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60. Debt relief orders

Dealing with a Debt Relief Order (DRO) including application process

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Introduction

60.1 General

Debt Relief Orders (DRO) were introduced by the Tribunals, Courts and Enforcement Act 2007 and came into force on 6 April 2009. They provide a more accessible form of debt relief for debtors who have relatively low level of debt, minimal assets and insufficient disposable income to access alternative debt solutions. This chapter will examine the circumstances under which a debtor might apply for a DRO, the process for application and the involvement of the Insolvency Service through the DRO team.

60.2 DROs general

A DRO, once granted, provides the debtor with relief from action by their creditors for the moratorium period, usually one year, after which the debts are discharged. The procedure is aimed at debtors who have minimal assets, a low level of liabilities and who would have difficulty accessing other debt solutions. There is no vesting of the estate in a trustee as with bankruptcy.

60.3 DROs pre-order

The DRO solution is provided by the Insolvency Service in partnership with the debt sector. An application can only be made through an intermediary who has been approved by a competent authority who in turn is authorised by the Secretary of State ¹.

The approved intermediary plays a vital role in the application process.

1. Section 251B

60.4 DROs and official receivers

The legislation requires that an application for a DRO is assessed by an official receiver. This process has been centralised at the DRO team based in Plymouth with its own official receiver¹.

1. Section 251B(1)

Debt relief orders - eligibility

60.5 Eligibility - general

DROs are aimed at debtors who are unable to access debt relief through existing debt solutions such as bankruptcy, debt management plans, Individual Voluntary Arrangements or administration orders. To ensure that the scheme is available to the debtors it is aimed at and is affordable, the legislation sets some criteria which a debtor must meet in order to be eligible for the scheme. The approved intermediary will check the debtor's eligibility against the criteria prior to submission of the application and complete the online form.

60.6 Basic eligibility criteria

The basic criteria that a debtor has to satisfy if they are to be successful in an application for a DRO are as follows:

- the debtor is unable to pay their debts
- the debtor's total liabilities do not exceed £20,000
- the debtor's total gross property level does not exceed £1,000
- the debtor does not have a motor vehicle worth more than £1,000
- the debtor's disposable income, following deduction of normal household expenses, does not exceed £50 per month
- the debtor lives in England and Wales, or in the last three years has been resident or carrying on business in England and Wales
- the debtor has not been subject to a DRO within the previous six years
- the debtor is not subject to any other current formal insolvency procedure including a bankruptcy petition that has not been dismissed – unless the person who presented the petition agrees to the debtor entering the DRO)
- the debtor is not currently subject to a BRO/BRU or a DRRO/DRRU¹

1. Schedule 4ZA

60.7 Relevant date for deciding eligibility

The debtor must meet the eligibility criteria on the day that the application is determined by the official receiver¹.

1. Schedule 4ZA

60.8 Inability to pay debts

In deciding if a debtor is not in a position to pay their debts, the official receiver must presume this is the case if it appears to be so based on the contents of the debtor's application and there is no reason to believe the information is incomplete or inaccurate or has changed since the application date¹.

If the debtor was aware that they were going to receive a lump sum (perhaps, from a pension or inheritance) within the 12 months of the DRO, then it is unlikely that a

DRO would be appropriate as the process is aimed at those whose circumstances are not expected to improve.

1. Section 251D

60.9 Debtor's liabilities not to exceed £20,000

To be eligible for a DRO, the total amount of the debtor's liabilities, other than unliquidated debts and excluded debts must not exceed £20,000¹. Debts that are liquidated and not excluded are known as qualifying debts. Unliquidated debts and excluded debts are not included in the calculation of total indebtedness but, equally, those debts will not be subject to the moratorium period.

Explanations of these terms are given in the following paragraphs.

1. Schedule 4ZA paragraph 6

60.10 Qualifying debts

A qualifying debt is a debt that is:

- for a liquidated sum payable either immediately or at some certain future time and
- is not an excluded debt
- is not a secured debt

60.11 Liquidated debt

The legislation gives the definition of a liquidated debt as a debt that is for a liquidated sum payable to a creditor either immediately or at some future time¹. The following paragraphs give some common examples.

1. Schedule 4ZA paragraph 6

60.12 Rent arrears

If the applicant has accumulated rent arrears these are a qualifying debt and should be included in the application. The landlord can still seek possession of the property after the making of the DRO notwithstanding that the arrears are a qualifying debt. The landlord is simply exercising their right to recover their property from a defaulting tenant. No leave of the court is required to either continue or commence the possession proceedings. After a DRO is made a possession order might still be suspended on any grounds except payment of rent arrears e.g. it might be suspended by reference to payment of current (future) rent. It must therefore follow that a possession order suspended before the DRO might be varied after the making

of the order to exclude payment of the rent arrears. The applicant should seek specialist housing advice before taking this step. When completing an assessment of essential expenditure for the purposes of a DRO no allowance should be made for the payment of rent arrears, whether or not that, at the time of completion, the applicant is subject to a suspended possession order.

60.13 Council tax

Any amounts due and unpaid under an instalment agreement should be included in the application. If the applicant's council tax is up to date under their instalment agreement then there is no debt because the unpaid balance relates to future occupation of the dwelling. If instalment payments are in arrears and the applicant has defaulted in respect of a final notice, this will have resulted in the full balance for the year becoming due and payable. In this case, the full amount claimed on the final notice should be listed in the application. Where the council has obtained a liability order, the total amount claimed on the liability notice should be listed in the application.

