Title: **Amending the criteria for debtors' property in relation to an application for a Debt Relief Order**	Impact Assessment (IA)
Lead department or agency: The Insolvency Service	**IA No: BIS0175**
Other departments or agencies: Department for Business Innovation & Skills	**Date: 31/01/2011**
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Secondary legislation
	Contact for enquiries: Dean.Beale@insolvency.gsi.gov.uk 020 7291 6744

Summary: Intervention and Options

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

The Debt Relief Order (DRO) regime provides debt relief for the most needy in society as an alternative to bankruptcy, for those with nothing to offer their creditors and low levels of debt. It is for debtors with assets less than £300, surplus income less than £50 per month and debts less than £15,000 who have no prospect of paying their creditors. After 18 months of operation a regulatory oversight has been identified in that some of the people for whom the system was designed to help have been unable to access DROs because they have accrued some rights to a pension, often very small and not receivable for many years, but enough to push them over the £300 limit. This is out of line with bankruptcy, where a pension is not treated as an asset and debtors retain their pension rights.

What are the policy objectives and the intended effects?

The primary objective is to rectify the anomaly between bankruptcy and DRO in how pensions are treated, which will maximise access to DROs for those vulnerable and impoverished debtors it was intended to help. The effect would be to enable debtors currently unable to access DROs because of a pension to gain access to debt relief. This should alleviate the effects of debt-related stress on these individuals and their families and enable them to escape their currently intractable situation. This change should also provide savings for those debtors currently seeking bankruptcy who will become eligible for a DRO under the proposed change (DROs are £90, bankruptcy is £600). Creditors should be unaffected; as debtors eligible for a DRO have nothing to offer their creditors, whether they enter a DRO, bankruptcy or do nothing.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

3 different options have been considered:

Option 1: Do Nothing;

Option 2(a): Amend the DRO eligibility criteria to introduce a time/monetary cap on the pension rights a debtor can hold and still be eligible for a DRO;

Option 2(b): Amend the DRO eligibility criteria to remove approved pensions (approved under the Welfare Reform and Pensions Act).

Option 2(b) is the preferred option, as this will align the rules for DROs with the treatment of pensions in bankruptcy, whilst also keeping the application process low-cost and straightforward.

As the eligibility criteria for DROs is contained within statute, there is no scope for a non-regulatory solution to this issue. Only a change to statute can address the problem.

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?	It will be reviewed as part of the DRO evaluation in 2012
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

Ministerial Sign-off For final proposal stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister: ***Date: 28 February 2011***

Summary: Analysis and Evidence

Policy Option 2b

Description:

Amending the criteria for debtors' property in relation to an application for a Debt Relief Order to remove pensions approved under the Welfare Reform and Pensions Act

Price Base Year 2010	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 1.2	**High: 1.5**	**Best Estimate: 1.3**

COSTS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant Price)	**Total Cost** (Present Value)
Low		N/A		
High				
Best Estimate	0		0	**0**

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

None

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

None

BENEFITS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant Price)	**Total Benefit** (Present Value)
Low		N/A	0.1	**1.2**
High			0.2	**1.5**
Best Estimate	0		0.2	**1.3**

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

It is estimated that 200-250 people enter bankruptcy each year that would be eligible for a DRO but have future pension rights that currently exclude them. These debtors, and the charities who assist with their bankruptcy application costs, will save £94k-118k p.a. due to the lower cost of a DRO application. As each bankruptcy case costs the court £315 to process, it is estimated that 200-250 fewer bankruptcy cases will result in a net saving to the courts of £41-51k p.a. Total benefits to main affected groups are therefore estimated to be **£135-169k per annum.**

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

It is estimated that an additional 4,000-14,000 people will be able to access DROs as a result of this policy change. This will lead to a significant reduction of debt-related health problems for these individuals and their families, such as stress and depression. Benefits to low-income households to better manage their future finances, by giving them a fresh start. Debt advisors will be able to offer a debt solution to those who meet the DRO eligibility criteria, but cannot access the scheme currently, which should free up resources in the advice sector. Creditors will save the costs of fruitless debt recovery action, as debtors will be able to enter a formal insolvency procedure, rather than remaining 'in limbo', still unable to pay their debts.

