



Department of
**Enterprise, Trade
and Investment**
www.detini.gov.uk

Insolvency Service

Consultation

**Proposal to raise the threshold level of debt at which a creditor can
petition for bankruptcy**

Consultation on Policy

17 September 2015

Closing Date for Responses: 12 November 2015

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Purpose of this Consultation

You cannot petition to have someone made bankrupt unless that they owe you an amount which is equal to or greater than what is termed the bankruptcy level. The bankruptcy level is currently set at £750.

Legislation has been made in England and Wales to increase the bankruptcy level to £5,000.

The purpose of this consultation is to seek views as to whether the bankruptcy level in Northern Ireland should also be increased to £5,000.

How to Respond:

Responses to this consultation document should be sent to:

By post to:

Eileen Glenn
Insolvency Service
Department of Enterprise, Trade and Investment
Fermanagh House
Ormeau Avenue
Belfast BT2 8NJ

Or by e-mail to Eileen glenn@detini.gov.uk

All responses should include the name and postal address of the respondent.

Please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

It would be very helpful if you could present your views in the form of responses to the individual questions asked in the document.

An acknowledgement will be sent to confirm receipt of each response.

If you have any questions about the consultation document you can contact Eileen Glenn –

Tel: 028 9054 8583, or e-mail: Eileen.Glenn@detini.gov.uk

If you have any comment or complaint about the way this consultation was conducted, it should be sent to:

Richard Monds
Director of Insolvency
Insolvency Service
Department of Enterprise, Trade and Investment
Fermanagh House
Ormeau Avenue
Belfast BT2 8NJ

A copy of the Code of Practice on Consultation is at Annex 6.

Hard copies of this consultation document are available from Eileen Glenn at the address shown above. Request for copies in other formats, e.g. large print, Braille, disc, audio cassette and other languages will also be considered.

A list of those organisations and individuals consulted is in Annex 1. We would welcome suggestions as to others who may wish to be involved.

TIMETABLE FOR RESPONSES

This consultation will close on 12 November 2015 and responses to this consultation should be forwarded to reach the Department at the address above on or before that date. It will not be possible to consider responses received after 12 November 2015.

Publication of Responses

The Department of Enterprise, Trade and Investment will publish a summary of responses on its website legislation page at www.insolvencyservice.detini.gov.uk/consultations after the consultation period has ended. Your response, and all other responses to the consultation may also be disclosed on request.

The Department can only refuse to disclose information in exceptional circumstances. If we are asked to disclose responses under freedom of information account will be taken of any requests for confidentiality. However it is unlikely that information provided by a consultee would be regarded as confidential other than in very particular circumstances.

The Freedom of Information Act gives the public a right of access to any information held by a public authority, in this case the Department of Enterprise, Trade and Investment. This right of access to information includes information provided in response to a consultation. However the Department is responsible for deciding whether any information provided by you in response to this consultation, including information about your identity, should be made public or be treated as confidential.

If you do not want all or part of your response or information about your identity to be made public, please state this clearly in your response by marking your response as 'CONFIDENTIAL', and include an explanation as to the reason. Any confidentiality disclaimer that may be generated by your organisation's IT system or included as a general statement in your fax cover sheet will be taken to apply only to information in your response for which confidentiality has been specifically requested.

We will handle any personal data you provide appropriately in accordance with the Data Protection Act 1998.

For further information about confidentiality or responses, please contact the Information Commissioner's Office, or see the web-site at: <http://www.ico.gov.uk>

INTRODUCTION

1. There is a minimum level of debt below which it is not possible to petition to have a debtor made bankrupt. This is known as the bankruptcy level.
2. The bankruptcy level in England and Wales is being increased from £750 to £5,000 on 1 October 2015.
3. It is the convention to keep insolvency legislation in Northern Ireland in parity with that applying in England and Wales. This ensures parity of treatment under the law in the two jurisdictions. It makes it easier and more straightforward for creditors in one jurisdiction taking action against debtors in the other jurisdiction if they are dealing with a similar system of law. It helps to keep costs down if a creditor needs to employ a solicitor.
4. In keeping with this convention, consideration is being given as to whether the minimum amount of debt at which it becomes possible to petition to have someone made bankrupt in Northern Ireland should be increased to the same £5,000 level which will apply in England and Wales from 1 October 2015.
5. Those most directly affected by the proposed changes in this paper will be businesses owed money by customers who have failed to pay. Others affected will include individuals who are not engaged in business but are owed money, debtors, the Court, the Insolvency Service and insolvency practitioners.
6. We propose to make a Statutory Rule to increase the bankruptcy level in Northern Ireland to £5,000.
7. This consultation is to establish your views on us doing so.
8. It is not possible at this stage to say exactly when the proposed Statutory Rule would be made. If possible we would like to make it before the current Assembly's mandate ends in 2016, or if not, early in the lifetime of the next Assembly.

BACKGROUND

9. Bankruptcy is a procedure for dealing with situations where an individual is unable to pay debts which they owe. It involves the Northern Ireland High Court making a Bankruptcy Order.
10. The Court will only make a Bankruptcy Order on presentation of a bankruptcy petition. A petition can be presented by the debtor themselves, by one of their creditors or by two or more of their creditors acting jointly. There are no upper or lower limits on the amount of debt which an individual who is petitioning for their own bankruptcy can have. However, in the case of a petition by a single creditor or by two or more creditors acting jointly, that creditor or those creditors must be owed a minimum sum termed the bankruptcy level.
11. A single creditor can petition to have a debtor made bankrupt if they are owed at least this minimum amount. Alternatively two or more creditors can jointly petition to have a debtor made bankrupt, if despite the individual sums due to them being less than this minimum amount the aggregate sum due to them equals or exceeds it.