60.14 Income tax as a qualifying debt

Only those income tax debts that are determined (by returns or assessments) by HM Revenue and Customs at the date of the application for the DRO can be considered to be a liquidated debt and be a qualifying debt for the purposes of a DRO.

60.15 Court judgments

Where a debtor has committed an act that may result in another party making a legal claim, for example causing a personal injury, the liability in this regard cannot be a qualifying debt until there is a judgment (for example, a court order or judgment) ordering an amount to be paid.

60.16 Secured debts

A debt is not a qualifying debt to the extent that it is secured. There is no special meaning to the term "secured" in the legislation.

60.17 Excluded debts

The legislation provides that certain debts are automatically excluded from a DRO¹.

1. Rule 9.2

60.18 Excluded debts – fines

A Fine is defined as “any pecuniary penalty or pecuniary forfeiture or pecuniary compensation payable under a conviction”. Any fine imposed for an offence is an excluded debt¹.

This definition may be taken to include a compensation order made under the Powers of Criminal Courts (Sentencing) Act 2000.

Fines such as parking penalties imposed by local councils that have not gone through the court process are not considered excluded debts.

1. Magistrates Courts Act 1980

60.19 Excluded debts – obligations under family proceedings or CSA assessments

Any obligation (including an obligation to pay a lump sum or to pay costs) arising under an order made in family proceedings or any obligation arising under a maintenance assessment made under the Child Support Act 1991 is an excluded debt¹.

1. Rule 9.2(a)

60.20 Excluded debts – confiscation orders

Any obligation arising under a confiscation order made under the following Acts is an excluded debt:

- Drug trafficking Offences Act 1986, section 1, or
- Criminal Justice (Scotland) Act 1987, or
- Criminal Justice Act 1988 section 71, or
- Proceeds of Crime Act 2002, parts 2, 3 or 4¹

1. Rule 9.2(c)

60.21 Excluded debts – student loans

Any debt or liability to which a debtor is or may become subject in respect of any sum paid or payable to the debtor as a student by way of a loan and which they receive before or after a debt relief order is made in respect of them is an excluded debt. However, there is provision under the Regulations for a system of grants, which are not repayable, some of which are paid directly to academic institutions and some which relate to maintenance and are paid directly to the student. These are not debts unless the student does not complete the course for which the grant was

awarded, in this case there will have been an overpayment. The overpayment is a qualifying debt if repayment has been requested.

60.22 Excluded debts – damages

Any debt which consists of a liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other duty, or to pay damages under Part 1 of the Consumer Protection Act 1987 being in either case damages in respect of the death or personal injury (including any disease or other impairment of physical or mental condition) to any person is an excluded debt¹.

1. Rule 9.2(d)</sub

60.23 Excluded debts – Social Fund loans

The liability to repay monies owed to DWP regarding a budgeting or crisis loan (granted from the Social Fund) is an excluded debt¹.

1. Rule 9.2(e)

60.24 Property level

The debtor must have a gross property level of less than £1,000 to be eligible for a DRO. This is a fixed figure and cannot be exceeded. As the property level is gross (rather than net) it is highly unlikely, if not impossible, that a homeowner would meet this condition¹.

In calculating the value of the debtor's property certain property is excluded and this is similar to bankruptcy².

1. Rule 9.8

2. Rule 9.9

60.25 Definition of property

Property is defined in the Act as including “money, goods, things in action, land and every description of property wherever situated and also obligations and every description of interest, whether present or future or vested or contingent, arising out of, or incidental to, property”. In a DRO a debtor's property is considered to be all property, which is not excluded property, at the date of determination of the application.

60.26 Property level – motor vehicles

A single domestic motor vehicle will be disregarded when determining the debtor's total gross property. The maximum value for the vehicle is £1,000.

The exception to this is a motor vehicle that has been specially adapted for use by the debtor, because they have a physical impairment that has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. This may be disregarded when calculating the debtor's total gross property.

Only one vehicle may be disregarded per debtor¹.

1. Rule 9.9(a)

60.27 Property level – vehicles on hire-purchase

A vehicle on hire-purchase is not considered to be an asset and is not, therefore, taken into account when calculating the total value of the debtor's property.

However, the amount of the repayments will be considered in calculating reasonable expenditure.

60.28 Property level – other items that are disregarded

In addition to a motor vehicle certain other items are disregarded when calculating the debtor's property value¹. They include:

- tools of the trade
- items satisfying the basic domestic needs of the debtor and/or their family
- property held on trust for another
- certain tenancies

1. Rule 9.9 (1)

60.29 Property level – excess principle

Where it appears to the official receiver that the realisable value of the whole or any part of the value of property disregarded as tools of the trade or household effects, or a vehicle disregarded as being specially adapted, exceeds the cost of a reasonable replacement then they will disregard only the value of a reasonable replacement¹.

1. Rule 9.9(3)

60.30 Property level – pensions

A pension is excluded from the calculation of a debtor's property. However, if the debtor is over 55 and can draw down from their pension and that sum exceeds the level of the liabilities it should be considered whether the debtor is able to pay their debts and, therefore, not eligible for a DRO.

60.31 Property level – bank balance

Depending on when a DRO application is made, the debtor may have a bank balance in excess of £1,000 (for example, if they have just been paid).

Intermediaries are expected to take a “rounded” view of the situation, and only list the amount of the balance that will remain after essential household expenditure has accounted for.