Key assumptions/sensitivities/risks **Discount rate (%)** 3.5

The increase in DRO applications (estimated at 4k-14k p.a.) will not impact on the Insolvency Service, as the scheme is self-financing through the application fee of £90 per DRO. Minor IT changes for the Insolvency Service to amend the application form will be absorbed into an existing planned upgrade at no extra cost. Potential costs to debtors and approved intermediaries (advisors who assist the debtor apply for a DRO) in ascertaining information about the pension to ensure it is 'approved' are expected to be negligible - pension providers issue an annual statement which can be used in the DRO application process. Evidence indicates that this is already happening in any case to determine eligibility under current criteria. Creditors will be unaffected – debtors eligible for a DRO cannot currently afford repayments and have minimal assets and income. Regardless of whether a debtor enters a DRO, bankruptcy or does nothing, creditors remain unpaid, so this change should not impact on them.

Impact on admin burden (AB) (£m):			**Impact on policy cost savings (£m):**	**In scope**
New AB: N/A	**AB savings:** N/A	**Net:** N/A	**Policy cost savings:** N/A	Yes

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			England and Wales		
From what date will the policy be implemented?			06/04/2011		
Which organisation(s) will enforce the policy?			Insolvency Service		
What is the annual change in enforcement cost (£m)?			0		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			N/A		
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:** N/A	**Non-traded:** N/A	
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			**Costs:** 0	**Benefits:** 0	
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	**Micro** N/A	**< 20** N/A	**Small** N/A	**Medium** N/A	**Large** N/A
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on…?	**Impact**	**Page ref within IA**
Statutory equality duties[1] Statutory Equality Duties Impact Test guidance	No	12
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	12
Small firms Small Firms Impact Test guidance	No	13
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	13
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	13
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	Yes	13
Human rights Human Rights Impact Test guidance	No	13
Justice system Justice Impact Test guidance	No	13
Rural proofing Rural Proofing Impact Test guidance	No	13
Sustainable development Sustainable Development Impact Test guidance	No	13

[1] Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No.	Legislation or publication
1	Consultation –Debt Relief Orders and Pensions (includes initial Impact Assessment and summary of responses): http://www.insolvency.gov.uk/insolvencyprofessionandlegislation/con_doc_register/DROconsultationComplete.pdf http://www.insolvency.gov.uk/insolvencyprofessionandlegislation/con_doc_register/DRO%20Summary%20of%20responses%20to%20consultation%20FINAL.pdf
2	Debt Relief Order interim evaluation report: http://www.insolvency.gov.uk/insolvencyprofessionandlegislation/con_doc_register/DRO%20interim%20evaluation%20report%20-FINAL.pdf
3	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y_0	Y_1	Y_2	Y_3	Y_4	Y_5	Y_6	Y_7	Y_8	Y_9
Transition costs	0	0	0	0	0	0	0	0	0	0
Annual recurring cost	0	0	0	0	0	0	0	0	0	0
Total annual costs	0	0	0	0	0	0	0	0	0	0
Transition benefits	0	0	0	0	0	0	0	0	0	0
Annual recurring benefits	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2
Total annual benefits	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets

Background

1. Part 5 of the Coalition Agreement sets out that *"The Government believes that action is needed to protect consumers, particularly the most vulnerable……."* The proposed minor policy change reflects that aspiration.

2. For a variety of reasons, some consumers inevitably find themselves unable to meet their financial commitments. It is important to ensure that when this happens processes are in place to help those individuals. We also need to ensure that creditors have access to effective, proportionate and viable action for recovery and that people in difficulty are able to access the most appropriate debt remedy.

3. If a person has debt problems there are various options to help him/her make arrangements involving 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 enter into a Debt Management Plan (DMP), an arrangement between a debtor and his/her creditors that is managed by a debt management company;
   - 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 lastly,
   - bankruptcy – a formal court procedure which can be started by the debtor or one of his/her creditors owed at least £750.