THE PROPOSAL

To raise the bankruptcy level to what it will be in England and Wales from 1 October 2015

Present position

12. The bankruptcy level is set at £750 by Article 241(3) of the Insolvency (Northern Ireland) Order 1989. There has been no change to this amount since Article 241 came into operation on 1 October 1991. It is the same amount as currently applies in England and Wales under section 267(4) of the Insolvency Act 1986. It has been £750 in England and Wales since 1986.
13. It has been recognised in England and Wales that the fact that there has been no increase since 1986 in the minimum amount which a creditor must be owed before they can petition to have someone made bankrupt has, due to the effects of inflation, given creditors an enforcement option over low level debts which Parliament had not originally intended them to have.
14. Furthermore bankruptcy is an extremely expensive way of recovering low level debts. It is a judicial process, which involves fees to cover tasks carried out by the Official Receiver, court costs, the costs charged by solicitors acting for creditors, and in cases taken on by insolvency practitioners their fees where assets are insufficient to cover these. As a tool for returning money to creditors it is largely ineffective.

15. It has been recognised in England and Wales that bankruptcy can have severe consequences for debtors due to the level of fees charged in bankruptcy. An individual made bankrupt on a creditor petition for a low value debt can end up facing much larger debts through the bankruptcy process. Given its potentially devastating effect on individuals and families, bankruptcy should therefore only be used by creditors as a last resort to resolve any unpaid debts.
16. There have been a number of legal rulings in England and Wales 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. The Ombudsman said, “There is a question of proportionality here, too. The council cannot turn a blind eye to the consequences to the debtor of any recovery option it pursues.....The dire and punitive consequences of bankruptcy, involving a multiplication of the original debt many times over and frequently incurring the loss of the debtor’s home must be a factor to be taken into account in deciding that the ‘last resort’ [bankruptcy] is indeed appropriate. In another case, *Hunt v Flyde 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”.
17. However, these rulings may not have a wider application in cases that do not involve a petition brought by a local authority. Further to *Griffin v Wakefield Metropolitan DC*, Judge Walker, referring to bankruptcy, stated that there can be no objection to the use of a procedure which is permitted by statute and regulations.
18. The petition limit for bankruptcy in Scotland was changed to £3,000 in April 2008.
19. Applying an inflationary adjustment, would return the level for the creditor petition limit to the real values envisaged by Parliament in 1986. The following table shows what the £750 limit set in 1986 would have been had it been adjusted using the Consumer Price Index and GDP Deflator- up to the end of the financial year 2014/15.

Inflation adjusted credit petition limit

Inflation Adjustment	Credit petition limit
CPI	£1,515
GDP deflator	£1,757

20. A number of European countries (Germany, Italy and Spain) do not have a creditor petition limit. However others which have a limit have recently revised it, most notably the Republic of Ireland, which raised its limit to €20,000 (£14,394) in December 2013.

Creditor Petition Levels in Other Countries

Country	Level of the creditor petition limit	Additional Comments
Australia	(\$5000) £2,507	Revised in August 2010
Germany	None	The request is admissible if the creditor has a legal interest in the opening of the insolvency proceedings, shows his claim, and the reason why insolvency proceedings should be opened
Italy	None	Request by creditor only start of procedure, since the Judge has to verify the overall debt and the debtor's asset value respects some parameters, and the Judge can otherwise rule on the appropriateness of the insolvency
Netherlands	None	
England and Wales	£750 £5,000 from 1 October 2015.	
Republic of Ireland	€20,000 (£14,394)	Revised in December 2013
Scotland	£3,000	Revised in April 2008
Spain	None	No minimum amount of debts in order to open an insolvency proceeding; it must be opened where the debtor is not able to pay in a regular way his/her debts.

21. As regards the impact of the proposed increase in the bankruptcy level to £5,000 on the annual number of bankruptcies, 623 bankruptcy orders were made on foot of creditor petitions in the year 2014/15.

22. An impact assessment prepared for England and Wales shows that 17% of creditor petitions were in cases where the creditor was owed less than £5,000. Applying this percentage to the 623 bankruptcy orders made on foot of creditor petitions in 2014/15 gives a figure of 105.

23. It is therefore to be expected that an increase in the bankruptcy level to £5,000 would lead to 105 fewer bankruptcy orders per year in Northern Ireland.

Proposed Changes

24. As stated in the introduction, normal practice is, in the absence of good reason, to keep insolvency legislation in Northern Ireland in parity with that applying in England and Wales.

25. In England and Wales the Insolvency Act 1986 (Amendment) Order 2015 (S.I. 2015 No. 922) made on 19 March 2015 will increase the bankruptcy level to £5,000 from 1 October 2015.

26. We propose to likewise increase the bankruptcy level in Northern Ireland to £5,000.

27. Increasing the limit in Northern Ireland will require legislation.

EQUALITY AND RURAL PROOFING

28. Equality screening has not shown that the proposal would adversely affect the section 75 groups.

29. Rural impact screening has not shown any adverse effect on those living in rural areas.

Consultation Questions

30. Consultees are, therefore, invited to provide their views on the following specific questions relating to the proposed changes. A response proforma is provided at Annex 5.

Q. 1. Do you agree that the bankruptcy level should be increased to £5,000?

Q.2. If you do not agree that the limit should be increased to £5,000 what do you think the level should be?

Q.3. If you think that the level should be different from what it is in England and Wales, what are your reasons?

List of consultees

Abbey National PLC
Accountant in Bankruptcy Scotland
Advice NI
Advice Services Alliance
Alliance & Leincester PLC
Arthur Cox, Solicitors
Arthur Guinness & Sons
Association of Chartered Certified Accountants
The Attorney General for Northern Ireland
Bank of Ireland
Bank of Ireland Commercial Finance
The Bankruptcy Association
Barclays Bank PLC
Bass Ireland
Belfast Solicitor's Association
BK Binney Ltd
Blackhorse Personal Finance
British Bankers Association
BT
The Catholic Bishops for Northern Ireland
Chartered Institute of Management Accountants
Child Maintenance and Enforcement Division of the Department for Social
Development
Civil Law Reform Division of the Departmental Solicitors Office
Civil Service Benevolent Fund
Cleaver, Fulton Rankin, Solicitors
Clerk of Petty Sessions, Laganside Courts
Community Relations Council
Concordia
Confederation of British Industry
Consumer Credit Counselling Service
Consumer Credit Trade Association
Construction Employers Federation
Corporation of Insurance, Financial and Mortgage Advisers
The Countryside Agency
The Crown Solicitor for Northern Ireland
Departmental Solicitors Office
DETI Committee
DETI Equality Consultation List
Disability Action
The District Judge (Magistrates Court)
Engineering Employers Federation
Equality Commission for Northern Ireland
Executive Council of the Inn of Court of Northern Ireland
Experian Northern Ireland
Federation of Master Builders