60.32 Income and expenditure

A debtor's disposable income, following deduction of normal household expenses must not exceed £50 per month for them to be eligible for a DRO. There is no guidance in the legislation as to what are to be considered normal household expenses and this will depend on the particular circumstances of the debtor. The approved intermediaries who make the application for the DRO on behalf of the debtor are expected to ensure that the expenses of the debtor are within normal levels and will use something like the standard financial statement for consistency.

60.33 Determination of the debtor's monthly income

The Rules provide that the income of a debtor comprises every payment in the nature of income which is from time to time made to them or to which they from time to time becomes entitled, including any payment in respect of carrying on of any business or in respect of any office or employment and any payment under a pension scheme.

Any contribution made by any member of the debtor's family is to be taken into account when calculating the monthly surplus¹.

1. Rule 9.7

60.34 Income and expenditure – Standard Financial Statement

In the main, the approved intermediary will complete a Standard Financial Statement (SFS) as part of the application process. The form contains “trigger” points to show

up areas where the debtor's expenses might exceed those considered normal and is accepted as a standard tool in the debt advice sector. It is the responsibility of the intermediary to ensure that the debtor's expenses do not exceed the trigger points. To maintain the integrity of the SFS, the levels of the trigger points are not widely circulated. The official receiver will use the SFS to calculate whether there is a surplus, and the amount, following any change in income or expenditure during the moratorium period.

60.35 Employment status

The employment (or otherwise) status of the debtor will not affect their ability to enter into a DRO so long as the debtor's income, following deduction of normal household expenses, does not exceed £50 per month. The debtor may be self-employed as long as the surplus disposable income does not exceed £50 per month.

60.36 Expected improvement in income position

If, at the time of application, there is an expectation that the debtor's position, as regards income, will improve to the extent that the increase will take their surplus income over £50 (for example, if a pension is due to come into payment) then it would normally be considered that the individual will not be eligible for a DRO.

Application for a DRO

60.37 Application process – role of official receiver

The official receiver is not involved in the process of gathering the information for the DRO application or completion of the application form. The official receiver's role begins once the application has been submitted and, at this point, they are required to determine the application and make an order. This part of the chapter gives a brief overview of the application process.

60.38 Application process – role of approved intermediary

The role of the approved intermediary is to guide the debtor through the DRO application process and assist them in completing the application. Only an approved intermediary can submit an application. As part of this process, the intermediary is required to ensure that the debtor meets the eligibility criteria for a DRO. The intermediary is assisted in this task by intermediary guidance notes issued by the Insolvency Service. The intermediary cannot stop a debtor from making an ineligible application, but must note the application to show that it has been submitted against the advice of the intermediary¹.

1. Rule 9.5

60.39 Application process – general

The application process is, largely, an electronic process, with the application being completed electronically, on-line, and sent to the official receiver electronically.

60.40 Application fee

The current fee payable in respect of an application for a DRO is £90. The fee is for the performance of the official receiver of their functions and for the payment of an amount (not exceeding £10) in respect of the costs of the intermediary.

The fee must be paid on or before the date that the application is submitted and must be paid at either the Post Office or a Payzone outlet¹

1. The Insolvency Proceedings (Fees) Order 2016

60.41 Application fee payable in instalments

The debtor may pay the application fee in instalments at a Payzone type facility, or the Post Office. Once the on-line completion of an application has been started the debtor will be provided with a bar-coded letter which is used to ensure that the instalment payment is allocated to the correct application. The instalment payments must be completed before, or on the day, that the application is submitted.

60.42 Information to be provided in support of application

The type and amount of information that must be supplied in support of the application is provided for in the legislation. The legislation requires the debtor to provide sufficient information to allow the official receiver to make a decision whether to approve or decline a DRO application based on the eligibility criteria. The

application must be made electronically and the form completed ensures that the relevant information is supplied¹.

1. Section 251B

60.43 Application process – fee charged by intermediary

The intermediary is not allowed to charge a debtor a fee in connection with assistance provided in respect of an application for a DRO¹.

1. Section 251U(7)

Considering the debtor's application and the making of a DRO

60.44 Consideration of debtor's application and granting of DRO – general

The official receiver has a duty to consider and determine an application and must either refuse it or make an order. The official receiver may stay consideration of the application until they have received answers to any queries in relation to anything connected with the application. There are specific grounds under which the official receiver may decline an application and grounds under which they must decline an application and these are set out in the following paragraphs.

60.45 Consideration of a DRO application – timeliness

All DRO applications will be assessed within two working days of being received by the DRO team for determination. The majority of orders will be made on the same day.

60.46 Grounds under which the official receiver may refuse an application for a DRO

The official receiver may decline an application for a DRO on the following grounds:

- the application does not meet the requirements set out for the format and content of an application for a DRO
- queries raised with the debtor have not been answered to the satisfaction of the official receiver within such time as they may specify
- the debtor has made any false representation or omission in making the application or in supplying any information or documents in support of it
- the debtor has entered into a transaction at an undervalue or given a preference in the two years prior to the application

Each case is considered on its own circumstances in the round and the materiality of the debtor's conduct is taken into account. A decision is then taken by the official receiver as to whether the order should be refused¹.

