

# Debt Relief Order Newsletter – May 2010



Help provided by the DRO Unit



## Moratorium Period

The anniversary of some of our first DROs has now passed and intermediaries may receive enquiries as to what happens next.

The moratorium period ends automatically and therefore no action is required on the part of the debtor to bring it to an end. There is no certificate provided or available to confirm completion of the period.

At the end of the moratorium period the debtor is discharged from all the qualifying debts specified in the Order, including interest, penalties and other sums which may have become payable in relation to these debts since the application date. Discharge from the qualifying debts does not apply in relation to any debt that was incurred in respect of fraud or fraudulent breach of trust to which the debtor was a party.

The debtor may continue to receive correspondence from creditors scheduled in their Debt Relief Order; however no creditor has any remedy in respect to those debts and may not commence proceedings for recovery subsequent to the end of the moratorium period.

## Joint Bank Accounts

The DRO Unit would like to reiterate that where a joint debt is scheduled in a DRO application and is one of joint and several liability, the moratorium period will only relate to the person subject to the DRO and the creditor will be able to seek remedy against the ostensibly solvent partner for the full sum outstanding. Banks and other financial institutions will ordinarily pursue the non insolvent joint account holder.

## Continuing Communications from Creditors and Assignment of Debts

Upon the making of a DRO the Official Receiver will make immediate contact with the qualifying creditors scheduled in the DRO application, however debtors should be advised that they may continue to receive correspondence from their creditors subsequent to the making of their DRO. Some creditors may continue to contact the debtor in order to comply with the Consumer Credit Act, however other creditors may for whatever reason be unaware of the making of the order and therefore the debtor should contact the said creditors and advise them of the making of the order, providing them with their DRO number and the date the order was made. The Official Receiver will consider intervening should there be any evidence of harassment and bullying on the part of the creditor.

Some creditors may also assign debts that have been scheduled in a DRO to a 3<sup>rd</sup> party, however any such assignment does not confer the right to take recovery action and any correspondence from an assignee of a debt should be treated in the same manner as set out above.

## Rent Arrears and Overpayment of Benefits

There have been a number of recent examples of intermediaries scheduling rent arrears and overpayment of benefits as “excluded debts”. Rent Arrears and overpayment of benefits, irrespective of whether the debtor is continuing to make payment in settlement, do **not** fall into the category of excluded debts and must not be scheduled as such.

Intermediaries should refer to page 8 of the intermediary guidance notes if they are at all unclear as to how to deal with rent arrears.



### Signed submission page

The DRO Unit has previously advised that all that is now required in hard copy format from the DRO application is the submission page duly signed by the debtor. Upon receipt of this page it is scanned into the automated system and assigned to the relevant case.

In order to save valuable intermediary time and resources, the DRO Unit can advise that they do not need a covering letter, unless of course you have anything to add in support of an application, nor do we require compliment slips, evidence of payment, paperclips or staples.

If intermediaries can adhere to this policy it will speed up the process from our end and hopefully save some time and resource from your end. Thank you.

### Address Withheld

The new application form (from April 2010) for applying to the Court to have a debtor's address withheld from the e-IIR, is Form 7.1A. The current fee for such an application is £130, but would obviously be subject to remission should the individual's circumstances dictate.

### Charity Cheques

Cheques from charities should be made payable to "The Insolvency Service (DRO)". All cheques sent to the Insolvency Service must have endorsed upon them the application ID number, Intermediaries should also instruct debtors to include a covering note with the cheque stating the debtor's name, address and application ID number (the number that is automatically generated when an online application form is started).

All cheques should be sent to:

**Finance Section The Insolvency Service, Cannon House, 18 Priory Queensway, Birmingham B4 6FD**

### Notification of increase in income

The Insolvency Legislation requires a debtor to notify the Official Receiver if there is an increase in their income during the moratorium period applicable to their order. The legislation is in force to detect when an individual no longer meets the parameters for a DRO i.e. their disposable income exceeds the existing parameter (currently £50 per month).

Whilst debtors are clearly required to comply with the legislation, they should not overly worry about small increases in income affecting their eligibility, as provided the increase in benefits or income does not increase their income, such that the income parameter is breached, no further action will be taken by the Official Receiver.

### Secured Creditors

Please note that secured creditors (or the secured element of any debt) must be listed on the DRO application and identified as a secured debt by marking the relevant tick-box. If the value of a secured item is less than the total amount of the secured debt, the balance of the debt will be treated as unsecured. This unsecured element of the debt would therefore form part of the DRO, and must be scheduled separately as an unsecured debt on the application.

### Statistics 2009-2010

Cases Approved	<b>17475</b>
Cases Declined	<b>178</b>
Orders Revoked	<b>90</b>
Debt Relief Restrictions Undertakings:	<b>2</b>
Total Number of Intermediaries:	<b>1430</b>