Federation of Small Businesses
First Trust
Food Standards Agency
General Consumer Council for Northern Ireland
Halifax Bank of Scotland & Ireland
HBOS
HM Council of County Court Judges
HM Revenue & Customs
Housing Executive
HSBC Bank PLC
Human Rights Commission
Information Commissioner's Office
Insolvency Practitioners
Insolvency Practitioners Association
Insolvency Rules Advisory Committee
Insolvency Service (GB)
Institute of Chartered Accountants – Ulster Society
Institute of Chartered Secretaries & Administrators
Institute of Directors, Northern Ireland
Institute of Professional Legal Studies (QUB)
Inter Trade, Ireland
Invest NI
Irish Banking Federation
Irish League of Credit Unions
Judge Deeny
Land & Property Services
Law Centre (NI)
Law Society of Northern Ireland
Lloyds TSB plc
Lombard & Ulster
The Lord Chief Justice
Marks & Spencer Financial Services PLC
The Master in Bankruptcy
The Master, Enforcement of Judgments Office
The Master, Family Division
Members of the Northern Ireland Assembly, MPs and MEPs, NI political parties
The Ministry of Defence
Money Advice Trust
National Federation of Builders
National Housebuilding Council
NIC/ICTU
NIIB Group Ltd.
North/South Ministerial Council
Northern Bank Ltd.
Northern Ireland Association of Citizens Advice Bureaux
Northern Ireland Association for the Care and Resettlement of Offenders
Northern Ireland Bankers Association
Northern Ireland Chamber of Commerce and Industry
Northern Ireland Chamber of Trade

Northern Ireland Council for Voluntary Action
Northern Ireland Courts and Tribunals Service
Northern Ireland Electricity
Northern Ireland Finance House Association
Northern Ireland Food and Drink Association
Northern Ireland Independent Retail Trade Association
Northern Ireland Judicial Appointments Commission
Northern Ireland Law Commission
Northern Ireland Legal Services Commission
Northern Ireland Local Government Association
Northern Ireland Office
Northern Ireland Ombudsman
Northern Ireland Retail Consortium
Northern Ireland Water
Northern Ireland Youth & Family Courts Association
Official Assignee, Dublin
Office of the First and Deputy First Minister
Office of the Legislative Counsel
Participation & the Practice of Rights Project
The Police Service of Northern Ireland
Provident Financial Services
Provident Personal Credit Ltd.
Registrar of Companies, Belfast
Registrar of Companies, Cardiff
Registrar of Companies, Edinburgh
Register of Landlords
RFS Ltd.
Road Haulage Association
School of Law, Queens University of Belfast
School of Law, University of Ulster
Shopacheck Financial Services Ltd
Society of Local Authority chief Executives
Stock Exchange - NI Regional Advisory Group
Student Loan Company
Stubbs Gazette
Ulster Bank Ltd.
Ulster Community Investment Trust
Ulster Farmers Union
Ulster Federation of Credit Unions
Ulster Society of Chartered Certified Accountants
The Victim's Unit
Welcome Financial Services Ltd.
Woolwich PLC

Consultees on the Department of Enterprise, Trade and Investment equality consultation list, copies of which will be made available on request.

ANNEX 2 – Partial Regulatory Impact Assessment

Title: Proposal to increase the level of debt at which it becomes possible to petition to have a debtor made bankrupt.	Regulatory Impact Assessment	
	Date: 2/06/15	
	Type of measure: Secondary Legislation	
Lead department or agency: DETI	Stage: Initial	
	Source of intervention: Domestic NI	
Other departments or agencies: N/A	Contact details: Eileen Glenn	
	028 9054 8583	

Summary Intervention and Options

What is the problem under consideration? Why is government intervention necessary? (7 lines maximum)

This impact assessment deals with the impact of a proposed legislative change to increase the creditor petition limit in bankruptcy. A creditor can initiate bankruptcy proceedings if they are owed £750. This is the same limit as was set in England and Wales in 1986 and needs to be changed to take account of changes in the economy and debt recovery landscape. The current low level can lead to bankruptcy proceedings being initiated in inappropriate circumstances. Government intervention is needed to prevent this happening.

What are the policy objectives and the intended effects? (7 lines maximum)

An increase in the creditor petition limit is needed to ensure that the strongest of debt recovery tools is only used in appropriate cases. This will ensure protection for the most vulnerable debtors and increase the overall efficiency of the insolvency regime in Northern Ireland.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base) (10 lines maximum)

Option 1: Do nothing: It will remain possible for bankruptcy proceedings to be initiated at disproportionately low debt levels.
 Option 2 (preferred option) : Increase the bankruptcy creditor petition limit from £750 to £5,000. This level was chosen to bring bankruptcy petitions more into line with other forms of debt recovery.

Will the policy be reviewed? It will be reviewed

If applicable, set review date:

Cost of Preferred (or more likely) Option		
Total outlay cost for business £m	Total net cost to business per year £m	Annual cost for implementation by Regulator £m
0	(£158,000)	0

Does Implementation go beyond minimum EU requirements?		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
Are any of these organisations in scope?	Micro Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Small Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Medium Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
			Large Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

The final RIA supporting legislation must be attached to the Explanatory Memorandum and published with it.

Approved by: Date:

Summary: Analysis and Evidence

Policy Option 1

Description: Increase in the minimum amount of debt at which it becomes possible for a creditor to petition to have a debtor made bankrupt.

ECONOMIC ASSESSMENT (Option 1)

Costs (£)	Total Transitional (Policy) (constant price) Years		Average Annual (recurring) (excl. transitional) (constant price)	Total Cost (Present Value)
Low	Optional	1	Optional	Optional
High	Optional		Optional	Optional
Best Estimate	0		£70,704	£588,017
Description and scale of key monetised costs by ‘main affected groups’ Maximum 5 lines It has been estimated that the reduced ability of creditors to initiate bankruptcy proceedings may cost creditors around £70,704 per year.				
Other key non-monetised costs by ‘main affected groups’ Maximum 5 lines There are no non-monetised costs.				
Benefits (£)	Total Transitional (Policy) (constant price) Years		Average Annual (recurring) (excl. transitional) (constant price)	Total Benefit (Present Value)
Low	Optional	1	Optional	Optional
High	Optional		Optional	Optional
Best Estimate	0		£168,380	£1,400,350
Description and scale of key monetised benefits by ‘main affected groups’ Maximum 5 lines Saving to the Insolvency Service in staffing costs of £168,380.				