4. Debt Relief Orders (DRO) were introduced in April 2009. They are aimed at providing much needed debt relief to a specific group of individuals in financial difficulty, i.e. those with a relatively small amount of debt (less than £15,000), with minimal disposable income (less than £50.00 pcm) and little or no assets. Such debtors have nothing to offer their creditors and cannot therefore access any of he insolvency procedures which rely on repayment plans. The only option available to this group is bankruptcy and they had been struggling to afford the cost (£600, compared with £90 for a DRO application fee). In any event, bankruptcy would likely have been a disproportionate response to their relatively straightforward affairs and low levels of indebtedness. A DRO can only be obtained once every 6 years, and is intended as a one-off fresh start for the most needy.

5. The DRO regime is delivered by The Insolvency Service in partnership with eleven Competent Authorities[2]. These are organisations that are recognised by the Secretary of State and they assist debtors in their application for a DRO through their approved intermediaries. The DRO application is a highly automated, web-based system delivered at low cost to keep the application fee as affordable as possible. The system allows debtors to pay for the application fee in small instalments.

6. Published statistics for DROs since the system was introduced in April 2009 are:

Period	Number of DROs made per quarter (i.e. applications that were approved)
Q2 2009	1,978
Q3 2009	4,505
Q4 2009	5,348
Q1 2010	5,644
Q2 2010	6,295
Q3 2010	7,068

Source: Insolvency Service

Consultation

7. In late 2009, representatives from the debt advice sector, including the Competent Authorities, lobbied the Government to change the DRO eligibility criteria because of a pension issue. Citizen's Advice, who handle the majority of DRO applications, had undertaken a survey in 2009 and had

[2] http://www.insolvency.gov.uk/insolvencyprofessionandlegislation/DebtRelief.htm

established that a large proportion of debtors they advised for a DRO could not go through with an application because of the pension barrier[3].

8. The Insolvency Service launched a consultation on the pension issue in March 2010. There were 47 responses to the consultation including existing (and applicant) Competent Authorities, individual CAB offices, others in the debt advice sector, organisations representing the pensions industry as well as creditors and the insolvency practitioner sector. All respondents were in favour of change, the majority favouring aligning the treatment of pensions with bankruptcy by excluding approved pensions[4] from the eligibility criteria.

Problem Definition

9. Representations from debt advice agencies indicate that 1 in 8 debtors would otherwise be suitable for a DRO but for the fact that they have a right to a pension that is often small and many years away from coming into payment. They are still trapped in debt because they have nothing to offer their creditors and cannot afford bankruptcy.

10. The problem is evidenced in some of the many case examples given in responses to the consultation, for example:

    - A CAB in Wiltshire told us about a 35 year old man who came for help about his debts. He had served in the army and had suffered a severe spinal injury whilst on active duty. As a result of his injury, he was unable to work and had debts of £10,000. The client had no significant assets, lived in a housing association property and had very little disposable income, and so a DRO would have been an appropriate remedy. However, he had an army pension which was counted as an asset, despite the fact that he was unable to access this for 30 years. The client was therefore left with bankruptcy as his only option.
    - A Hampshire CAB saw a woman in her early thirties who was bringing up her two children alone. She was relying on means tested benefits and did not anticipate any substantial improvement in her financial situation. She had no significant assets, lived in social housing and had debts of £12,000. However, she was ineligible for a DRO because she had an army pension which would pay out just over £1,000 per month in 29 years time.

11. If these debtors could afford the more expensive option of bankruptcy, their pensions would be excluded from the bankruptcy estate. Therefore, for DROs to treat pensions differently would be counter-intuitive.

Policy Objectives

12. By addressing the disparity between the way that approved pensions are treated between bankruptcy and DROs, this should enable access to DROs for all debtors who are in need of debt relief and meet the strict eligibility criteria, but who are currently prevented from access due to future pension rights.

13. In addition, such action should alleviate the effects of debt-related stress on these individuals and their families by enabling them to escape their currently intractable situation.

