

# Debt Relief Orders

This factsheet explains what a Debt Relief Order is (DRO) and details the criteria to apply for one, how your assets are treated, the advantages and disadvantages and what the DRO process involves.

Read time: 20 minutes

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## What is a Debt Relief Order?

This is a legally-binding, formal agreement between you and your creditors. It stops creditors from taking further action against you to recover debt. Your debts will be written off after one year. You can only apply for a DRO through an approved intermediary with the required level of training and experience to advise you. In order to apply for a DRO, you must meet the eligibility criteria detailed below.

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## DRO Eligibility

To apply for a DRO you must:

- have debts of £20,000 or less
- not own or be named as owner on any property or land
- not own a car or any other kind of vehicle worth more than £1,000
- not have any other assets with a total worth of more than £1,000
- have less than £50 surplus income after household expenses are taken into account
- live in Northern Ireland
- not have had a previous DRO in the last six years
- be in a position to pay the DRO fee (currently £90) when submitting the application
- not be currently bankrupt or in an active IVA (Individual Voluntary Arrangement)

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## Debts that cannot be included in a DRO

It is important to include all your debts in your DRO application; if a debt is missed you will remain liable for it.

There are some debts that you will still be liable to pay in full after you make a DRO application. These include:

- Magistrate or High Court Fines
- Money owed under a Criminal Confiscation Order
- Child Support Agency or Child Maintenance Service arrears
- Student or crisis loans
- Any debt that has arisen from a personal injury claim against you

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## Debts Eligible to be included in DRO

- Credit or store cards
- Payday loans
- Bank overdrafts and loans
- Catalogue and home shopping debts
- Doorstep or home collected loans
- Arrears or shortfalls due to finance companies from hire purchase or conditional sale agreements
- Family debts or debts to other individuals / associates
- Guarantor loans (this will only remove your liability and not the guarantor or any other parties liability for the debt)

- Parking penalties or charges
- Mortgage shortfalls (only if the property has been sold / disposed of)
- Rent arrears
- Utility debts – such as gas, electricity or telephone
- Housing rates arrears
- Service or communal area property charges
- Benefit overpayments
- Income Tax (Self-Assessment), VAT or National Insurance arrears

If you include rent arrears in your DRO, your landlord can take steps to evict you as you have broken the terms of the rental agreement. However, all rent arrears up to the date of your approved DRO will be cleared.

If you are self-employed or have been trading, you may also include debts in your DRO incurred through your business. Examples of the trade debts that can be included are:

- Debts to suppliers or wholesalers
- Debts owed to customers that you haven't fulfilled the order for goods or services
- Money owed to employees / former employees

When your DRO is approved all debts that were included in your application will be cleared up to the date the DRO is accepted. It is important to remember to continue to pay all priority expenses such as rent, utilities and housing rates after your DRO is approved.

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## Bank accounts in a Debt Relief Order

If you do not owe your account provider any debt that will be settled in the DRO, then you can normally keep your bank account. However, it is advisable to check the terms and conditions of the account to ensure that it cannot be affected by a DRO.

If you owe your bank debt that is to be included in your DRO, they could freeze your account or offset funds from it towards your debts. To prevent this you will need to open a basic bank account with a creditor separate from those to whom you owe debt.

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## Hire purchase or conditional sale debts in a Debt Relief Order

Depending on your circumstances you may be allowed to maintain hire purchase repayments as part of your DRO, provided you are up to date with your repayments and the creditor has no objection to you retaining the goods. However, this will only be allowed if the item is deemed essential.

If you have missed payments and are in arrears you must exclude these debts from your DRO.

If your car is subject to a Motability Hire Purchase agreement, you may have to transfer to the Motability's lease hire scheme instead.

Some hire purchase and conditional sales agreements will contain a clause which allows them to end the agreement immediately if you enter into an insolvency arrangement, such as a DRO.

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## Assets in a Debt Relief Order

Assets generally include items such as antiques, luxury items, stocks, shares, premium bonds, savings or any collections you may have. If your assets are worth more than the eligibility limits of £1,000 for a vehicle and £1,000 for all other assets combined, a DRO will not be a suitable option to deal with your debts

You must also declare in your DRO application any assets you have disposed of, sold or given away in the last two years.

Your car will have its value checked using Parker's Car Price guide and will only qualify as part of a Debt Relief Order if its value is £1000 or less. However, if you have a specially adapted car due to a disability, which can be proven then you may be able to retain this vehicle even if the value is above £1,000. If your vehicle is subject to a Motability Hire Purchase agreement, you may have to transfer to the Motability's lease hire scheme instead.

