

Guide to Debt Relief Orders

When - Where - How - Who - What



CUSTOMER SERVICE EXCELLENCE

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1. About this guide

This guide tells you what happens if you are granted a debt relief order (DRO).

This booklet is for general guidance only. If you are thinking of applying for a DRO, you should seek legal or financial advice from an approved intermediary, a solicitor, a qualified accountant, a reputable financial adviser or a debt advice centre.

Other organisations also offer insolvency advice and debt counselling. Some of them are entirely reputable and offer a professional service. However, others are controlled by unqualified individuals who seem to be mainly interested in making money out of a difficult situation. Beware, particularly, of uninvited approaches by post or telephone.

a. If you are not yet subject to a DRO

A DRO is a serious matter. This booklet will tell you what you need to think about before you decide to apply for a DRO. A DRO will impose certain restrictions on you, as listed in Section 8.

You do not have to get a DRO just because you are in debt. Look at the alternatives to a DRO as soon as possible in case they are more suitable – talk to a debt adviser, or visit the Insolvency Service website at www.insolvency.gov.uk.

b. If you are already subject to a DRO

Sections 2-11 explain the DRO procedure. The official receiver and your approved intermediary can tell you more about it.

2. What is a debt relief order?

The Tribunals, Courts and Enforcement Act 2007 introduced a new form of debt relief called the debt relief order. It is intended to give debt relief to people in England and Wales who owe relatively little money, have little or no disposable income and no assets to repay what they owe, and cannot afford to make themselves bankrupt.

Unlike other forms of debt relief, DROs involve a partnership between The Insolvency Service and the professional debt advice sector. Advisers from the debt advice sector act as 'approved intermediaries' and will help you apply to us for a DRO – see Section 5. They can apply with you or on your behalf using an online application form. Then the official receiver (not the court) will consider your application.

3. Who is eligible for a debt relief order?

DROs don't suit everyone. You are only eligible for a DRO if you meet all the following conditions:

- You are unable to pay your debts.
- You owe up to a maximum of £15,000 only (not including unliquidated or excluded debts – see Section 7).
- Your total gross assets must not exceed £300. (See the glossary for a definition of gross assets.)
- After taking away tax, national insurance contributions and normal household expenses, your disposable income must not exceed £50 a month.
- Your place of domicile (the country legally recognised as your home) must be in England or Wales, or at any time in the last 3 years you must have been resident or carrying on business in England or Wales.
- You must not have been subject to a previous DRO within the last 6 years.
- You must not be involved in any other formal insolvency procedure at the time you apply for a DRO, such as:
 - an undischarged bankruptcy order;
 - a current individual voluntary arrangement;
 - a current bankruptcy restrictions order (BRO) or undertaking (BRU);
 - a current debt relief restrictions order or undertaking (DRRO or DRRU);
 - an interim order.

If you are currently petitioning for bankruptcy (asking a court to make you bankrupt) and the court has not referred you to the DRO procedure, then you won't be allowed to apply for a DRO at the same time.

If a creditor is currently petitioning for your bankruptcy (asking a court to make you bankrupt), then you must get the creditor's permission before applying for a DRO.

If you have given away any property or sold it for less than its true value in the last 2 years, the official receiver may not approve your application.

If you have preferred any creditors over others in your payments within the last 2 years, the official receiver may not approve your application.

4. How can you apply for a debt relief order?

a. Apply online via an approved intermediary

You can only apply for a DRO via an approved intermediary. You can find a list of the competent authorities that approve the intermediaries in Section 12 of this booklet. The application form is only available online. However, after submitting it online you must also print and sign a copy and send this to:

The Debt Relief Order Unit
The Insolvency Service
1st Floor, Cobourg House
Mayflower Street
Plymouth
PL1 1DJ

b. Fee

You must pay a fee on applying for a DRO. The fee is currently £90, but may change. Once paid, the fee is non-refundable, whether the official receiver approves or rejects your application. So it is very important to make sure that what you put on the application form is true, correct and complete before you send it to us.

