

# **TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007**

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## **EXPLANATORY NOTES**

### **PART 5: DEBT MANAGEMENT AND RELIEF**

#### ***Background***

#### ***Debt Relief Orders***

454. At present if an individual encounters difficulty paying his debts, the remedies that are available to him either require him to have assets or funds available to distribute to his creditors on a regular basis (for example IVA, county court AO or a non statutory debt management plan) or, as with bankruptcy, there is a fee to access the remedy. This means that the procedures that are currently available are inaccessible to some people, since they do not have the financial means to use them.
455. Such people often have relatively low levels of liabilities, no assets over and above a nominal amount and no surplus income with which to come to an arrangement with their creditors.
456. The DRO has been devised following the Choice of Paths consultation, which determined that there was a perceived need for a remedy for people who are financially excluded from the current debt solution procedures, and a further consultation by The Insolvency Service in 2005 (“Relief for the Indebted – an Alternative to Bankruptcy?”) on the detail of how it might operate. It is a procedure that will enable some individuals, who meet specified criteria as regards liabilities, assets and income, to seek relief from certain debts.
457. The DRO will be made administratively by official receivers (who will operate the scheme) and will not routinely require any judicial or other court intervention. The effect of the order will be to prevent creditors from enforcing their debts and the debtor will be discharged from the debts after a period of one year. Creditors will be notified of the making of an order and will have a right to make objections on certain grounds if they believe the order should not have been made.
458. The debtor will need to pay an up front entry fee to cover the administration costs but this will be significantly less than the deposit required for bankruptcy proceedings to be initiated. In order to keep costs to as low a level as possible, approved intermediaries from the debt advice sector will help an applicant decide if the DRO procedure is right for him before he applies to the official receiver, and assist the debtor in making his application. Again to maintain a low level of administrative costs (and therefore entry fee) the facility to apply for a DRO will be available only online.
459. To be eligible for an order the debtor will need to meet criteria as regards the level of liabilities, the level of assets and the level of surplus income, and these levels will be set in secondary legislation to enable them to be updated when necessary.

*These notes refer to the Tribunals, Courts and Enforcement Act  
2007 (c.15) which received Royal Assent on 19th July 2007*

460. While the order is in force the debtor will be subject to the same restrictions and obligations as in bankruptcy, and will be subject to a similar regime of restrictions orders or prosecution if his conduct in relation to the insolvency is found to be culpable. There will be a right of appeal to the court for both the debtor and creditors who are dissatisfied with the way the official receiver has dealt with the case.
461. There is a facility to account for windfalls and increases in income during the period when the order is in force.