Options identification

14. In line with those presented for consultation, three options have been identified for further consideration:

    - Option 1) Do Nothing
    - Option 2a) Amend the DRO eligibility rules to enable debtors with a pension access to the scheme, subject to time/monetary caps on the pension
    - Option 2b) Amend the DRO eligibility rules to exclude ‘approved’ pensions. This is the preferred option.

---

[3] CAB advised 9,000 clients over a 3 month period in 2009 on the DRO option. 2,300 subsequently proceeded with an application. A survey of debtors who did not proceed with a DRO revealed that 12% of those otherwise eligible had not proceeded because of the pension barrier alone.

[4] An approved pension is defined by Section 11 of the Welfare Reform and Pensions Act 1999.The description covers the majority of occupational and personal pensions allowable for tax relief in the UK. Unapproved pension schemes are considered to be less common, and the preserve of high earning individuals.

Alternatives to regulation

15. As the eligibility criteria for DROs is contained within statute, there is no scope for a non-regulatory solution to this issue. Only a change to statute can address the problem.

Option 1 – Do nothing

16. Option 1 would be no change. However it would mean that many of the most needy and vulnerable in society would continue to be prevented from accessing relief from their indebtedness when they have no means, or prospect, of repaying their debts.

17. If the most vulnerable debtors, with a real need for debt relief today**,** are denied such relief solely because they may have access to an asset of some value in the (often distant) future, then the intention of providing vulnerable debtors, otherwise meeting the relevant criteria, with a 'fresh start', will not effectively be achieved.

18. The impact on individuals trapped in debt can be significant. 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. A report published by Save the Children[5] states that measures which help to put low-income families back in control of household finances are essential to tackle child poverty.

19. Given the planned introduction of the National Employment Savings Trust (NEST) scheme beginning in 2012 – which will require all employers to enrol their employees in a pension scheme unless the employee opts out – the number of debtors acquiring pension rights will increase, and therefore the problem of exclusion will only get worse.

Option 2(a) – Amend DRO eligibility rules to enable debtors with a pension access to the scheme, subject to time/monetary caps on the pension

20. This option considers whether the pension held by the debtor should be subject to time and/or monetary caps on what is allowable. The consultation asked for views on this approach, and most respondents raised a number of concerns:

    - Valuing the pension for DRO purposes is fraught with difficulties. Pensions may be defined benefits or defined contributions, and valuation methods for each are different. Identifying a consistent, straightforward and cost effective way for the debtor, and the intermediary assisting them, to be able to provide accurate information on pension rights at the date of application would be problematic, adding to the time and cost of application and also impacting on pension providers who would need to be approached to provide current data and answer questions on calculations. It is essential that DROs are kept low cost and affordable for the debtors it is designed to assist and all involved in delivering the process.
    - A time limit, for example pensions receivable within 5 years would not be excluded, would not help the debtor who is in urgent need of relief today.
    - There would remain a disparity between the treatment of pensions in bankruptcy and DROs.

Option 2(b) – Amend DRO eligibility rules to exclude 'approved' pensions (preferred option)

21. The preferred option would be to align the rules for pensions in DROs with those in bankruptcy, which was supported by the majority of respondents to the consultation. This would mean that debtors with rights to an 'approved' pension would exclude the pension from the calculation of eligibility for a DRO. In bankruptcy, approved pension rights are not treated as an asset of the estate, debtors retain their interest in the pension after discharge from bankruptcy.

Benefits

22. The main benefit would be that vulnerable people facing financial difficulty with relatively small levels of debt and minimal assets, but who hold a pension they are not yet in receipt of it, would be able to access debt relief by the simple and cheap process of a DRO. Currently their only options are to do nothing, or seek bankruptcy. Bankruptcy, for the poorest in society, is expensive and therefore often

---

[5] The Save the Children Fund, 2009. *The impact of debt on the UK's lowest earning families*. Available at: http://www.savethechildren.org.uk/en/docs/Debt_brief.pdf

out of reach. Bankruptcy costs £600, whereas a DRO is £90. Based on data collated by the advice sector, it is estimated that 4-14,000 additional debtors could obtain a DRO each year if this change were implemented (DROs are currently running at 28,000 p.a.) An analysis of bankruptcy data for 2009 indicates that currently only a few debtors (200-250 p.a.)[6] who meet the DRO criteria except for their pension are accessing bankruptcy.