Other key non-monetised benefits by ‘main affected groups’ Maximum 5 lines
 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 Maximum 5 lines
 There is a risk that the actual change in the number of bankruptcy orders might prove to be significantly different from what has been forecast leading to potentially larger costs to creditors than anticipated.

BUSINESS ASSESSMENT (Option 1)

Direct Impact on business (Equivalent Annual) £				
Costs:£63,634	Benefits:£151,542	Net:£87,908		

Cross Border Issues (Option 1)

How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland) Maximum 3 lines
 The proposal is to increase the level of debt at which it becomes possible to petition for a debtor's bankruptcy to that which will apply in England and Wales from 1 October 2015. .

Evidence Base

There is discretion for departments and organisations as to how to set out the evidence base. It is however desirable that the following points are covered:

- Problem under consideration;
- Rationale for intervention;
- Policy objective;
- Description of options considered (including do nothing), with reference to the evidence base to support the option selection;
- Monetised and non-monetised costs and benefits of each option (including administrative burden);
- Rationale and evidence that justify the level of analysis used in the RIA (proportionality approach);
- Risks and assumptions;
- Direct costs and benefits to business;
- Wider impacts (in the context of other Impact Assessments in Policy Toolkit Workbook 4, economic assessment and NIGEAE)

Problem under consideration

The overall aim of the proposed legislative change is to protect the most vulnerable consumers with debt problems. To achieve this objective it is proposed to change the bankruptcy creditor petition limit.

A creditor can petition the High Court to make a debtor bankrupt if they owe the creditor in excess of £750. This limit was set by primary legislation made in 1989 and is the same as that which has applied in England and Wales since 1986. Due to the

effects of inflation and income changes it has given creditors an enforcement option over low levels of debt which it was not originally intended they should have.

This impact assessment will describe the impact of changing the bankruptcy creditor petition limit.

Bankruptcy is a severe form of debt relief involving divesting the debtor of almost all the assets that make up their estate. The 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 England and Wales in 1986 when the average wage was £3.87 per hour. In 2014 the UK median full-time wage was £13.15 per hour (Annual Survey of Hours and Earnings), over three times what they were in cash terms back in 1986.

Bankruptcy requires the petitioner to pay an upfront deposit and court fee before an order can be obtained: In the case of debtor petition the amount required is £640 made up of a £525 deposit and £115 court fee, although the latter can be waived or reduced in hardship cases.

A creditor petition requires a deposit of £700 and a court fee of £115. Any assets that are realised through the bankruptcy are used (after payment of bankruptcy costs) to pay all creditors, not just the petitioning creditor.

Bankruptcy imposes a cost which is not seen as proportionate in cases involving relatively small amounts of debt. There has recently been a number of cases in England and Wales where individuals have been placed in bankruptcy through a creditor petition for a low value debt, but have ended up facing far larger debts through the bankruptcy process. One example in a News night 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 in England and Wales 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.

There have also been a number of legal rulings where the appropriateness of using bankruptcy as a tool for recovering small 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 Flyde 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".

Legislation has been made in England and Wales to change the creditor petition limit to £5,000 from 1 October 2015. The petition limit for bankruptcy (sequestration) in Scotland was changed to £3,000 in April 2008.

Rationale for intervention

The minimum amount of debt a creditor needs to be owed before they can petition the Court for someone's bankruptcy has been £750 since 1991 which was the year in which the Insolvency (Northern Ireland) Order 1989 came into operation. The figure of £750 is the same as that in England and Wales from 1986. This has given creditors, due to the effect of inflation, an enforcement option over low level debts, which in the legislature had not originally intended them to have.

Furthermore, bankruptcy is an extremely expensive way of recovering low level debts. It is a judicial process, which involves fees to cover the actions taken 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

The overall aim of the legislation is to provide a mechanism to deal with creditors in an orderly and fair way. This is being achieved via an increase in the creditor petition limit. The intention is to increase it to the same level as it is being increased to in England and Wales following a review carried out to establish if the £750 debt limit at which a creditor could petition for a person's bankruptcy, set in 1986, was still suitable. As bankruptcy is the strongest of the debt recovery tools, it is necessary to ensure that it is only used at appropriate times.

The review was needed to strike the right balance between ensuring that the insolvency regime was not imposing overly punitive measures on the most vulnerable people while at the same time safeguarding the rights of creditors to repayment, thereby increasing the overall efficiency of the insolvency regime.

Description of options considered (including do nothing)

Do nothing: The option would mean that some creditors would continue to pursue disproportionate bankruptcy proceedings on low levels of debt.

Preferred option: Change the limits for Creditor Petition Bankruptcies.

The current creditor petition limit is the same in Northern Ireland as in England and Wales, £750. The limit in England and Wales will rise to £5,000 on 1 October 2015. The limit in Northern Ireland needs to be increased to the same amount. An increase of this magnitude would be significant enough to be effective in reducing petitions for 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.

Change to Creditor Petition Limit (preferred option)

Bankruptcy Creditor Petition limit

Current	Limit following proposed increase
£750	£5,000

The proposed legislation will not make any other changes to the creditor petition limit.

Monetised and non monetised costs and benefits of preferred option.

This section contains a description of the likely costs and benefits of the preferred option by the main affected groups. The preferred option would have an impact on 6 groups: debtors, creditors, insolvency practitioners, the Insolvency Service and the High Court. This impact assessment will discuss the benefits and costs for each of these groups from the proposed change to the creditor petition level.

Benefits

Benefits to creditors

The cost of recovering debt forms part of a creditor's business expenses. Creditors incur costs from administration of debt recovery systems or by using specialist collection agencies. Pursuing debtors through the court system is also a significant cost to creditors.

Creditors should only be incurring the cost of recovering debt if the value to be recovered exceeds the costs of collection. However in low asset, debt and income cases the actual debt recovered is likely to be very small and would generally exceed the cost of recovery.

