A creditor's guide to debt relief orders

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A licensed insolvency practitioner (IP) has given you this because you, or your business, may be owed money by an individual in a debt relief order (DRO).

This guide aims to help you understand your rights as a creditor and to describe how best these rights can be exercised. It is not an exhaustive statement of the relevant law or a substitute for specific professional or legal advice.

We have made every effort to ensure the guide is accurate, but R3 cannot accept responsibility for the consequences of any action you take in reliance on its contents. If, having read the guide, you remain in any doubt about your rights, you should consult an IP or solicitor.

R3, the insolvency and restructuring trade body, can provide you with a list of members near you, through the member search function on its website. If you're looking to speak to someone about insolvency advice, or find a local IP, insolvency lawyer, or restructuring expert and they're a member of R3, they'll be on there – and many will offer a free consultation to people who are looking for help with their business finances – find a R3 Member.

What is a DRO?

A DRO is a statutory solution designed for individuals with low value debts, low incomes and few assets as an alternative to bankruptcy where their financial circumstances have little prospect of improving. Essentially, 12 months following the start of the DRO, the individual is discharged from their qualifying debts.

Qualifying debt	a debt which is for an ascertained sum payable either immediately or at some future time, not secured (for example mortgages) and not an excluded debt.
Excluded debt	any fine or obligation arising under an order made in family proceedings or a maintenance assessment or maintenance calculation made under the Child Support Act 1991; any obligation arising under a criminal confiscation order; student loans; damages in respect of the death of or personal injury to any person; a crisis loan or budgeting loan made under the Social Security Contributions and Benefits Act 1992; any debt obtained as from fraud or fraudulent breach of trust.

How does the debtor obtain a DRO?

A DRO is obtained through an application to the Official Receiver (OR), an officer of the bankruptcy court, through an approved intermediary. This is usually a skilled debt advisor who has been officially approved to complete the forms and to give advice on DROs. The total fee is £90. A DRO does not and cannot involve the appointment of an IP.

To be eligible for a DRO, the debtor's unsecured liabilities must not exceed £30,000, they must have less than £2,000 worth of assets (one car worth less than £2,000 is not included in the debtor's assets), and their disposable income must not exceed £75 per month. In addition, the debtor must have lived or worked in England and Wales in the last three years. The debtor must not be involved in bankruptcy proceedings or any other formal insolvency procedure or have been subject to a DRO (within the six year period prior to the application).

If he debtor is under a county court administration order, debt repayment plan or enforcement restriction order, these stop as soon as the DRO is made.

You can see details of DROs on the Individual Insolvency Register, and can search for debtors using their name.

What is the effect of the DRO on the debtor?

The debtor is subject to restrictions (rules) within the period of the DRO which means they cannot:

- Borrow more than £500 without telling the creditor about the DRO.
- Act as the director of a company.
- Create, manage or promote a company without the court's permission.
- Manage a business without telling those they do business with about their DRO.
- Open a bank account, without telling the bank or building society about their DRO.

The restrictions usually last 12 months. They can be extended if the debtor's careless or dishonest behaviour caused the debt problem, for example the debtor dishonestly obtained credit.

The OR can cancel a DRO if a debtor's finances improve or where the debtor does not co-operate with the OR.

The DRO is added to the Individual Insolvency Register and is removed three months after the DRO ends.

The DRO will remain on the individual's credit record for six years.

If the debtor obtains new debt after their DRO is approved, they could be made bankrupt or prosecuted if they do not tell new creditors about their DRO.

What is the effect of the DRO on unsecured creditors?

Once a DRO has been made, a creditor in respect of a qualifying debt in the DRO will not be able to take further action for repayment, except with the permission of the court. If you had started proceedings against the debtor before the DRO was made, you must stop those proceedings. If you have instructed bailiffs to recover the debt, you will need to tell the bailiffs to stop any enforcement action. If the debt is under the name of a collection agency, you must stop any recovery action. Any creditor who does not have a qualifying debt or is an excluded creditor, can continue if necessary to enforce repayment of their debt.

If the amount listed in the DRO notice is not correct, you need to send the OR proof of the amount you were owed at the date the DRO was made. The OR can amend the amount as long as you send the proof during the period that the DRO is in force. If you're VAT registered, and you've supplied goods or services to a customer without being paid, you might be able to claim relief from VAT.

As an unsecured creditor, what information am I entitled to?

If you are named in a DRO, the OR will send you a notice of it. If you find one of your debtors has got a DRO, but the OR hasn't sent a copy of the notification, contact the DRO team Objection@insolvency.gov.uk

You might want to object to a DRO being made. You can only object if you are listed in the DRO as being a creditor. The objection must be made within 30 days of receipt of the DRO notification and can only be made on the following grounds:

- The OR wrongly making the order, for example the debtor has made a proposal for an individual voluntary arrangement or is an undischarged bankrupt.
- Your debt being wrongly included in the debtor's qualifying debts, for example your debt is in respect of monies owed for child maintenance.
- The details of the debt included in the order are incorrect and that has an impact on the debtor's eligibility for a DRO, for example you are owed more than the amount shown and if the correct debt was shown, the total unsecured liabilities would exceed £30,000.

Your objection needs to be made in writing to the DRO Team at the address on the DRO notification or send an email to Objection@insolvency.gov.uk.

How does a DRO come to an end?

The debtor is usually discharged from their debts after 12 months. You can check the Individual Insolvency Register to see when the restrictions end.

When the DRO period comes to an end, any debts that aren't excluded are written off.

The OR may revoke the DRO in certain circumstances, including in the event that the financial position of the debtor improves. In this instance, the debts are not written off and you will be able to pursue the debtor for the debt again. The OR will write to you if the DRO is revoked.

What should I do if I'm dissatisfied with the OR's handling of the case?

You should first contact the OR to try to resolve the problem. If you are still not satisfied, you can submit a complaint to the Insolvency Service. More information is available here.

Disclaimer

Information in this guide is intended to provide an overview only and relates to debt relief orders. It is not a replacement for seeking advice specific to your circumstances.