The fee for a DRO must be paid in cash, unless a charity has agreed to pay your fee, in which case payment can be made by cheque. Your approved intermediary will provide you with a unique bar-coded letter, which you can present at a number of outlets in order to pay your fee and your intermediary will be able to give you details of approved agents in your area.

If a charity has agreed to pay your DRO fee, they should send a cheque to The Insolvency Service Finance Department at the address below.

Finance DRO Unit
The Insolvency Service
Cannon House
18 Priory Queensway
Birmingham
B4 6FD

All cheques must:

- be payable to The Insolvency Service;
- show your DRO ID number (the number that is automatically generated when an online application form is started); and
- have a covering note stating this ID number and your name and address.

You can check the current fee for a DRO by contacting your intermediary, or at www.insolvency.gov.uk

For more on debt relief orders, call the Insolvency Enquiry Line on 0845 602 9848. Alternatively you can email The Insolvency Enquiry Line at Insolvency.Enquiryline@insolvency.gsi.gov.uk.

5. Who will deal with your case?

a. An approved intermediary

Approved intermediaries are normally skilled debt advisers, who have been authorised by a competent authority as being able to advise and assist individuals with the completion and submission of a DRO application.

b. The official receiver

An official receiver is appointed by the Secretary of State and is an officer of the court. They are responsible for assessing your application for a DRO and administering it afterwards.

The official receiver is also responsible for looking into your financial affairs before and during your DRO. They may report to the court and must notify your creditor(s). The official receiver must also report any evidence that you may have committed criminal offences in connection with your DRO, or that your behaviour has been dishonest or you have been in some way to blame for your DRO.

If you are unhappy with the way the official receiver handles your case, you should follow the procedure in our leaflet "Complaints Procedure: Information on making a complaint".

You can order copies of our publications by calling the Publications Orderline on 0845 015 0010. Alternatively you can download the leaflet from our website: www.insolvency.gov.uk.

6. What are your duties when considering a debt relief order?

a. When applying

If you apply for a DRO, you must:

- provide the official receiver with a full list of your assets and liabilities, including the names of your creditors (you give this information on the online application form);
- comply with the official receiver's request to provide information about your financial affairs, so that they can consider your application. The official receiver may not need to contact you, but you should be prepared to co-operate fully if they ask you for more information.

b. When approved

If your DRO application has been approved, you must:

- comply with the official receiver's request to give further information about your financial affairs. The official receiver may not need to contact you. However, you should co-operate fully if they ask you for more information;
- inform the official receiver of any assets you obtain or increases in your income whilst subject to a DRO, including lump-sum cash payments, windfalls, property and money left to you in a will;
- not obtain credit of £500 or more from anyone without first telling them that a DRO has been made against you;
- not make payments direct to creditors included in the DRO; (NB. You may wish to seek your own independent advice regarding certain liabilities, such as rent arrears).
- be aware of what may happen if you leave out information required in the application form. The official receiver may refuse to grant you a DRO if they find information you left out while considering your application, or may cancel the DRO if they learn later that you left information out. This would mean you may be at risk of actions from your creditors. If the official receiver thinks the information you left out was very serious, you may also be charged with a criminal offence and/or be subject to civil actions, such as a debt relief restrictions order (DRRO).

7. How will a debt relief order affect you?

Moratorium period

The main effect of a DRO will be to place a 'moratorium' period on the debts listed in your DRO. This means creditors cannot take any action to recover or enforce their debts against you during this period. The moratorium usually lasts for 12 months from the date of the order, although there may be exceptions, and after that time the listed debts will be discharged.

If your circumstances change enough for you to make payments to your creditors, the official receiver will need to consider whether or not to terminate the DRO. If the changes in circumstance occur close to the end of your 12-month moratorium, the official receiver can extend the moratorium for up to 3 months to allow you to come to an arrangement with your creditors. You will, during this extension time, be subject to the same limitations and receive the same protection as during the first 12 months of the DRO.