23. The monetary benefits from this change would primarily be in relation to those debtors who currently meet the DRO criteria but go into bankruptcy (and therefore would benefit from the lower entry cost of a DRO), the charities who assist these debtors in meeting the cost of bankruptcy, and the court service who process the bankruptcy application, give remissions on fees to hardship cases and incur costs of processing the application. There is no impact on the Insolvency Service, as every bankruptcy has to have a deposit paid up front by the debtor (or third party) to cover administration costs.

24. Based on the 200-250 debtors per annum currently entering bankruptcy but who could enter a DRO if the pension rules were changed, the savings are as follows:

Savings to debtors and charities from reduced bankruptcy deposit

25. A debtor entering a DRO is required to pay £90. The deposit for a debtor's bankruptcy petition is currently £450. Based on estimates that 200-250 debtors would be able to access a DRO rather than bankruptcy (saving £360 per application) if the pension rule was changed, this would generate savings of **£72k-90k** p.a. Insolvency Service data on bankruptcy applications identifies 94% of bankruptcy applications are paid by the debtor (possibly through borrowing from friends or family), and 6% by charities.[7] Using this split applied to the saving of £360 per application, debtors would save between **£68k-85k** p.a., and charities **£4k-5k** p.a.[8]

Savings to the court from reduced administration of bankruptcy

26. In addition to the deposit, a bankruptcy application requires payment of a court fee of £150. The court may waive all or part of this fee in hardship cases. From an analysis of court fees undertaken prior to the introduction of DROs in 2009, it was identified that 70% of debtors paid in full, 8% paid half and 22% paid nothing. Across 200-250 debtors, this would imply savings of **£22k-28k** p.a. in court fees for debtors. [9] In addition, whilst the court would lose this income, court administration costs for bankruptcy cases are estimated at £315 per bankruptcy application. As the court is not involved in DRO applications, the Court Service would save an estimated **£41k- 51k** p.a. from 200-250 fewer bankruptcy cases. [10]

27. Total overall benefits across debtors, charities and the courts would therefore be **£135k-169k** p.a.

Non-quantifiable benefits

28. In addition there would be some additional benefits which are difficult to quantify:

- debt-related stress for those 4,000-14,000 individuals now able to access appropriate debt relief through DROs, with the consequential benefits for the debtor's family, will impact on the health service and therefore wider society; and
- creditors will not incur (wasted) collection costs for debts that will never be recovered. Recent research estimated that creditors spend around £1.3bn a year on administering debt recovery.[11]

Costs

Debtors, Competent Authorities and their intermediaries

29. There could be a small additional cost to debtors, Competent Authorities and their authorised intermediaries in ascertaining pension details for the proposed revised DRO application process. It

---

[6] The Insolvency Service reviewed data on 4,000 bankruptcy cases in July and August 2009. Only 0.5% of bankruptcy cases were DRO-eligible but had not gone into a DRO because of the pension barrier. Applying this percentage to forecast bankruptcies for 2011 and 2012 gives a range of 200-250 cases per annum.

[7] In reality, it is likely that there would be higher incidence of hardship cases amongst the 'would be' DRO cases, leading to possibly more savings for charities and lower savings for the debtor. For more details, see risk section.

[8] For debtors funding 94% of applications:200x94%x£360 = £67,680, 250x94% x£360 = £84,600. For charities funding 6% of applications:200x6%x£360 = £4,320, 250x6%x£360 = £5,400. This assumes that the level of charitable support for applications is the same whether the debtor seeks a bankruptcy or a DRO.

[9] For the 70% of debtors who pay all the court fee: 200x70%x£150=£21,000, 250x70%x£150=£26,250. For the 8% who pay half (£75): 200x8%x£75=£1,200, 250x8%x£75=£1,500. Total savings for the debtor are £22,200 to £27,750.