1. Section 251C(4)

60.47 Grounds under which the official receiver must refuse an application for a DRO

The official receiver must decline an application for a DRO if they are not satisfied that:

- the debtor is an individual who is unable to pay their debts
- at least one of the specified debts was a qualifying debt at the date of the application
- the other eligibility criteria in respect of property level, income surplus level, debt level and insolvency history are met¹

1. Section 251C(5)

60.48 Refusal of an application

If the official receiver declines an application they must give reasons for the refusal. The official receiver must deliver a notice to the debtor stating that they has decided to decline the debtor's application, and the reason for which it has been declined¹.

1. Section 251C(7)

60.49 Presumptions to be made by the official receiver when considering the application

The DRO process is designed to be a low-cost alternative to those debtors who are unable to access other forms of debt relief (for example, bankruptcy or IVA). The legislation allows the official receiver to make certain presumptions regarding the debtor's application, without the need for further enquiry¹.

In essence, these provisions allow the official receiver to presume that the information in the debtor's application is correct unless information to the contrary is available. The legislation does allow that some basic verification checks are carried out.

1. Section 251D

60.50 Verification checks

The DRO process does not involve an interview with the debtor and, generally speaking, the official receiver is entitled to presume that the facts stated in the debtor's application are true. The legislation provides for verification checks to be carried out. In the main, these are checks on the IIR (to check insolvency history) and via a credit reference agency (to confirm ID, domicile, debt levels, property levels)¹.

1. Rule 9.6

60.51 What happens if a debtor has omitted to list a creditor in their application?

A creditor cannot be added to an application after submission. The omitted creditor will fall outside the proceedings and can pursue their debt in the normal way and it will not be discharged at the end of the moratorium period. However, the official receiver must consider whether that debt, added to the listed liabilities would take the total debts over the £20,000 threshold. If this is the case the DRO will be revoked.

60.52 Format of debt relief order

If the official receiver determines that the debtor's application should result in the approval of a DRO application, then they must make the order¹.

The order must contain the debtor's name and address, the reference number allocated to the application, a list of the qualifying debts as at the date of the application, specifying the amount owed and the creditor to whom it was owed and the date on which the order was made^{2,3}.

Each qualifying debt specified in the order this way is known as a 'specified qualifying debt' or a 'specified debt'⁴.

1. Section 251C(3)(b)

2. Rule 9.1031. Section 251G(1)

3. Section 251E(3)

60.53 Action required by official receiver on making of DRO

On the making of the DRO, the official receiver is required to give a copy of the order to the debtor and to make an entry in the DRO register (IIR). The delivery of the order to the debtor is achieved by sending it by post. In addition, the official receiver must notify the intermediary of the making and date of the order^{1,2}.

1. Section 251E(4)

2. Rule 9.11

60.54 Notice to be sent to creditors on the making of a DRO

The official receiver must also notify each creditor to whom a qualifying debt is specified of the making, date and reference number of the order and its effect, along with the matters to which a creditor may object to a DRO and the contact details of the official receiver. The notice may be sent by post or electronically¹.

1. Rule 9.12

60.55 Other action required by official receiver on making of DRO

Where the debtor is involved in a debt management plan, administration order or is the subject of an attachment of earnings order, the official receiver must inform the body or the court, as the case may be, of the making of the DRO³¹.

1. Section 251F

60.56 Timing of notices to be sent on making of DRO

The DRO Unit will issue the notice to the debtor within 5 days of the determination date and notices to the creditors within 10 days of the determination date. In practice the majority of notices to creditors go electronically on the day the order is made.

60.57 DRO register

DROs are registered by recording details of the order in the Individual Insolvency Register (IIR).

60.58 The effective date of a DRO

The DRO takes effect from the date that the order is determined.

Investigation into the debtor's affairs and the revocation and amendment of a DRO

60.59 Objections by creditors

Any person specified in a debt relief order as a creditor to whom a specified qualifying debt is owed may object to:

- the making of the order
- the inclusion of the debt in the list of the debtor's qualifying debts; or
- the details of the debt specified in the order

Such an objection must be made within the moratorium period, within 28 days of the date on which the creditor was informed of the making of the DRO, based on prescribed grounds and supported by documents^{1, 2}.

1. Section 251K

2. Rule 9.15

60.60 Grounds under which a creditor may object to the making of a DRO

Any objections to a DRO must state one or more of the following grounds upon which the creditor relies the applicable grounds being as follows¹:

- that there is an error in, or omission from, something specified in the debt relief order
- that a bankruptcy order has been made in respect of the debtor
- that the debtor has made a proposal for an IVA
- that the debtor's income surplus was over £50 per month
- that the value of the debtor's property was over £1,000
- that the debts specified in the order were not qualifying debts

- that the basic eligibility criteria as at paragraph 46.5 were not met
- that the debtor has entered into a transaction at an undervalue or given a preference
- that the debtor's surplus monthly income has increased beyond the prescribed level after the order was made
- that the total value of the debtor's property has exceed the prescribed level of £1,000 after the order was made

1. Rule 9.15

60.61 Effect of an objection

The official receiver must consider every objection that is properly made. The official receiver may open an investigation into the relevant affairs of the debtor, to arrive at a decision¹.

As a result of considering an objection the official receiver may

- take no action
- decide to revoke or amend the order
- decide whether other steps should be taken in relation to the debtor such as an application for a DRRO

1. Section 251K (3) & (40)

60.62 Official receiver to carry out investigation on their own initiative

Whether or not the official receiver has received an objection from a creditor they may open an investigation into the relevant affairs of the debtor, to arrive at a decision¹.