Payments to creditors

If the official receiver approves your application and grants a DRO, they will notify all the creditors listed in the order that a DRO has been made and that they therefore cannot recover the debts you owe them. You must not make any further payments to the creditors that are included in the DRO.

If creditors ask you for payment during the period of the DRO, you should tell them that you are subject to a DRO. (NB. You may wish to seek your own independent advice regarding certain debts, such as rent arrears).

However, as in bankruptcy, you will remain liable for certain debts. These are:

- court fines and any other obligations arising from an order made in family proceedings or under a maintenance assessment made under the Child Support Act 1991;
- student loans, which you remain responsible for repaying within the terms of the loan agreement;
- any obligation arising under a confiscation order made under section 1 of the Drug Trafficking Offences Act 1986 or section 1 of the Criminal Justice (Scotland) Act 1987 or section 71 of the Criminal Justice Act 1988 or under Parts 2, 3 or 4 of the Proceeds of Crime Act 2002;
- secured debts – a DRO does not affect the rights of secured creditors to deal with their security. However, if you own secured property you are unlikely to qualify for a DRO, as your gross assets are likely to exceed £300.

You should note that you must also carry on paying ongoing commitments, such as rent and utility bills, during the period of the DRO, and you will be responsible for any debts that you incur after a DRO has been made.

8. What are the restrictions of a debt relief order?

A DRO places certain restrictions on you, as follows:

- If you wish to obtain credit of £500 or more, either alone or jointly with another person, you must first tell the lender that you are subject to a DRO. This restriction applies to borrowing money, and also to getting credit by acting with the intention of getting it, even though you have not entered into a specific agreement for it. This would include, for example, ordering goods without requesting credit but then failing to pay for the goods when they are delivered.
- If you carry on a business (directly or indirectly) in a name that is different from the name under which you were granted a DRO, you must first tell all those with whom you do business the name under which you were granted a DRO.

- You may not be involved (directly or indirectly) with the promotion, management or formation of a limited company, and may not act as a company director, without the court's permission.
- You will not be eligible to apply for a DRO again for 6 years.

You are permitted to open a new bank or building society account after the granting of a DRO. However, the bank or building society may require you to disclose that you are the subject of a DRO. It may then decide whether or not to permit you to open an account, and whether to impose any conditions or restrictions on the use of the account.

You must also tell the bank or building society that you are subject to a DRO before you apply for any overdraft facilities. Also, if you are subject to a DRO you must not write cheques that are likely to be dishonoured.

9. Debt relief restrictions orders and undertakings

If, when enquiring into your affairs, the official receiver decides that you have been dishonest before or during your DRO or that you are otherwise to blame for your position, they may apply to the court for a DRRO. The court may make an order against you for between 2 and 15 years, and this order will mean you continue to be subject to the restrictions of a DRO, as described in section 8 above. You may give a DRRU, which will have the same effect as DRRO, but will mean that the matter does not go to court.

10. Debts incurred after the granting of a debt relief order

DROs deal with your debts at the date the DRO was approved. After that date you should manage your finances more carefully. If you incur new debts, this could result in:

- a bankruptcy order;
- prosecution if, when you incurred debts, you did not disclose that you were subject to a DRO.

11. Insolvency terms – what do they mean?

Approved intermediaries

Members of the debt advice sector who have been approved by a competent authority to act as DRO advisers. They will advise you, help you complete the online application for a DRO, and submit the application on your behalf. Only an approved intermediary can submit an application online.

Asset

Something you possess that has some monetary value or can produce a cash flow and so benefits you. An asset can therefore be used to repay debts.

Bankrupt

A debtor who has been made bankrupt by a court due to insolvency.

Bankruptcy

Your insolvent status after being declared bankrupt.

Bankruptcy restrictions order (BRO) or undertaking (BRU)

A formal insolvency proceeding where a court order is made against you, or where you have given an undertaking. Certain restrictions will be imposed on you, which will continue for a specified period of between 2 and 15 years.

Competent authorities

Debt and financial advice organisations that have been appointed to a position of competent authority by the Secretary of State and can therefore authorise a member of the debt advice sector to act as an approved intermediary.

