SaMBA)

The proposals increase the scope of regulation on business and civil society organisations. A SaMBA is, therefore, required.

The IA includes a SaMBA which explains the impacts on small and micro-businesses and civil society organisations. It states that small competent authorities would suffer market disadvantage if exempted from the proposals, as they would not be able to process DRO applications for debtors above the previous threshold. The SaMBA also explains that a large proportion of creditors will be small and micro-businesses (as these make up 98% of all private sector businesses in the UK).

This seems reasonable. The SaMBA is sufficient.

Quality of the analysis and evidence presented in the IA

The impact assessment (IA) explains how the Department proposes to:

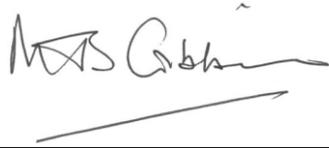
- change the size of qualifying debts from £15,000 to £20,000, and increase the value of qualifying assets from £300 to £1,000, for applications for a DRO; and
- increase the bankruptcy creditor petition minimum debt level from £750 to £5,000.

The Department forecasts that expanding access to a cheaper form of debt relief (DROs) will increase the number of applications by approximately 3,700 each full year, although it acknowledges a risk that this forecast could be significantly wrong. While this is beneficial to debtors (almost all of which are individuals) as DROs have a lower cost than bankruptcy, an increase in the number of cases will place an additional burden on the competent authorities managing them. The Department estimates that the additional cost to them is £1.2 million each year.

In addition, these authorities will incur one-off familiarisation and IT costs of £33,000. There will also be ongoing costs to business creditors realising lower dividends, as a result of more debtors being able to access a DRO. The Department estimates this to be £7,000 in total each year.

The proposed increase to the creditor petition minimum debt level will reduce the number of bankruptcy cases initiated by creditors. This will have an impact on creditors (many of which are businesses) and on insolvency practitioners through reduced dividends, from bankruptcy activity. The Department estimates the cost of this to be £0.32 million each year.

Signed

A handwritten signature in black ink, appearing to read "Michael Gibbons". The signature is written in a cursive style with a long horizontal stroke at the end. There is a small mark above the letter 'i' in "Gibbons".

Michael Gibbons, Chairman