1. Section 251K(4)

60.63 Decision to be reached following investigation

The decisions to which an investigation by the official receiver may be directed are¹:

- whether the DRO should be revoked or amended
- whether an application should be made to court under its general power to review a DRO
- whether any steps should be taken in relation to the debtor (such as application for DRRO)

1. Section 251K(5)

60.64 Powers of investigation and duties of the debtor

The official receiver may require any person to give them such information and assistance as they may reasonably require in connection with an investigation¹.

The debtor has a general duty to co-operate with the official receiver. They also have a duty to inform the official receiver of any error or omission in their application, or any change in their circumstances that would affect (or would have affected) the determination of the DRO².

Such duties can be enforced through the courts³.

1. Section 251K(7)

2. Section 251J

3. Section 251N

60.65 Enforcement of duty to co-operate with official receiver

On the application of the official receiver, the court may summon to appear before it;

- the debtor themselves
- the debtor's spouse or former spouse or civil partner or former civil partner
- any person appearing to the court to be able to give information or assistance concerning the debtor's affairs
- to give information regarding the dealings, affairs and property of the debtor or require them to provide a written account or produce documents¹

Where a person fails to comply with such summons, a warrant may be issued for their arrest and the seizure of records and documents².

1. Section 251(N) (1) & (2)

2. Section 251N(5)

60.66 Power of official receiver to revoke or amend a DRO

The official receiver has the power to revoke or amend a DRO, whether or not there has been an objection from a creditor or an investigation¹.

1. Section 251L

60.67 Grounds under which the official receiver may amend a DRO

The order may be amended for the purpose of correcting an error or omission in anything specified in the order but not to add creditors¹.

1. Section 251L(8)

60.68 Grounds under which the official receiver must revoke a DRO

The official receiver must revoke a DRO as soon as possible if a debtor dies during the moratorium period¹.

1. Rule 9.20

60.69 Grounds under which the official receiver may revoke a DRO

The grounds under which the official receiver may revoke or amend a DRO are as follows¹:

- that information supplied by the debtor in their application or subsequently was incomplete, incorrect or misleading.
- that the debtor has failed in their duty to co-operate
- that a bankruptcy order has been made against the debtor
- the debtor has made a proposal for an IVA
- that the debts of the debtor were not qualifying debts
- that the debtor did or does not meet all the eligibility criteria

1. Section 251L

60.70 Service of notice for revocation of a DRO

Where the official receiver takes the decision to revoke a DRO they must give notice of the decision to revoke to the debtor, the intermediary and to any creditor listed in the DRO¹. The notice can be sent by post or e-mail, depending on the delivery method that appears to best suit the debtor.

In practice the debtor will have been made aware of the possibility of revocation and have been given the opportunity to make representations before the notice is served.

1. Rule 9.18

60.71 Notice of revocation

The notice of the decision to revoke must identify the debtor and date and reference number of the DRO. In addition, the notice of the decision to revoke must state the reasons for revocation and specify the date from which the revocation has effect¹.

1. Rule 9.18

60.72 Date of revocation

The official receiver must consider the circumstances of the case in deciding when the revocation should take effect which can be with immediate effect or up to three months from the decision. It should be within the moratorium period. Commonly 21 days notice is given.

60.73 Service of notice of amendment of DRO

Where the official receiver takes the decision to amend a DRO, they must send notice of the decision to amend the order to the debtor and to any creditor listed in the DRO¹.

1. Rule 9.18

60.74 Notice of amendment

The notice of the decision to amend must identify the debtor and the date and reference number of the DRO. In addition, the notice must specify the amendment, the date on which the amendment was made and state the reasons for the amendment¹.

1. Rule 9.18

60.75 Amendment of entry on IIR following revocation or amendment of DRO

Where the official receiver takes the decision to revoke or amend a DRO, the IIR must be updated to reflect this^{1,2}.

1. Rule 9.18

2. Rule 11.19

60.76 Powers of court in relation to DROs

A debtor or creditor may apply to the court to review any decision made by the official receiver in dealing with a DRO application. This could result in all or part of the decision being upheld or quashed.

The official receiver may apply to court¹:

- for directions in relation to a matter arising in connection with a DRO
- to enforce the duty to co-operate
- to extend the moratorium period
- to seek revocation of an order after the end of the moratorium period

1. Section 251M

Effect of a DRO

60.77 Effect of a DRO – moratorium

The main effect of a DRO will be to place a moratorium period on the debts listed in the DRO¹. This means that creditors cannot take any action to recover or enforce those listed debts during this period. The moratorium normally lasts 12 months² after which the debts will be discharged³.

1. Section 251G 2. Section 251H(1) 3. Section 251I

60.78 Restriction on action to recover or enforce a DRO debt

During the moratorium period a creditor to whom a specified qualifying debt is owed has no remedy in respect of the debt and may not commence a bankruptcy petition in respect of the debt, or otherwise commence any action or other legal proceedings against the debtor for the debt, except with the permission of the court and on such terms as the court may impose.

In this respect, the term “debt” includes interest, penalty or other sum that becomes payable in respect of the debt.

If the creditor has any action pending in respect of the debt, the court may stay the proceedings or allow them to continue on such terms as the court thinks fit¹.

1. Section 251G

60.79 Example of a situation where court may allow continuance of proceedings in respect of a DRO debt

It is expected that it will be rare that a court would allow proceedings in respect of a DRO debt to continue. An example of this might be where third party insurers are involved and a creditor is required to establish liability before the insurers will settle the claim.