Benefit to the public sector (judicial system)

Increasing the level of creditor petition will also reduce the number of creditor petition cases going through the court system. 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 Creditors

Changes to the creditor petition limit

Around 45% of bankruptcy petitions are 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. Even so the reduced ability to petition for some creditors is likely to lead to some loss in dividends.

Estimating the cost to creditors is quite difficult as there is limited information available on the value of the 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. Some of these cases would be led by the official receiver and some of them would be led by an insolvency practitioner. We have taken the average distribution in creditor petition cases led by the official receiver to be the same as that in England and Wales, £42 per case.

The estimated annual impact on creditors is,

Estimated total distribution in creditor petition cases dealt with by OR where the debt due to the petitioning creditor is between £750 and £5,000

No. of cases creditors	Average distribution per case	Cost to
47	X £42	= £1,974

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 allowing for the higher cost of completing the bankruptcy. In 2014/15 it is estimated that there were 58 insolvency practitioner led petition cases where the creditor petition was less than £5,000.

The average gross payment to creditors for petitions less than £5,000 has been estimated to be around £3,000.

Estimated total distribution in creditor petition cases dealt with by IPs where the debt due to the petitioning creditor is between £750 and £5,000

No. of cases creditors	Average distribution per case	Cost to
58	X £3,000	£174,000

After taking account of the cost of the creditor deposit (£700), court fee (£115) and other expenses of the case which a creditor group estimated to be around £1,000, the net return to creditors would be around £1,185 per case or £68,730 across all eligible cases.

The total loss to creditors from increasing the level of debt at which a creditor can petition for bankruptcy to £5,000 is therefore,

Loss in OR cases	£1,974
Loss in IP cases	£68,730
Total loss to creditors	£70,704

Costs to Insolvency Practitioners

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. 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 value 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.

Analysis undertaken in England and Wales suggests that fee levels in creditor petition cases under £5,000 vary considerably with zero fees being charged in just under half of cases and that fee levels in the remainder varies between £5,000 and £25,000 depending on the amount of assets available in the case and the amount of work that is required to realise them.

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 on the economy.

Impact on the Insolvency Service

The Insolvency Service is responsible for administering bankruptcy cases. The reduction in bankruptcy cases that will result from the legislative change will impact on the Insolvency Service. Staffing change 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.

Based on the forecasts of reduced bankruptcy cases it has been estimated that there could be staff saving of £168,380.

Reducing costs from efficiencies generally takes longer to impact on the Service's 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.

Risks and assumptions

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 coordination 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

A description of the impacts on business are below:

The legislation increases the regulatory barriers on creditors to initiate bankruptcy proceedings. Creditors with low levels of debt due to them will no longer be able to initiate bankruptcy on their own account.

An ongoing cost to business creditors in official receiver cases from reduced ability to initiate bankruptcy is estimated to be 90% of the £1,974 total cost to creditors in such cases, that is £1,777 per year

An ongoing cost to business creditors in insolvency practitioner cases from reduced ability to initiate bankruptcy proceedings is estimated to be 90% of the £68,730 total cost to creditors in such cases, that is £61,857.

The measure could impact on small and micro business in a number of ways.

Small and micro businesses account for 99.2% of all private sector businesses in Northern Ireland (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.

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 99.2% proportion of the creditor population.

Varying requirements by size of business-

It is not feasible to have different creditor petition limits dependant 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

Impact of an increase in creditor petition limits-

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 cannot initiate a bankruptcy proceeding so should be unaffected by these changes but in certain circumstances 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.

Equalities impact assessment

An equality screening has shown that the policy would not have a differential impact on any of the section 75 groups.

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

DETI EQUALITY SCREENING FORM

Part 1. Policy scoping

The first stage of the screening process involves scoping the policy under consideration. The purpose of policy scoping is to help prepare the background and context and set out the aims and objectives for the policy, being screened. At this stage, scoping the policy will help identify potential constraints as well as opportunities and will help the policy maker work through the screening process on a step by step basis.

Public authorities should remember that the Section 75 statutory duties apply to internal policies (relating to people who work for the authority), as well as external policies (relating to those who are, or could be, served by the authority).

Information about the policy

Name of the policy

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

Is the policy:

- new
- existing
- revised

What is it trying to achieve? (intended aims/outcomes)

Policy is that it should not be possible for a creditor to take the drastic step of petitioning to have a debtor made bankrupt for trivial amounts of debt. However the current £750 threshold below which it is not possible to petition to have a debtor made bankrupt is based on the figure set in England and Wales in 1986. Legislation has been made in England and Wales to raise the minimum level of debt at which it is possible to petition to have someone made bankrupt to £5,000 from 1 October 2015. An increase to this level will both take account of inflation and of changing views as to what constitutes the level of debt at which bankruptcy becomes an appropriate intervention. Our policy is to increase the threshold in Northern Ireland in line with that in England and Wales.

Are there any Section 75 categories which might be expected to benefit from the intended policy? If so, explain how.

The proposed increase to the creditor petition limit will affect two categories of people. It will benefit anyone who owes between £750 and £5,000 to another person because it will no longer be possible for the person to whom they owe the money to petition to have them made bankrupt. It will disadvantage those owed between £750 and £5,000 because it will no longer be possible for them to use the threat of bankruptcy as a lever to force the individual who owes the money to pay up. However the impact on both groups will be lessened by the fact that it will still be open to creditors owed between £750 and £5,000 to take enforcement proceedings to recover the sum due to them.

The impact of the proposed change to the creditor petition limit will be solely on these two groups. The Department has no reason to believe that it will have any implications for any of the section 75 groups.

Who initiated or wrote the policy?

DETI

Who owns and who implements the policy?

DETI

Implementation factors

Are there any factors which could contribute to/detract from the intended aim/outcome of the policy/decision?

If yes, are they

- financial
- legislative
- other, please specify _____

Main stakeholders affected

Who are the internal and external stakeholders (actual or potential) that the policy will impact upon?

- ✓ staff
- ✓ service users
- ✓ other public sector organisations
- ✓ voluntary/community/trade unions
- ✓ other, please specify Creditors, mostly businesses, due debts in excess of the current limit at which it is possible to petition to have someone made bankrupt (£750) but below the higher limit which would apply under the proposal (£5,000) and the debtors who owe sums falling between the two limits.