[10] Whilst the court would lose income of £22-28k p.a. as detailed in [9], the court would save the administration costs of £315 per case. 200x£315=£63,000, 250x£315=£78,750. After deducting the lost income from applications in [9] , the court savings are: for 200 cases £40,800 (£63,000-£22,200) and for 250 cases £51,000 (£78,750-£27,750).

[11] Source: 'Assessing the impact of independent debt advice services on the UK creditor industry', Friends Provident (2010)

is noted, however, from information submitted by Competent Authorities that they were in a position to provide information about those who failed to qualify for a DRO because of holding a pension, indicating that intermediaries are already gathering basic information about pensions at present in order to determine eligibility. The annual pension statement received by the debtor from their pension provider should provide sufficient information for the proposed change to the DRO application process.

30. Although the change will allow an estimated 4,000-14,000 additional debtors into the DRO system, the information from the advice sector indicates that these debtors are already within the advice system due to their financial difficulties. The problem currently is that debt advisors have no solution to help these debtors. The change will give the advisors more options for helping the debtor and help those in financial difficulty to achieve a quicker solution to their problem, which should allow them to make a fresh start, e.g. re-entering the labour market.

Creditors and pension providers

31. It is not expected that there would be any additional cost to creditors. Although there will be additional debtors able to enter the DRO procedure and therefore write off their debts under a statutory scheme, the financial profile of DRO debtors is such that they cannot repay their debts, so creditors would be no worse off than if the debtor entered bankruptcy (where their pension rights would be unaffected) or did nothing. In fact, creditors should achieve some savings by not wasting resources on pursuing debtors who cannot repay their debts.

32. Pension providers are obliged to provide an annual statement to pension holders, and this should be sufficient for the purposes of the DRO application meaning no extra cost for the pension provider.

The Insolvency Service

Set-up costs

33. The proposal is expected to lead to an increase in DROs, and a small consequential reduction in bankruptcy cases. Implementation of the proposal will require some minor IT development work, but this will be absorbed into existing upgrade plans at no extra cost and funds are already in place to cover this work. The changes will require updating the existing guidance on DRO applications but this is not expected to be significant.

Familiarisation costs

34. Both The Insolvency Service and authorised intermediaries (who assist a debtor in applying for a DRO and are appointed by the Competent Authorities) will incur some familiarisation costs but this is expected to minimal as the change to the DRO application process is a simplification of the rules.

Operating/ongoing costs

35. The current application fee for a DRO is £90 and this does not need to be changed. Each DRO application fee covers the cost of administering the DRO, so an increase in numbers will not affect the DRO unit at the Insolvency Service as the scheme is self-funded. The current numbers of DROs plus the range of additional DROs expected following the proposed change (28,000 plus 4-14,000) is within the range of DRO numbers expected when the scheme was launched in 2009[12].

Risks and assumptions

36. It is assumed, in determining the level of benefits to debtors, charities and the court service, that all 200-250 cases each year will shift from bankruptcy to DROs if the rules were changed. In reality, whether a debtor goes into bankruptcy or a DRO will be influenced by other factors such as awareness of the DRO as an alternative to bankruptcy and the quality of debt advice received. Therefore, in extreme scenarios this could lead to the number of debtors shifting from bankruptcy to DROs being zero. A table showing how this assumption affects the overall level of benefits for the proposal is outlined below.

[12] In the Insolvency Service's Corporate Plan 2009-12, DRO volumes were expected to fall within a range from 21-50,000 cases per annum.

Sensitivity analysis for displacement assumption about additional DROs

Number of debtors opting for a DRO instead of bankruptcy	Total benefits across all groups (£k)
50	34
100	68
150	102
200	135
250	169

37. It is assumed that the historic split of who pays for bankruptcy is consistent across all bankruptcy cases, regardless of whether the case would fit a DRO if the pension rule was changed. In reality, it is likely that there would be higher incidence of hardship cases amongst the 'would be' DRO cases, leading to possibly more savings for charities and lower savings for the debtor. However, this is only a distributional issue and should not impact the overall level of benefits.

