

Debt Relief Restrictions Orders

What is a debt relief restrictions order?

If you are subject to a debt relief order and the official receiver considers that you have acted dishonestly or are blameworthy in some other way, they will report the facts to court and ask it to make another order. This is called a debt relief restrictions order or DRRO.

The court will consider the official receiver's report and any other evidence, and will decide whether it should make a DRRO. If it does, you will be subject to certain restrictions for the period stated in the DRRO. This will be between 2 and 15 years.

What are the DRRO restrictions?

The restrictions against you are wide ranging. They include those set out in insolvency law, which you are subject to when the debt relief order is made against you. The restrictions are normally lifted when the moratorium period ends, which is usually 12 months after the debt relief order is made. However, if a DRRO is made, then the restrictions against you will continue for up to 15 years. These restrictions include the following:

- If you wish to get credit of £500 or more (either alone or jointly with another person, such as your partner or spouse), you must first tell the credit provider that you are subject to debt relief restrictions. Obtaining credit would include, for example:

- o entering into a hire purchase agreement;
 - o ordering goods and failing to pay for them when they are delivered; and
 - o borrowing money.
- If you carry on business in a different name from the name in which the debt relief order was made, you must tell those you wish to do business with the name (or trading style) under which the debt relief order was made.
 - You may not act as the director of a company or take part in its promotion, formation or management unless the court grants you permission to do so.
 - You may not act as an insolvency practitioner, or as the receiver or manager of a company on behalf of debenture holders.

Failure to comply with any of the restrictions above would be a criminal offence.

A more detailed list of the main restrictions is available on our website at www.insolvency.gov.uk.

What happens if I am subject to a DRRO and break the restrictions?

You may be prosecuted and, if found guilty, get a criminal penalty such as a fine or imprisonment.

Also, if you take part in the management of a company without the court's

permission, you will be personally responsible for any of its debts that arise while you are managing it.

When can the official receiver apply for a DRRO?

The official receiver must apply to court for a DRRO within the moratorium period of the debt relief order, although they can ask the court for permission to apply later.

If the official receiver thinks it right to do so, they can apply to the court for an interim DRRO, i.e. before the court hears the DRRO application. If granted, the restrictions will apply to you from the date of the interim order until the court considers the application for a DRRO. The court will grant an interim DRRO if the DRRO application is likely to succeed and it is in the public interest to make an interim DRRO. An interim DRRO has the same effect as a DRRO.

What sort of conduct could lead the official receiver to apply for a DRRO against me?

When deciding whether to make a DRRO, the court may take into account your conduct before and after the date of the debt relief order, so the official receiver will be looking closely at all your conduct.

Below you will find some examples of dishonest or blameworthy conduct (“unfit conduct”) that the official receiver could

use as evidence in their report to court.
This is not a complete list, but includes:

- incurring debts that you knew you had no reasonable chance of repaying;
- giving away assets or selling them at less than their value;
- deliberately paying off some creditors in preference to others;
- gambling or making rash speculations or being unreasonably extravagant;
- failing to keep or produce records that would explain a loss of money or property;
- fraud, or fraudulent breach of trust;
- failing to co-operate with the official receiver;
- causing your debts to increase by neglecting your business affairs;
- failing to supply goods or services that have been paid for;
- carrying on a business when you knew or ought to have known you could not pay your debts.

The more blameworthy your conduct, in the court's opinion, the longer the DRRO is likely to last.

How will I know if the official receiver intends to apply for a DRRO against me?

Notice of intention to apply for a DRRO

The official receiver will write to inform you that they intend to apply to the court for a DRRO but have not yet done so, if:

- they have finalised their report to court

in support of an intended application for a DRRO; and

- more than 6 weeks remain until the moratorium period of the debt relief order ends.

They will send you a copy of the report and allow you 21 days to respond to the allegations outlined in it.