Other policies with a bearing on this policy

There is a separate proposal to raise the total amount of debt and the total value of the assets which an individual can have to be eligible for the Debt Relief scheme. This will allow more people who have insufficient income and assets to have any realistic prospect of paying debts they owe and provided they meet certain eligibility criteria, to have those debts written off. This will save those to whom the debts are due spending money in futile endeavours to recover those debts, including petitioning to have the debtor made bankrupt.

Available evidence

Evidence to help inform the screening process may take many forms. Public authorities should ensure that their screening decision is informed by relevant data.

What evidence/information (both qualitative and quantitative) have you gathered to inform this policy? Specify details for each of the Section 75 categories.

Section 75 category	Details of evidence/information
Religious belief	<p>Bankrupts are invited to complete an optional questionnaire which includes a question on their community background in terms of religion.</p> <p>However, the statistics are not broken down according to whether the bankrupt petitioned for their own bankruptcy or was made bankrupt on foot of a creditor's petition.</p> <p>No information is held on the religious make up of petitioning creditors. There is no reason to believe that the religious make-up of those who will fall below the new bankruptcy threshold will be any different from those falling below the existing threshold.</p>
Political opinion	No evidence/information available.
Racial group	<p>There is a question about ethnic origin on the optional questionnaire which bankrupts are asked to complete. However, the statistics are not broken down according to whether the bankrupt petitioned for their own bankruptcy or was made bankrupt on foot of a creditor's petition. There is, however, no reason to believe that the proposed increase in the creditor petition limit will have any adverse impact on any racial group.</p>
Age	<p>Bankrupts are asked to state their date of birth.</p> <p>Again, the statistics are not broken down according to whether the bankrupt petitioned for their own bankruptcy or was made bankrupt on foot of a creditor's petition.</p> <p>There is no reason to believe that the proposed increase in the creditor petition limit will alter the current age profile of those made bankrupt on foot of creditor petitions.</p>
Marital status	<p>Bankrupts are asked to state their marital status.</p> <p>Again, the statistics are not broken down according to</p>

	<p>whether the bankrupt petitioned for their own bankruptcy or was made bankrupt on foot of a creditor's petition.</p> <p>There is no reason to believe that the proposed increase in the creditor petition limit will affect the proportions of people made bankrupt on creditors' petitions in terms of marital status.</p>
Sexual orientation	<p>No statistics are available on this subject.</p> <p>However, there is no reason to believe that the proportions of heterosexual, homosexual, bisexual and asexual people, in the additional group which would become exempt under the proposed increased creditor petition limit, would be any different from those under the existing limit.</p>
Men and women generally	<p>Bankrupts are asked to state on the optional questionnaire whether they are male or female.</p> <p>However, the statistics are not broken down according to whether the bankrupt petitioned for their own bankruptcy or was made bankrupt on foot of a creditor's petition.</p> <p>There is no reason to believe that raising the creditor petition limit would change the male/ female ratio of those made bankrupt on creditors' petitions.</p>
Disability	<p>There is a question on the optional questionnaire about disability. However, the statistics are not broken down according to whether the bankrupt petitioned for their own bankruptcy or was made bankrupt on foot of a creditor's petition.</p> <p>There is no reason to believe that raising the creditor petition limit will result in any difference to the proportion of those made bankrupt on a creditor's petition who have a disability.</p>
Dependants	<p>Bankrupts are asked to state in the optional questionnaire whether they have dependants or not.</p> <p>However, the statistics are not broken down according to whether the bankrupt petitioned for their own bankruptcy or was made bankrupt on foot of a creditor's petition. There is no reason to believe that raising the creditor petition limit will result in any change to the proportion of those made bankrupt on a creditors' petition who have dependants.</p>

Part 2. Screening questions

Introduction

In making a decision as to whether or not there is a need to carry out an equality impact assessment, the public authority should consider its answers to the questions 1-4 detailed below.

If the public authority's conclusion is **none** in respect of all of the Section 75 equality of opportunity and/or good relations categories, then the public authority may decide to screen the policy out. If a policy is 'screened out' as having no relevance to equality of opportunity or good relations, a public authority should give details of the reasons for the decision taken.

If the public authority's conclusion is **major** in respect of one or more of the Section 75 equality of opportunity and/or good relations categories, then consideration should be given to subjecting the policy to the equality impact assessment procedure.

If the public authority's conclusion is **minor** in respect of one or more of the Section 75 equality categories and/or good relations categories, then consideration should still be given to proceeding with an equality impact assessment, or to:

- measures to mitigate the adverse impact; or
- the introduction of an alternative policy to better promote equality of opportunity and/or good relations.

In favour of a 'major' impact

- a) The policy is significant in terms of its strategic importance;
- b) Potential equality impacts are unknown, because, for example, there is insufficient data upon which to make an assessment or because they are complex, and it would be appropriate to conduct an equality impact assessment in order to better assess them;
- c) Potential equality and/or good relations impacts are likely to be adverse or are likely to be experienced disproportionately by groups of people including those who are marginalised or disadvantaged;
- d) Further assessment offers a valuable way to examine the evidence and develop recommendations in respect of a policy about which there are concerns amongst affected individuals and representative groups, for example in respect of multiple identities;
- e) The policy is likely to be challenged by way of judicial review;
- f) The policy is significant in terms of expenditure.

In favour of 'minor' impact

- a) The policy is not unlawfully discriminatory and any residual potential impacts on people are judged to be negligible;

- b) The policy, or certain proposals within it, are potentially unlawfully discriminatory, but this possibility can readily and easily be eliminated by making appropriate changes to the policy or by adopting appropriate mitigating measures;
- c) Any asymmetrical equality impacts caused by the policy are intentional because they are specifically designed to promote equality of opportunity for particular groups of disadvantaged people;
- d) By amending the policy there are better opportunities to better promote equality of opportunity and/or good relations.

In favour of none

- a) The policy has no relevance to equality of opportunity or good relations.
- b) The policy is purely technical in nature and will have no bearing in terms of its likely impact on equality of opportunity or good relations for people within the equality and good relations categories.