38. There may be risks to delivery by the Insolvency Service of an altered DRO scheme, due to the expected increase in DRO applications (estimated at 4,000-14,000 p.a.). However, this is unlikely as the scheme is self-financing through the application fee of £90 per DRO, which covers costs in full. In addition, minor IT changes to amend the application form required by this policy change will be absorbed into an existing planned upgrade at no extra cost.

39. Although there may be potential costs to debtors and authorised intermediaries in ascertaining information about the pension to ensure it is 'approved', these are expected to be negligible as pension providers issue an annual statement, which can be used in the DRO application process.

40. As for all solutions offering debt relief, there is potential for the amended eligibility criteria to be abused by those who are seeking a lower-cost form of debt relief. However, this risk can be mitigated by the Official Receiver, who has a number of enforcement options available (including revocation and civil restriction orders) where the debtor had failed to disclose information or where there has been misconduct.

Wider impacts

41. The main benefit would be that vulnerable people facing relatively small levels of debt would be able to access debt relief by a simpler and cheaper process (a DRO) rather than through bankruptcy, or be left with no options for debt relief. As set out above, this would then enable individuals to make a fresh start (for example, by re-entering the labour market due to a debt-enforced absence), would free up resources in the advice sector (which are already heavily burdened) and save creditors costs of pursuing debtors who are unable to pay. On the basis of information from the debt advice sector, we estimate that the number of additional DROs might be in the range 4,000 to 14,000 p.a.

Summary of preferred option with description of implementation plan

42. The preferred option is to amend the DRO eligibility criteria to allow debtors who have rights under an approved pension scheme access to DROs. This mirrors the approach that is used in the existing bankruptcy regime, where approved pensions are not treated as assets and debtors retain their pension rights after bankruptcy.

43. The change will require a brief Statutory Instrument to amend the Insolvency Rules 1986. The plan is to deliver the amendment to legislation by 6th April 2011.

44. The proposed Post Implementation Review is set out in Annex 1

One-In, One-Out

45. Although this policy change is regulatory and hence constitutes an 'in', this measure imposes no cost to business and therefore does not require an 'out'.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review]; The review would form part of the existing review following on from the introduction of DROs in April 2009, planned for 2012-13.
Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?] The objective would be be to monitor how many of the estimated 200-250 debtors with pension funds in approved schemes obtained access to a DRO and whether any further issues have arisen in determining eligibility. The Review would also consider whether there has been any abuse of the system (the Official Receiver has a number of enforcement options including revocation and civil restriction orders where the debtor had failed to disclose information or where there has been misconduct).
Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach] The information would be small addition to the data already captured on debtors who enter a DRO, and will be captured in the wider evaluation of the regime, which is still relatively new. As the new regime will have been in place for 2 years, it should provide a relatively stable baseline against which to measure this policy change. However, there is a risk that 12 months will not be sufficient time to reliably measure any impacts and changes may be due to external macroeconomic factors rather than policy changes.
Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured] The baseline would be a comparison of those who currently access DROs and the additional cases resulting from the change in pension rules.
Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives] The success criteria would be the inclusion of additional debtors who were previously excluded due to the pension rules. Intermediaries and other debt advisors would be asked to feedback on how this has impacted on the most needy debtors.
Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review] The DRO unit will capture additional information on the debtors pensions which can be used to monitor the numbers of pension holders entering DROs and the types of pension held (occupational/personal).
Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here] Not applicable

Statutory Equality Duties

46. The proposal will not have an adverse impact on differing racial groups, disabled people and men and women, including transsexual men and women. The DRO application is an IT based application, but debtors do not need to have access to a computer or the internet, the online application has to be prepared by the authorised intermediary assisting the debtor. Authorised intermediaries can either complete the online application form with the debtor in person or over the telephone. The change does not have any impact in relation to age, religion or sexual orientation. Background information that is currently available shows the following:

Ethnicity, age and gender

47. The costs and benefits calculated previously in this impact assessment will be applicable to all groups who qualify for DRO. For this reason no disproportionate effects are expected for those of differing ethnicity, age, sex or disability. Analysis of the Insolvency Service's approved applicant data shows how the applicant numbers are distributed across minority groups. The profile is expected to remain true for additional applicants under the proposed changes. This is presented below.

