



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

Insolvency Service

Guidance

Guide to Debt Relief Orders

When, Where, How, Who, What

June 2011

Contents

1

About this Guide

Page 5

2

What is a debt relief order?

Page 6

3

Who is eligible for a debt relief order?

Page 7

4

How do you apply for a debt relief order?

Page 8

5

Who will deal with your case?

Page 9

6

What are your duties in connection with a debt relief order?

Page 10

7

How will a debt relief order affect you?

Page 11

8

What restrictions will apply to you if you obtain a debt relief order?

Page 13

9

Publicity

Page 14

10

Debt relief restrictions orders and undertakings

Page 15

11

Debts incurred after the granting of a debt relief order

Page 16

12

Insolvency terms – what do they mean?

Page 17

13

Where to go for advice

Page 20

14

Related Insolvency Service publications

Page 21

15

Data Protection Act 1998 – How we collect and use information

Page 22

16

Disclaimer

Page 23

About this guide

1

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

It 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 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.

If you are not yet subject to a DRO, you should be aware that,

- 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.insolvencyservice.detini.gov.uk

If you are already subject to a DRO

- Sections 2-12 explain the DRO procedure. The Official Receiver and your approved intermediary can tell you more about it.

What is a debt relief order?

2

The Debt Relief Act (Northern Ireland) 2010 introduced a new form of debt relief called the debt relief order. It is intended to give relief from debt to people in Northern Ireland who owe relatively little money, have little or no disposable income or assets which they could use 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.

Who is eligible for a debt relief order?

3

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 Northern Ireland, or at any time in the last 3 years you must have been resident or carrying on business in Northern Ireland.
- 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 the 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 the court to make you bankrupt), then you must get the creditor's permission before applying for a DRO.

The Official Receiver may not approve your application,

- if you have given away any property or sold it for less than its true value in the last 2 years, or
- if you have preferred any creditors over others in your payments within the last 2 years.

How do you apply for a debt relief order?

4

Apply online via an approved intermediary

You can only apply for a DRO via an approved intermediary. You can obtain a list of the competent authorities from the Insolvency Service - see Section 13 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 it to:

The Debt Relief Order Unit
The Insolvency Service
Fermanagh House
Ormeau Avenue
Belfast
BT2 8NJ

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 it being sent to us.

The fee for a DRO must be paid in the form of a single payment in cash. 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 likewise make the payment in cash through an approved agent.

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

For more on DROs, call the Insolvency Enquiry Line on 028 9054 8531.

Alternatively you can email the Insolvency Service at insolvency@detini.gov.uk. available Monday - Friday 9am - 5pm

Who will deal with your case?

5

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.

The Official Receiver

The Official Receiver is appointed by the Department and is an officer of the court. He is 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. He 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 “How to make a complaint against the Insolvency Service”.

You can order copies of this publication by calling the Insolvency Service on 028 9054 8531.

Alternatively you can download the leaflet from our website:

www.insolvencyservice.detini.gov.uk

What are your duties in connection with a debt relief order?

6

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 any request from the Official Receiver to provide information about your financial affairs, so that he can consider your application. The Official Receiver may not need to contact you, but you should be prepared to co-operate fully if he asks you for more information.

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 he asks 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. If the Official Receiver discovers at the time he is considering your application that you have left information out he may refuse to grant you a DRO, and if he discovers after the DRO has been made that you have left information out he may cancel it. 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).

How will a debt relief order affect you?

7

Moratorium period

The main effect of a DRO will be to create a 'moratorium' period in respect of 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, he 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 (Northern Ireland) Order 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 Article 4 or 5 of the Criminal Justice (Confiscation) (Northern Ireland) Order 1990 or under Parts 2, 3 or 4 of the Proceeds of Crime Act 2002;
- any liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other duty, or to pay damages under Part 2 of the Consumer Protection (Northern Ireland) Order Act 1987 in respect of the death of or personal injury to anybody;
- 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.

What restrictions will apply to you if you obtain a debt relief order?

8

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, formation or management of a limited company, nor may you 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.

Publicity

9

The making of a DRO is not advertised in any newspaper or other publication. However the names of those granted DROs, along with other specified particulars, which will normally include their address, are entered in a Register maintained by the Official Receiver, which is open to public inspection. The particulars remain on the Register until three months after discharge from or revocation of the DRO.

10

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, he 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 a DRRO, but will mean that the matter does not go to court. Details of both DRROs and DRRUs in force are held by the Official Receiver in a publicly accessible register.

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.

Insolvency terms – what do they mean?

12

Administration order

A formal insolvency proceeding where the Enforcement of Judgments Office orders you to make regular payments to it. The Enforcement of Judgments Office 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 Judgments Enforcement (Northern Ireland) Order 1981.

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 Department and can therefore authorise a member of the debt advice sector to act as an approved intermediary.

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 the 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 not to have 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.

Department

The Department of Enterprise, Trade and Investment

Discharge

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

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.

Insolvency Service

A branch of the Department of Enterprise, Trade and Investment, one of whose staff, the Official Receiver, administers personal insolvency, compulsory company liquidations and DROs.

Interim order

A formal insolvency proceeding that a debtor can apply to the 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 with the Insolvency Service, who deals with bankruptcies, compulsory company liquidations and DROs.

Revocation of DRO

Termination of a DRO by the Official Receiver or the court.

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.

Where to go for advice

13

A list of competent authorities who are able to direct you to an approved intermediary to apply for a DRO is available from the Insolvency Service, Telephone 028 9054 8531.

Related Insolvency Service publications

14

The Insolvency Service Charter

DETI Publication Scheme:

A Guide for Creditors

A Guide for Directors

A Guide to Bankruptcy

How to petition for your own bankruptcy

Data Protection Act 1998 – How we collect and use information

15

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 he holds. He 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. He will not pass information about you to anyone outside the Insolvency Service unless the law permits him to do so.

The Department 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.

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 Insolvency Service's Data Protection Officer, Insolvency Service, Fermanagh House, Ormeau Avenue, Belfast, BT2 8NJ. He 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 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.

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 .

Disclaimer

16

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.

You can get more copies of this booklet from,
The Insolvency Service
Fermanagh House
Ormeau Avenue
Belfast
BT2 8NJ
Tel: 028 9054 8531
Fax: 028 9054 8555
E-mail: insolvency@detini.gov.uk

Publications are also available on our website
www.insolvencyservice.detini.gov.uk



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

Insolvency Service

Crown Copyright

June 2011

Insolvency Service

Department of Enterprise,
Trade and Investment
Fermanagh House
Ormeau Avenue
Belfast BT2 8NJ

E: insolvency@detini.gov.uk

T: (028) 9054 8531

F: (028) 9054 8555

Textphone: (028) 9052 9304

www.insolvencyservice.detini.gov.uk

This document is also available in an accessible format if required i.e. Braille, large print, audio cassette or in a minority ethnic language