Taking into account the evidence presented above, consider and comment on the likely impact on equality of opportunity and good relations for those affected by this policy, in any way, for each of the equality and good relations categories, by applying the screening questions detailed below and indicate the level of impact on the group i.e. minor, major or none.

Screening questions

1 What is the likely impact on equality of opportunity for those affected by this policy, for each of the Section 75 equality categories? minor/major/none		
Section 75 category	Details of policy impact	Level of impact? minor/major/none
Religious belief	<p>The Department has no reason to believe that increasing the bankruptcy petition limit will change the make-up of those made bankrupt on creditors' petitions in terms of their religious belief, if any.</p> <p>Neither is there any reason to believe that the change will result in any change to the religious make-up of those immune from being made bankrupt because they owe less than the bankruptcy petition limit.</p> <p>There is no reason to believe that the change would have any adverse implications for members of any religious group.</p>	None.
Political opinion	<p>The Department has no reason to believe that increasing the bankruptcy petition limit will have any impact on the make-up of either those made bankrupt on creditors' petitions, or debtors owing sums below that amount, in terms of their political opinion.</p>	None.
Racial group	<p>The Department has no reason to believe that increasing the bankruptcy petition limit will have any impact on the make-up of those made bankrupt on creditors' petitions or debtors owing sums below that amount in terms of their racial group.</p> <p>The increase will not have any differential impact on any particular racial group.</p>	None.
Age	<p>The Department has no reason to believe that increasing the bankruptcy petition limit will result in any change to the age profile of</p>	None.

	those made bankrupt on creditors' petitions or debtors owing sums below that amount.	
Marital status	The Department has no reason to believe that increasing the bankruptcy petition limit will have any differential impact in terms of marital status.	None.
Sexual orientation	The Department has no reason to believe that increasing the bankruptcy petition limit will have any differential impact on either debtors or creditors in terms of their sexual orientation.	None.
Men and women generally	The Department has no reason to believe that the ratio of men to women made bankrupt on creditors' petitions or exempt from being made bankrupt due to the sums they owe being below the bankruptcy petition limit would be any different under the proposed increase.	None.
Disability	The Department has no reason to believe that the proposed increase in the bankruptcy petition limit would result in any change to the proportions of disabled/non-disabled.	None.
Dependants	The Department has no reason to believe that the proposed increase in the bankruptcy petition limit would result in any change to the proportions of individuals with dependants either made bankrupt on creditors' petitions or exempt from being made bankrupt because they owe less than that limit.	None.

2 Are there opportunities to better promote equality of opportunity for people within the Section 75 equalities categories?		
Section 75 category	If Yes , provide details	If No , provide reasons
Religious belief	No.	In the context of section 75, the nature of the proposed change is such that it does not give rise to an opportunity to promote equality of opportunity for section 75 groups. The changes will be to the advantage of those who owe debts above the old petition limit but below the new one as they will be excluded from being petitioned for bankruptcy by creditors. The new thresholds will apply to all groups equally.
Political opinion	No.	Identical reasoning applies as for the first category.
Racial group	No.	Identical reasoning applies as for the first category.
Age	No.	Identical reasoning applies as for the first category.
Marital status	No.	Identical reasoning applies as for the first category.
Sexual orientation	No.	Identical reasoning applies as for the first category.
Men and women generally	No.	Identical reasoning applies as for the first category.
Disability	No.	Identical reasoning applies as for the first category.
Dependants	No.	Identical reasoning applies as for the first category.

3 To what extent is the policy likely to impact on good relations between people of different religious belief, political opinion or racial group?		
Section 75 category	Details of policy impact	Level of impact minor/major/none
Religious belief	The relevant relationship is that between debtor and creditor. Accordingly, it is unlikely to impact on good relations between those with differing religious beliefs.	None.
Political opinion	Similar reasoning applies as for the first category.	None.
Racial group	Similar reasoning applies as for the first category.	None.

4 Are there opportunities to better promote good relations between people of different religious belief, political opinion or racial group?		
Good relations category	If Yes , provide details	If No , provide reasons
Religious belief		The change is to the level of debt at which it is possible to petition to have a person made bankrupt. It affects the relationship between debtors and their creditors. It will not, therefore, better promote good relations between people of differing religious faiths.
Political opinion		Similar reasoning applies as for the first category.
Racial group		Similar reasoning applies as for the first category.

Additional considerations

Multiple identity

Generally speaking, people can fall into more than one Section 75 category. Taking this into consideration, are there any potential impacts of the policy/decision on people with multiple identities?
(For example; disabled minority ethnic people; disabled women; young Protestant men; and young lesbians, gay and bisexual people).

Provide details of data on the impact of the policy on people with multiple identities. Specify relevant Section 75 categories concerned.

The proposed change consists of a straightforward increase in the amount of debt which a person must be owed before they can petition to have the person who owes them the money made bankrupt from £750 to £5,000.

The new limit will mean that anyone who owes another person up to £5,000 could not be made bankrupt by that person. They will have this immunity regardless of how many or how few of the section 75 categories they fall into.

Part 3. Screening decision

If the decision is not to conduct an equality impact assessment, please provide details of the reasons.

This policy will apply equally to everyone; therefore will not have any adverse impact on any of the section 75 groups

All public authorities' equality schemes must state the authority's arrangements for assessing and consulting on the likely impact of policies adopted or proposed to be adopted by the authority on the promotion of equality of opportunity. The Commission recommends screening and equality impact assessment as the tools to be utilised for such assessments. Further advice on equality impact assessment may be found in a separate Commission publication: Practical Guidance on Equality Impact Assessment.

All policies need to be proofed or have their impact assessed against a wide range of criteria, including equality, rural & environmental impact assessments. OFMdfM has developed a Policy Toolkit to provide practical guidance on the policy development process in NI. Part 4 of the toolkit provides a practical framework on impact assessments. The toolkit is available at <http://www.ofmdfmi.gov.uk/policy-toolkit>.

Mitigation

When the public authority concludes that the likely impact is 'minor' and an equality impact assessment is not to be conducted, the public authority may consider mitigation to lessen the severity of any equality impact, or the introduction of an alternative policy to better promote equality of opportunity or good relations.

Can the policy/decision be amended or changed or an alternative policy introduced to better promote equality of opportunity and/or good relations? If so, give the **reasons** to support your decision, together with the proposed changes/amendments or alternative policy.