If less than 6 weeks remain until the moratorium period of the debt relief order ends, the official receiver may apply to the court for a DRRO without notifying you in advance that they intend to apply. In that situation, please see “What are my options after the official receiver has made a DRRO application to the court?” for more information.

What should I do when I receive a notice of intention to apply for a DRRO from the official receiver?

- a) If you accept the official receiver’s allegations about your unfit conduct, you may offer to enter into a debt relief restrictions undertaking (DRRU). An undertaking is an agreement to do something, or not to do something. A DRRU has exactly the same effect as a DRRO, but if you enter into a DRRU you will not have to attend a court hearing. Because you do not dispute the unfit conduct, the period of the restrictions is likely to be shorter than if the court made a DRRO. You will be able to put your comments to the official receiver. Doing so may further

reduce the period if the official receiver decides this would be reasonable. However, if an undertaking cannot be agreed, the official receiver will apply to court for a DRRO as set out in b) below.

- b) If you do not accept the official receiver's allegations about your conduct, or you do not respond within 21 days to their letter of intention to apply for a DRRO, they will apply to court for a DRRO at least one day before the expiry of the moratorium period. They will send you a letter saying they have done so. You will receive this letter at least 6 weeks before the court hearing date. The letter will include copies of the application to court, the report, and supporting evidence giving details of the alleged unfit conduct. It will also tell you the hearing date and how long the official receiver suggests the DRRO should last.

You will be asked to acknowledge receipt of the documents on a form that you should return to the court within 14 days.

What are my options after the official receiver has made a DRRO application to the court?

What you should do will depend on whether you accept the allegations against you in the official receiver's report or whether you wish to challenge them.

- a) If you accept the official receiver's allegations, you can still offer to enter into a DRRU.
- b) If you wish to challenge (defend) the official receiver's allegations, you have 28 days from receiving notice of the proceedings to file (send or hand in) your evidence in court. If you file evidence, the official receiver may file further evidence to support their application. The court will take all the evidence into account. You may also attend the hearing and take part in the proceedings.

If you file evidence in court but later change your mind about defending the proceedings, you may still offer to enter into a DRRU at any time before the hearing.

- c) If you do nothing, or simply ignore the proceedings and do not attend the hearing, the court may still make a DRRO if, after considering your conduct as reported by the official receiver, it thinks this would be appropriate.

What happens after a DRRO is made or I enter into a DRRU?

When a DRRO is made or you enter into a DRRU, the restrictions (including, but not limited to, those referred to above) apply to you immediately. Details of your name, address etc will go into a public register and stay there until the order or

undertaking ends. Details of the conduct relating to DRROs and DRRUs usually remain on the Insolvency Service's website for 6 months. In some cases the DRRO or DRRU may be reported in a press release that will identify you, describe the conduct that the court has found or the conduct detailed in the DRRU, and state the period of restrictions.

What if my debt relief order is revoked?

If your debt relief order is revoked (wiped from the record) because it ought not to have been made, your circumstances have changed or you have not co-operated with the official receiver, then any DRRO or DRRU that applies to you will still be valid, unless the court tells you otherwise.

If the debt relief order is revoked, the court may still decide any application for a DRRO that started before it was revoked. The official receiver can still accept a DRRU that was offered before the debt relief order was revoked. The official receiver may also apply for a DRRO and accept a DRRU after the debt relief order is revoked.

How can I find out more?

This publication is for general guidance only. If you have further questions about the procedures involved in a DRRO or DRRU, please contact the official receiver's office dealing with your debt relief order.

For more information about the official receiver, please see the Insolvency Service website at www.insolvency.gov.uk.

You may also order copies of our publications by telephone by calling the Publications Orderline on 0845 015 0010. To do this you will need the reference number (URN) of the documents required. This can be found on the back cover of the leaflets or on the website. You may also fax orders to the Orderline on 0845 015 0020. Minicom users should telephone 0845 015 0030.

Publications are also available on our website www.insolvency.gov.uk.

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