

# Debt Relief Order Newsletter – September 2009



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Eversheds Limited



## The CSA and Eversheds Limited

Some recent applications have had Eversheds Limited scheduled as creditors, however subsequent to the issue of notices to creditors, Eversheds have contacted the DRO Unit to say that they are representing the Child Support Agency and that the debt relates to CSA maintenance payments, which of course is an excluded debt and should not have been scheduled in a DRO. Please be advised that the CSA are often represented by Eversheds and further enquiry of the debtor should be made whenever Eversheds appear as creditors.

## Web Application Creditor List

The DRO unit has undertaken an analysis of "Other creditors" created by intermediaries and as a result an additional 50 creditors have been added to the Web App drop down list, the Unit will continue to monitor regularly used creditors and periodically update the list. A list of the latest creditors added to the system has been sent to the Competent Authorities.

## Use of Creditor Drop Down List

The Insolvency Service has undertaken extensive creditor liaison with regards to obtaining the correct details for the notification of DROs, and in many instances such notifications are made by way of e-mail. Therefore use of the Web App drop down list, wherever possible, will ensure that organisations will receive notification of a DRO at the earliest opportunity, hopefully reducing the amount of ongoing recovery action by creditors, thus eliminating some of the upset caused to debtors by the receipt of such ongoing correspondence.



## Experian Credit Reference Checks

Where the debtor has a number of previous addresses and there is a possibility that the debtor has incurred liabilities at these previous addresses, intermediaries should ensure that Experian checks are carried out on former addresses as well as the current residence.

## Council Tax and Debt Relief Orders

A recent High Court decision *R (Mohammed) v Southwark LBC* [2009] EWHC 311 (Admin) the Administrative Court concluded "that if a resident to whom a demand for a payment on account of council tax is properly addressed fails to pay an instalment on time, or fails to respond quickly enough to a reminder notice, or a final notice, he may become liable to pay the whole balance of the estimated amount of tax for that financial year within a short period, normally 7 days. The council will then be entitled to seek a liability order against him for that amount if it is wholly or partly unpaid"

Therefore when applying this judgement to Debt Relief Orders, if the debtor has defaulted in respect of a reminder notice, the whole of the amount is due and payable and therefore a qualifying debt (whether or not the council has obtained a liability order), if the debtor has maintained their instalment agreements in accordance with the demand notice, or no reminder notice has been issued only sums accrued and unpaid up to the DRO are a 'qualifying debt'.

Where a liability order has been obtained by the council, prior to the Debt Relief Order being made the whole debt as notified within the liability order becomes due and it is therefore a qualifying debt.





Help created by the Insolvency Service



### **Duplicated Addresses**

If an intermediary records a debtor's address on the DRO Web Application and then records this address again in the "previous addresses in the last six years box", the external credit reference check that the Insolvency Service undertakes, will double up on the debtor's liabilities and as a result will require manual intervention should the 15K liability parameter appear breached, resulting in unnecessary delays for your clients. If an intermediary selects "yes" to this question in error, then merely press cancel and select "no", rather than trying to proceed by merely entering the debtor's current address a second time.

### **Prepayment Meters for Utilities**

Intermediaries will be aware that utility companies often use prepayment meters to collect arrears, by way of recalibrating their meters. If a debtor has scheduled a utility bill in their DRO application the provider no longer has any remedy in relation to such a qualifying debt and debtors should therefore be encouraged to ensure that their provider recalibrates their meter so as to ensure that the continued collection of arrears is ceased.

### **Address Withheld Flag**

The Insolvency Service will always rely on the skill and judgement of the intermediary when assessing whether to withhold a debtor's address from the Electronic Individual Insolvency Register (EIIR), however intermediaries must explain to the debtor, that any such flagging must be subsequently ratified by the Court and explain the format that such an application should take

### **Joint and Severally Liability**

Whilst only a few examples have been encountered, cases have been declined due to the fact that an intermediary has split a joint and several liability debt and apportioned 50% of the liability to each application, when of course the full sum should be scheduled in each of the respective applications.

### **Overpayment of DRO Fee**

The financial system that is in operation, monitors each case for the receipt of £90, therefore in the event that a debtor overpays, which surprisingly, has happened on several occasions, the system will not recognise that the fee has in fact been paid. Any overpayment will ultimately mean manual intervention by our finance team and therefore debtors are encouraged to pay the correct fee.

### **P O Box Addresses for Debtors**

In order to prevent abuse of the DRO process and also potential fraud, debtors should provide a full postal address for correspondence. In the rare event that a P O Box has to be used e.g. fear of violence or living in a refuge, then intermediaries should provide an explanation as to why it is felt necessary for the debtor to use a P O Box for correspondence.

### **Intermediary Contact Details**

Please note that any requests for changes to intermediary contact details, such as e-mail addresses etc must be made by via your competent authority please.