County court administration order

A formal insolvency proceeding where the court orders you to make regular payments to the court. The court will take a 10% administration fee and then distribute the net funds to creditors on a pro rata (proportionate) basis. A period of moratorium exists while the order is in effect, preventing creditors taking action to recover their debt. See Part 6 of the County Courts Act 1984.

Creditor

An individual or body to whom you owe a debt or obligation that can or could be expressed as a monetary sum.

Creditor's bankruptcy petition

A formal bankruptcy proceeding where a creditor applies to court for a bankruptcy order against a debtor.

Debt management plan (DMP)

The debtor, with the help of a debt adviser, sets out a schedule for repaying their debts to their creditors, which involves regular payments to an agent.

Debt relief restrictions order (DRRO) or undertaking (DRRU)

A civil sanction that a court may impose on a debtor. It is a formal insolvency proceeding where the restrictions of a DRO continue to apply for a specified period of between 2 and 15 years. In this respect it is similar to a BRO. If while applying for the DRO, or after having it approved, you are found to have not given an open and honest account of your

financial affairs, or you have not co-operated with the official receiver, you may have a DRRO enforced against you.

Debtor

A person who owes money (a debt) to a creditor and who may therefore face legal action in respect of that money, if they fail to meet the terms agreed with the creditor to repay the debt.

Debtor's bankruptcy petition

A formal insolvency proceeding that occurs when a debtor has applied to a court for their own bankruptcy.

Discharge

The process of freeing a debtor from their obligations, whether from the debts they owe or from the restrictions imposed upon them.

Electronic individual insolvency register (EIRR)

The online database that records all individuals who are currently subject to formal insolvency proceedings.

Gross assets

The value of your combined assets before all charges and other fees requiring repayment have been deducted. Excluded from this are motor vehicles up to a value of £1,000, clothing, bedding, furniture, household equipment and other basic items you and your family need in the home.

Individual voluntary arrangement (IVA)

A formal arrangement between a debtor and their creditor(s), where a debtor will pay all or an agreed part of their debts. An insolvency practitioner supervises an IVA. Creditors included in the IVA must not take individual action to enforce their debt.

The Insolvency Service

An executive branch of the department for Business Enterprise and Regulatory Reform (formerly the DTI), which employs official receivers to administer personal insolvency, compulsory company liquidations, redundancy payments and DROs.

Interim order

A formal insolvency proceeding that a debtor can apply to court for, if for example they are seeking an IVA. An interim order has the effect of a period of moratorium.

Moratorium period

A length of time when your debts are protected from the claims and actions of your creditors. Creditors can only continue or start legal action against you for repayment of these debts if they get the permission of the court. After the moratorium period has ended, these debts are usually discharged, unless the DRO is revoked.

Official receiver

An officer of the court and civil servant, employed by The Insolvency Service, who deals with bankruptcies, compulsory company liquidations and DROs.

Revocation of DRO

How the official receiver or the court may terminate a DRO.

Secretary of State

A cabinet minister at the head of a government department, who has vested statutory powers to carry out the business of their department.

Secured creditors

Creditors who have a specific claim over one or more of your assets, such as a mortgage or charge over a house, and thus possess a secured debt.

Secured debts

A debt backed or secured by a collateral (an asset) to reduce the risk associated with the lending. An example would be a mortgage, where a house is considered collateral towards the debt. If you default or fail to meet one of the terms of repayment, the bank may seize your house to sell, using the proceeds to settle the debt.

Undischarged bankrupt

A debtor who is currently subject to a bankruptcy order and its restrictions and thus has not been discharged.

Unsecured creditors

Creditors who do not have a specific claim over the debtor's assets for all or part of the sum owed to them and thus have unsecured debts. Some unsecured creditors may also be judgment creditors (creditors with a court order relating to the debt).