Ethnicity

48. The majority of approved applicants are White British, accounting for 86%. The remainder of applicants are spread quite evenly amongst different ethnic groups that each form a small proportion of approved applicants (less than 2.5%).

Age

49. The distribution of applicant age is shown in the table below. The largest group of approved applicants being the age group 25-33 closely followed by the 34-42 and 43-51 age groups who both form 20% of approved applicants each. Those in middle age tend to be under large financial pressures due to higher numbers of dependants.

Age	%
18-24	10
25-33	24
34-42	20
43-51	20
52-60	13
Over 60	12

Gender

50. 37% of approved DRO applicants are male, whilst 63% are female. This compares to females representing 51% of the population and 38% of bankrupts. This agrees with findings from the British Household Panel Survey research undertaken by the Bank of England which observed that females are likely to have more unsecured debt, although the amounts borrowed are significantly smaller than for men[13]. The eligibility criteria for DROs would seem to fit with this profile of low level unsecured debt usage and therefore particularly benefits females.

Disability

51. 29% of approved DRO applicants have some form of disability. The DRO system was introduced to help the most needy in society, particularly those who are unable to work due to health problems or a disability, and this high incidence of disability suggests the DRO is being used by the target audience and is beneficial to those with a disability.

Competition

52. The proposal does **not:**

    Directly limit the number or range of suppliers

    Indirectly limit the number or range of suppliers

    Limit the ability of suppliers to compete

[13] Del-Río, A. & Young, G., 2005. *The determinants of unsecured borrowing: evidence from the British Household Panel Survey*. Bank of England Working Paper, no 263, pg 32.

Reduce suppliers' incentives to compete vigorously

53. Consequently the proposal is unlikely to raise any competition concerns.

Small Firms

54. The proposal does not affect small businesses, their customers or competitors.

Greenhouse Gas

55. The proposal has no impact on greenhouse gas emissions.

Wider Environment Issues

56. As the proposal has no impact on wider environment issues no such test has been carried out.

Health and Well being

57. The proposal will have a beneficial effect on health and well being as there is a demonstrable link between debt and mental health:-

58. The Sainsbury Centre for Mental Health[14] bulletin *"The facts about mental health and employment"* sets out that:-

"At any one time one worker in six will be experiencing depression, anxiety or problems relating to stress (Singleton et al., 2001). Many people find it difficult to remain in employment and face isolation and discrimination in their workplaces."

59. In November 2009 the publication "Mental health and the economic downturn-National priorities and NHS solutions (Royal College of Psychiatrists, Mental Health Network, NHS Confederation & London School of Economics and Political Science[15])" states:

    "Mental health problems have not only a human and social cost, but also an economic one, costing £110 billion a year (Friedli & Parsonage, 2007)."and

    "Demand for mental health services is likely to increase as a result of unemployment, personal debt, home repossession and other fallout from the recession."

60. According to the Health and Safety Executive[16], there were 11.4 million work days lost in Great Britain due to self-reported work-related stress, depression or anxiety (0.48 work days per employee).

61. There is therefore a health related benefit, albeit difficult to quantify, in providing the most vulnerable with relief from their unmanageable debt. This benefit would be felt by the individual debtor, his/her family and wider society.

Human Rights

62. The proposal has no impact on Human Rights.

Justice System

63. There are expected to be some financial benefits for the court system. This is because currently debtors who meet most of the DRO eligibility criteria but are ineligible due to having pension rights, can only turn to bankruptcy if they wish to enter a formal insolvency procedure. Changing the rules on pensions will mean these debtors can opt for a DRO instead. Expanding the DRO eligibility criteria is likely to mean, therefore, that there will be a small reduction in the numbers accessing the bankruptcy regime through the court system.

Rural proofing

64. The proposal has no impact on the needs of rural people and places.

Sustainable development

65. The proposal has no impact on sustainable development.

---

[14] http://www.scmh.org.uk/
[15] http://www.rcpsych.ac.uk/press/pressreleases2009/economicdownturnreport.aspx
[16] http://www.hse.gov.uk/statistics/causdis/stress/index.htm