60.80 Position of secured creditors

The restriction on action to recover or enforce a DRO debt has no effect on the right of a secured creditor to enforce their security¹.

1. Section 251G(5)

60.81 Effect of a DRO on debt management arrangements

If the debtor is in a debt management arrangement: Administration Order; enforcement restriction order or debt repayment plan, immediately before a DRO is made, that other arrangement(s) will automatically cease on the making of the DRO¹.

1. Section 251F

60.82 Exceptions to the normal 12-month moratorium period

The moratorium period will, in most cases, last 12 months beginning with the effective date of the order. The exceptions to this principle are¹:

- if the moratorium terminates early due to the revocation of the DRO
- if the moratorium is extended to allow the official receiver to carry out an investigation following an objection from a creditor
- if the moratorium period has been extended to allow the official receiver to take action they consider necessary (whether or not in connection with an investigation)
- if the moratorium period has been extended by the court
- if the moratorium period has been extended in advance of a revocation to give the debtor the opportunity to make arrangements for making payments towards their debts

60.83 Maximum period of extension of moratorium

The moratorium period may be extended by the official receiver more than once, but may not be extended beyond three months after the date that it would normally expire¹.

It may be further extended by the court.

60.84 Timing of extension of moratorium

The moratorium can only be extended whilst it is still in force. It cannot be extended retrospectively including by the court.

60.85 Discharge from qualifying debts

At the end of the moratorium period provided the order has not been revoked the debtor is discharged from all the qualifying debts specified in the order.

Debts incurred in respect of any fraud or fraudulent breach of trust to which the debtor was a party are not discharged at the end of the moratorium period¹.

60.86 Register of debt relief orders

The legislation requires that the Secretary of State maintain a register of DROs and that the official receiver makes an entry in that register relating to the DRO¹. In practical terms, this is achieved by entering details of the DRO in the existing IIR.

60.87 Withholding of information relating to those at risk of violence

Where a person, is going to apply for a DRO but would be at risk of violence, or if a person who normally resides with them as a member of their family, would be at risk, were their address published in the IIR the court may order that the debtor's current address is withheld. The debtor must make the application to the court and provide a witness statement and evidence. This can be done before the application is

submitted. The court may order that the details to be entered on the IIR must include instead other details such as previous addresses¹.

1. Rule 20.4

60.88 Territorial extent of effect of a DRO

A DRO will have effect only in England and Wales, though any qualifying debts incurred outside of England and Wales can be included in the DRO – the effect of this being that the creditor would not be able to take action to recover the debt in England and Wales. Neither the EC Regulation or the UNCITRAL Model Law will apply to DROs as both procedures require that the debtor is divested of their assets to have effect – a feature not present in a DRO. An individual may be subject to a DRO if they live in England and Wales, or in the last three years have been resident or carrying on business in England and Wales¹.

1. Schedule 4ZA paragraph 1

60.89 Effect of a DRO on ongoing debts

The debtor will only have protection for debts specified in the DRO (which means debts where the identity of the creditor and amount owed are included). Any debt in excess of that specified amount – including debts incurred after the date of the DRO – would be open to action for recovery by the creditor.

60.90 Effect of a DRO on the debtor's assets

To be eligible for a DRO the debtor's assets must not exceed £1,000 plus a domestic motor vehicle of up to £1,000. There is no trustee in a DRO and assets do not vest in an estate.

If assets exceed the parameter during the moratorium period they remain the property of the debtor but the order is likely to be revoked.

60.91 Effect of a DRO on the creditor's ability to charge interest on the debt

The legislation does not prevent a creditor from adding interest, penalties and charges to a specified debt. In reality, this will be of little consequence to the debtor as the interest, penalties and charges will be discharged at the end of the moratorium along with the originating debt unless the DRO is subsequently revoked

60.92 Effect of a DRO on debts owed to the Department for Work and Pensions

Overpayments and repayments of benefit where a DRO has subsequently been made against the recipient of the benefit cannot be deducted at source if they have been specified in the application as qualifying debts¹.

1. Secretary of State for Work and Pensions v Payne and another [2011] UKSC 60

60.93 Effect of a DRO on a landlord

Where a debtor owes rent to their current landlord, the landlord may not take action to recover the debt but may still take action to recover possession of the property if this is allowed under the terms of the lease/tenancy agreement.

60.94 Effect on a DRO of the death of the debtor

Where a debtor dies during the moratorium period the official receiver is required, as soon as practicable after receiving notice to revoke the DRO, enter note of the fact and date of death on the IIR and send notice of the revocation to creditors specified in the DRO and the personal representatives of the deceased debtor¹.

This would not affect the possibility of the deceased debtor's estate being subject to an administration order under the legislation relating to deceased insolvents.

1. Rule 9.20

60.95 Restrictions on a debtor subject to a DRO

Where a debtor is subject to a DRO, during the moratorium period it is an offence for that debtor to¹:

- obtain credit in excess of £500 without telling the person from whom they obtain the credit about the DRO
- engage directly or indirectly in any business under a name other than that in which the DRO was made without disclosing to all persons with whom he enters into any business transaction the name in which that order was made
- act as a director of a company or directly or indirectly take part in or be concerned in the promotion, formation or management of a company, without the leave of the court

Further guidance on restrictions imposed by other legislation on debtors subject to a DRO is found later within the DRO guidance.