Unsecured debts

A debt where the creditor/lender would not be entitled to specific assets if the debtor defaulted. An unsecured debt therefore poses a far higher risk to lenders, and lenders of unsecured money usually require a much higher return. Unsecured debts normally form the bulk of the money owed by an individual and may include bank loans, credit cards, unpaid utility bills or income tax and any amount still owing to secured creditors after the value of their security has been repaid to them. Only the unsecured element of any debt would qualify for a DRO, though not all unsecured debts will qualify.

12. Where to go for advice

The following are competent authorities who are able to direct you to an approved intermediary to apply for a DRO

The National Association of Citizens' Advice Bureaux (CAB)

Citizens Advice
Myddelton House
115-123 Pentonville Road
London
N1 9LZ

Website: www.citizensadvice.org.uk

The Foundation of Credit Counselling (Consumer Credit Counselling Service)

Consumer Credit Counselling Service
Wade House
Merrion Centre
Leeds
LS2 8NG

Website: www.cccs.co.uk

Baines & Ernst Ltd

Baines and Ernst Ltd
Lloyds House
18-22 Lloyd Street
Manchester
M2 5BE

Website: www.bainesandernst.co.uk

Institution of Money Advisers (IMA)

The Institute of Money Advisers
Stringer House
34 Lupton Street
Leeds
LS10 2QW

Website: www.i-m-a.org.uk

National Debtline

National Debtline
Tricorn House,
51-53 Hagley Road,
Edgbaston,
Birmingham
B16 8TP

Website: www.nationaldebtline.co.uk/england_wales/

Payplan Ltd.

Kempton House
Dysart Road
Grantham
Lincolnshire
NG31 7LE

Website: www.payplan.com

13. Related Insolvency Service publications

A Guide to The Insolvency Service

Complaints Procedure: Information on making a complaint

The Insolvency Service Charter

The Insolvency Service Publications Scheme

Information about insolvency procedures

A Guide for Creditors

A Guide for Directors

Guide to Bankruptcy

Alternatives to bankruptcy

14. Data Protection Act 1998 – How we collect and use information

The official receiver collects information about you to fulfil statutory functions in relation to your DRO. The official receiver may check information provided by you, or information about you provided by a third party, with other information they hold. They may also get information about you from certain third parties, or give information to them, to check the accuracy of information or to prevent or detect crime. They will not pass information about you to anyone outside The Insolvency Service unless the law permits them to do so. The official receiver will pass some of the information they hold to The Insolvency Service's Corporate and Business Services (CBS) in carrying out statutory functions.

The official receiver is the Data Controller for the purposes of the Data Protection Act 1998 and is registered under the Act for the processing of your personal information. The Department of Business, Enterprise and Regulatory Reform (BERR) is the Data Controller under the Act for personal information held and processed by CBS sections.

If you want to know more about what information is held about you, the purposes for which it is held, and to whom it may be disclosed you should contact the official receiver who was appointed to deal with your DRO. They will give you a standard data request form (subject access request) to complete and return with appropriate forms of identification, and will provide full details of the type of information that you can be given. On receiving the completed request form, the official receiver has 40 working days under the Act to deal with your request. When you get the information, if you discover that it is inaccurate or incorrect you should first write to the official receiver with full details. If information relating to your request is likely to be held by The Insolvency Service's CBS sections the official receiver will inform you of that when they respond to your request. To obtain the information from a CBS section you will need to make a separate request (using a standard data request form and two forms of identification) to the appropriate Section Head responsible for holding the information about you. If you do not have an address for the CBS section, or your request may involve several sections you should write to the Data Protection Liaison Officer for The Insolvency Service at Technical Section, 21 Bloomsbury Street, London WC1B 3QW.

You can get further information about the Data Protection Act 1998 from the Information Commissioner's Office at Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF (Tel: 08456 306060) or from their website: www.ico.gov.uk .

15. Disclaimer/Copyright

This booklet provides general information only. Every effort has been made to ensure that the information is accurate, but it is not a full and authoritative statement of the law and you should not rely on it as such. The Insolvency Service cannot accept any responsibility for any errors or omissions as a result of negligence or otherwise.

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