N/A. The proposed change to the bankruptcy petition limit is not expected to have any differential impact on any of the section 75 groups. There is, therefore, no need for mitigation. The proposed change does not lend itself to being use to promote good relations.

Part 4. Monitoring

Section 75 places a requirement on DETI to have equality monitoring arrangements in place in order to assess the impact of policies and services etc; and to help identify barriers to fair participation and to better promote equality of opportunity.

Outline what data you will collect in the future in order to monitor the impact of this policy/decision on equality, good relations and disability duties.

Equality	Good Relations	Disability Duties
None. It would not be possible to obtain data on the make up in terms of the section 75 groups of those no longer at risk of being subject to bankrupt proceedings as a result of having incurred a debt to someone of more than £750 but less than £5,000.	As it would not be possible to use the change to further good relations no data on this issue can or will be collected.	None. It would not be possible to obtain data on the proportion of those no longer at risk of being subject to bankrupt proceedings as a result of having incurred a debt to someone of more than £750 but less than £5,000 who are disabled.

Part 5. Disability Duties

Under the Disability Discrimination Act 1995 (as amended by the Disability Discrimination (Northern Ireland) Order 2006), public authorities, when exercising their functions, are required to have due regard to the need:

- to promote positive attitudes towards disabled people; and
- to encourage participation by disabled people in public life.

Does this policy/legislation have any potential to contribute towards promoting positive attitudes towards disabled people or towards encouraging participation by disabled people in public life? If yes, please give brief details.

There is no scope for the policy/legislation to be used in this way.

Part 6. Consideration of Human Rights

The Human Rights Act (HRA) 1998 brings the European Convention on Human Rights (ECHR) into UK law and it applies in Northern Ireland. Indicate

below (place an X in the appropriate box) any potential **adverse impacts** that the policy/decision may have in relation to human rights issues.

N/A. This policy does not have any adverse impact in terms of Human Rights

Right to Life	Article 2	<input type="checkbox"/>
Prohibition of torture, inhuman or degrading treatment	Article 3	<input type="checkbox"/>
Prohibition of slavery and forced labour	Article 4	<input type="checkbox"/>
Right to liberty and security	Article 5	<input type="checkbox"/>
Right to a fair trial	Article 6	<input type="checkbox"/>
Right to no punishment without law	Article 7	<input type="checkbox"/>
Right to respect for private and family life, home and correspondence	Article 8	<input type="checkbox"/>
Right to freedom of thought, conscience and religion	Article 9	<input type="checkbox"/>
Right to freedom of expression	Article 10	<input type="checkbox"/>
Right to freedom of peaceful assembly and association	Article 11	<input type="checkbox"/>
Right to marry and to found a family	Article 12	<input type="checkbox"/>
The prohibition of discrimination	Article 14	<input type="checkbox"/>
Protection of property and enjoyment of possessions	Protocol 1 Article 1	<input type="checkbox"/>
Right to education	Protocol 1 Article 2	<input type="checkbox"/>
Right to free and secret elections	Protocol 1 Article 3	<input type="checkbox"/>

Please indicate any ways which you consider the policy positively promotes human rights.

N/A

If you find that the policy/proposal interferes with or limits one or more of the Convention rights, please complete the full 'Human Rights Act Impact Assessment' pro forma, which is available at www.ofmdfmi.gov.uk/human-rights, along with further information on compliance with the European Convention on Human Rights.

Annex 4 - Rural Impact screening for increase in monetary limit to creditor's petition in bankruptcy

Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
	Yes	No	Yes	No	
<p>1. Does the policy apply in rural areas and communities?</p> <p>IF NO: set out the reasons why</p> <p>If Yes: see (a) & (b)</p>	x			x	<p>The Department of Enterprise, Trade and Investment is proposing to make a statutory rule which will increase the level which a creditor can petition to make someone bankrupt. The current level is £750 and it is proposed to increase this to £5,000.</p> <p>This increase will apply equally to everyone in Northern Ireland regardless of where they live.</p>
<p>a. Does the policy have the potential to have a negative impact on rural areas and communities?</p>		x		x	<p>The policy will not negatively impact on any area and will apply equally to everyone in Northern Ireland regardless of their geographical location.</p>
<p>b. Does the policy have the potential to have a positive impact on rural areas and communities?</p>		x		x	<p>The policy will apply equally to everyone in Northern Ireland regardless of their geographical location. It should benefit those in rural areas who have debts below the proposed higher threshold of up to £5,000.</p>
<p>CONCLUSION</p>					<p>That a rural impact assessment is not required</p>

ANNEX 5: CONSULTATION RESPONSE FORM

Consultation on proposals to raise the threshold level of debt at which a creditor can petition for bankruptcy

Consultation Response Form

The closing date for this consultation is 12 November 2015

Please feel free to use this form to record your responses and respond by email.

Name:

Organisation (if applicable):

Address:

[Email:

Please return completed forms by by email to:

eileen.glenn@detini.gov.uk

or by post to:

Eileen Glenn
Insolvency Service
Department of Enterprise, Trade and Investment
Fermanagh House
Ormeau Avenue
Belfast BT2 8NJ

Confidentiality and Data Protection

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA)). If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system, or included as a general statement in your fax cover sheet, will not, of itself, be regarded as binding on the Department and will be taken to apply therefore only to information in your response for which confidentiality has been requested.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Do you want us to keep your response confidential?

Please explain why you regard the information you have given as confidential:

<p>Comments:</p>

Question 1

Do you agree that the bankruptcy level should be increased to £5,000?

Yes

No

Not sure

Question 2

If you do not agree that the limit should be increased to £5,000 what do you think the level should be?

Comments:

Question 3

If you think that the level should be different from what it is in England and Wales, what are your reasons?

Comments:

Equality and Rural Proofing

Question 4

Do you agree that the proposals will not have any negative impact on any of the section 75 groups?

Yes

No

Not sure

Comments:

Question 5

Do you agree that the proposals will not have any negative impact on those living in rural areas?

Yes

No

Not sure

Comments:

Annex 6

The Consultation Code of Practice Criteria

1. Formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. Consultation processes should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

The complete code is available on the BERR web site, address <http://www.berr.gov.uk/files/file47518.pdf>