1. Section 251S

60.96 Potential offences in respect of a DRO

There are DRO offences in the legislation, and these are, roughly, in line with the bankruptcy offences. Detailed discussion of the offences is outside the scope of the Technical Manual but produced below is a list of the DRO offences:

- false representation and omissions
- concealment or falsification of documents
- fraudulent disposal of property
- fraudulent dealing with property obtained on credit
- obtaining credit or engaging in business¹

1. Sections 251O, 251P, 251Q, 251R, 251S

60.97 Debt relief restriction orders (DRRO) and debt relief restriction undertakings (DRRU)

It is possible for a debtor with a DRO to be subject to a DRRO or DRRU where there has been some level of irresponsible behaviour or culpability by the debtor in the incurring of the debts. A list of the matters of behaviour that may result in a DRRO or DRRU are listed in the legislation¹.

The effect of a DRRO or DRRU is to impose restrictions similar to those imposed on debtors subject to a Debt Relief Order for a period of between two and fifteen years.

1. Schedule 4ZB, paragraph 2

Competent authorities and approved intermediaries

60.98 Competent Authorities and approved intermediaries – general

DROs involve a partnership between The Insolvency Service (through the official receiver) and the professional debt advice sector.

Intermediaries approved by Competent Authorities will assist the debtor in making an application for the DRO via an online application form making all the necessary eligibility checks. The Insolvency Service is the agency responsible for assessing the application, granting the DRO and administering the case.

60.99 Competent Authorities

A competent authority is a body designated by the Secretary of State as having the power to authorise intermediaries.

A list of the currently authorised competent authorities is given at [Annex A](#) to this chapter.

60.100 Conditions to be met to be granted authorisation as a Competent Authority

To be granted authorisation as a competent authority, the organisation has to demonstrate to the Secretary of State that it:

- provides or ensures the provision of debt management or debt counselling services through intermediaries
- provides those intermediaries with education, training and development (including continuing education, training and development) in debt management or debt counselling services. In addition, The Secretary of State must be satisfied that the body making the application is a fit a proper body to approve individuals to act as intermediaries¹

1. Debt Relief Orders (Designation of Competent Authorities) Regulations 2009 3(2)(b)

60.101 Consideration of applications

The Secretary of State's function is carried out by an independent section within the Insolvency Service.

60.102 Application for designation as a Competent Authority

The Debt Relief Orders (Designation of Competent Authorities) Regulations 2009 set out the process by which the Competent Authority has to apply to the Secretary of State for authorisation.

The information that the organisation has to supply in the application covers the following areas:

- details of the organisation (for example, name, registration, constitution, occupation and activities)
- financial information (for example, balance sheet)
- details of the nature of the applicant's connection with the provision of debt management or debt counselling services
- details of proposed or existing education, training and development for intermediaries
- description of the process they intend to implement for the appointment of intermediaries

60.103 Fit and proper body

The Secretary of State cannot grant authorisation to a competent authority unless they are satisfied that the applicant is a fit and proper body. The Secretary of State must consider the following when making this decision¹

- if the body has committed any offence under the insolvency legislation
- if the body has engaged in any deceitful or oppressive or otherwise unfair or improper practices, whether unlawful or not
- if the body has failed to carry on its activities with integrity and skill
- if the body has entered into a CVA

1. Debt Relief Orders (Designation of Competent Authorities) Regulations 2009 regulation 5

60.104 Designation as a Competent Authority

If the Secretary of State is satisfied with the contents of the body's application, they may grant authorisation for it to act as a Competent Authority. The Secretary of State must, on making this decision, send a letter to the body advising them if they have unlimited designation, or limited designation (where it is only authorised to approve persons of a particular description as intermediaries)¹.

1. Debt Relief Orders (Designation of Competent Authorities) Regulations 2009 regulation 6

60.105 Withdrawal of authorisation

Where it appears to the Secretary of State that a body:

- is not or is no longer a fit and proper person to act as a competent authority
- has failed to comply with any relevant provision under the legislation
- has furnished the Secretary of State with false, inaccurate or misleading information

The Secretary of State may withdraw an existing designation¹.

1. Debt Relief Orders (Designation of Competent Authorities) Regulations 2009 regulation 7

60.106 Approval of intermediaries

Once a body has received the appropriate designation it may begin to appoint individuals as approved intermediaries. The role of the approved intermediary is to guide the debtor through the DRO application process and to make the application on the debtor's behalf. An individual cannot act for the debtor in the DRO process without being an approved intermediary.

The intermediary must make an application for authorisation to the Competent Authority, who must be satisfied that the individual is a fit and proper person to act as an approved intermediary¹.

1. Debt Relief Orders (Designation of Competent Authorities) Regulations 2009 regulation 8

60.107 Approved intermediary must be an individual

An approved intermediary must be an individual (a natural legal person) and not any organisation.