Private pensions do not count towards the £1,000 limit, unless it is a private pension not approved by HMRC. However, any income you receive from a private pension must be included in your income calculation.

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## Your credit rating in a Debt Relief Order

Credit reference agencies record any information regarding your finances for six years on your credit report, and this is the same with a DRO and could then affect your ability to get credit.

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## Joint debts or guarantor debts in a DRO

If you have a debt named with someone else, this can still be included in your DRO. However, this creditor will still pursue the joint owner of the

debt for full repayment. Creditors are within their rights to do this as when you obtain a credit agreement with someone else, you are both liable for the full amount of the debt. This is known as joint and several liability. This is the same for debts included in a DRO that someone else has agreed to be a guarantor for.

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## Debt Relief Order Costs

The current fee for a DRO is currently **£90**. If you cannot afford to pay this fee, there are charities who may be willing to help cover this cost.

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## Applying for a DRO

You can only apply for a Debt Relief Order through an approved intermediary, such as a debt advisers.

By law, you must be given advice by the intermediary first, so they can establish if a DRO is the best option you.

All Advice NI Debt Advisers are approved intermediaries who can help apply for Debt Relief Orders on your behalf.

The Official Receiver will contact all the creditors listed on the application. The creditors may only object on certain grounds. It is not valid grounds to object just because they do not want to be included in the DRO.

Once your DRO has been approved, all the debts included in the DRO are put on hold for 12 months, which is known as the moratorium period.

If your application is rejected, the Official Receiver will contact you and your intermediary to explain why.

If at any point during your Debt Relief Order application the Official Receiver deems that that you have behaved irresponsibly, deliberately withheld information, or provided false information, then they could ask you to agree to a debt relief restrictions undertaking. This means that you would not be discharged after the normal 12 months.

If you refuse to this, the Official Receiver can apply to the court for a Debt Relief Restriction Order. You will have certain restrictions placed on you for somewhere between two and 15 years after the date of your DRO approval.

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## Advantages of a Debt Relief Order

- It will only last one year
- All interest and charges on your debts are frozen
- If your circumstances have not improved after a year then the debts are written off and you will be debt free
- The £90 fee is considerably lower than bankruptcy fees
- You don't pay any funds during the 12 month moratorium period as you may do in Bankruptcy by way of an Interim payment Agreement.
- Your creditors cannot take any action to chase you for the debt
- You get to keep your assets and car if you satisfy the asset eligibility limits
- DROs are not advertised in the Belfast Telegraph, unlike Bankruptcy

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## Disadvantages of a Debt Relief

- The DRO will be recorded on your credit reference file for six years
- The DRO will be recorded on the Individual Insolvency Register for 15 months
- The restrictions regarding changes in circumstances, assets or income and expenditure will be placed on you **for 12 months**
- Your bank account could be frozen
- Your employment could be affected if your contract states that you are not allowed a formal insolvency procedure or a DRO
- You must not take out credit of £500 or more without telling the creditor that you are in an active DRO
- You are unable to run a business under a different name without declaring that you are in an active DRO.
- You are unable to get involved with the formation or management of a limited company, or be a company director without permission from the Official Receiver
- You cannot apply for another DRO for **six years**

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## Change in circumstances while in a Debt Relief Order

Your obligations during the 12 month moratorium period are:

- You must tell the Official Receiver of any changes in your circumstances
- You must provide any information on your finances to the Official Receiver if they ask
- You must tell the Official Receiver if your income increases, or if you come into any property, assets or a lump sum whilst you are within the moratorium period

If the Official Receiver discovers you have provided inaccurate information about your income, assets or debts, they can end or revoke your DRO and if necessary take criminal or civil action against you.

If you make a mistake and forget to include a creditor, then if the DRO has been agreed by the Official Receiver then the debt cannot retrospectively be included in your DRO. This creditor can continue to act against you to recover the debt and you will have to negotiate any

repayments separately to this creditor.

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## **How we can help**

If you decide a DRO is the best option for you, one of our approved intermediary advisers can submit your DRO application for you and in the interim contact your creditors to place your accounts on hold.

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## **What other options are available?**

We advise you to seek professional assistance from our advisers so they can assess your individual circumstances to establish which options are available. This should then help you make an informed decision of the best option for you.

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