60.108 Ineligibility for approval

The legislation sets out grounds under which a individual will be automatically prevented from being approved as an intermediary. These grounds include the following¹:

- if the individual has been convicted of any offence involving fraud, dishonesty or violence, whose convictions are not spent
- if the individual has committed an offence under the insolvency legislation
- if the individual has engaged in deceitful, oppressive, unfair or improper practices
- if the individual has no experience, education or other training in the provision of debt management or debt counselling services
- if the individual is an undischarged bankrupt, has a BRO/BRU, is in a DRO or has a DRRO/DRRU
- if the individual is disqualified under the Company Directors Disqualification Act 1986

1. Debt Relief Orders (Designation of Competent Authorities) Regulations 2009 regulation 9

60.109 Application process

Applications to a Competent Authority by an individual for approval to act as an intermediary must be in writing and contain, amongst other things, the following¹:

- a description of the individual's current occupation or activities
- reasons why the individual is considered suitable for approval
- details of the individual's qualifications
- details of the individual's experience in the provision of debt management or debt counselling services

1. Debt Relief Orders (Designation of Competent Authorities) Regulations 2009 regulation 10

Restrictions imposed on debtors subject to a Debt Relief Order, Debt Relief Restrictions Order, Interim Debt Relief Restrictions Order or Debt Relief Restrictions Undertakings

60.110 Introduction

When an individual is subject to a DRO, they are subject to a range of disabilities or restrictions until the end of the moratorium period (usually one year) These restrictions are imposed by a variety of sources including the Insolvency (England and Wales) Rules 2016 (IR16), the Company Directors Disqualification Act 1986 (CDDA86) and other Acts of Parliament, regulations under consumer legislation and local government by-laws. Additional restrictions may also apply to those subject to an IDRRO, DRRO or DRRU [Annex B](#) lists some of the legislation imposing restrictions. It should be noted that the restrictions listed here cannot be guaranteed to be exhaustive, and non-insolvency legislation affecting restrictions against a debtor subject to a DRO or DRRO/DRRU may be subject to revision at any time.

60.111 Index

This Part is divided in to two sections,

Section 1 - Restrictions applicable while subject to a DRO, and

Section 2 - Restrictions applicable while subject to a DRRO, IDRRO and DRRU

The following abbreviations are used in this chapter:

DRO – Debt Relief Order

DRRO – Debt Relief Restriction Order

IDRRO – Interim Debt Relief Restriction Order

DRRU – Debt Relief Restriction Undertaking

IR16 - The Insolvency (England and Wales) Rules 2016

IA86 – The Insolvency Act 1986

CDDA 86 - The Company Directors Disqualification Act 1986
EA2002 - The Enterprise Act 2002

Restrictions imposed on individuals subject to DROs by insolvency legislation (including CDDA86)

60.112 Obtaining credit over the prescribed amount

A person subject to a DRO commits an offence if they, alone or jointly with another person, obtain credit of £500 or more without disclosing that they are subject to a DRO¹.

1. Section 251S

60.113 Engaging in business under a different name

A person subject to a DRO commits an offence if they engage in any business under a name other than the one in which the DRO was made without disclosing to all that they enter into business transactions with the name under which the DRO was made¹.

1. Section 251S

60.114 Promotion, formation and management of a company

It is an offence for an individual subject to a DRO to act as a director of, or directly or indirectly take part in or be concerned in the promotion, formation or management of a company, except with the leave of court¹. An application by an individual subject to the above restrictions for leave to act as a director or to take part in the promotion, formation or management of a company is made to the court and how the contents of the application are set out in the insolvency rules².

1. Company Directors Disqualification Act 1986 section 11

2. Rule 10.128

60.115 Acting as an Insolvency Practitioner

A person subject to a DRO is not qualified to act as an Insolvency Practitioner. A person commits an offence if they act as an insolvency practitioner whilst not qualified to do so¹.

1. Section 390

60.116 Acting as a receiver and manager of company property on behalf of a debenture holder

A person is guilty of an offence if they act as receiver or manager of a company's property on behalf of a debenture holder whilst subject to a debt relief order. This is not the case if the person is acting under an appointment made by the court¹.

1. Section 31

60.117 Liquidation committee

An individual subject to a moratorium period under a DRO may not represent a member of a liquidation committee¹.

1. Rule 17.15

60.118 Creditors' committee

An individual subject to a moratorium period under a DRO may not represent a member of a creditors' committee¹.

60.119 Limited Liability Partnerships

Regulation 4(2) of the Limited Liability Partnership Regulations 2001 applies the CDDA86 to limited liability partnerships (LLPs), all references to a company are to include an LLP and all references to a director include a member of an LLP. As a result of the application of section 11 of the CDDA86, an individual who is the subject of a moratorium period under a debt relief order or is subject to a DRRO or DRRU cannot be a member of an LLP except with the leave of court¹.

1. Company Director's Disqualification Act 1986 section 11

Restrictions imposed on individuals subject to DROs by other legislation

60.120 Auditor under the Public Trustees Act 1906

An individual who has a DRO made in respect of them may be removed as a Public Trustees Act auditor¹.

1. Section 13(4) of the Public Trustees Act 1906

60.121 Holder of a consumer credit licence

A licence held under the Consumer Credit Act 1974 terminates upon the licence holder becoming subject to a DRO¹.

1. Section 37(1)(b) of the Consumer Credit Act 1974

60.122 Solicitor

A solicitor's practicing certificate is suspended upon the making of a DRO¹. A solicitor who has had their practicing certificate suspended due to this provision is able, at any time prior to the expiry of the practicing certificate, to apply to the Solicitors Regulatory Authority (SRA) for the suspension to be terminated. The SRA are able to either terminate the suspension unconditionally; terminate the suspension subject to such conditions as the Authority thinks fit; or dismiss the solicitor's application.

1. Solicitors Act 1974, section 15(1)

60.123 Estate Agent

An individual in respect of whom a DRO is made shall not engage in any estate agency work except as an employee of another person¹.

1. Estate Agents Act 1979, section 23

60.124 Holder of a public service vehicle operator's licence

It is the duty of the holder of a Public Service Vehicle (PSV) operator's licence, within 28 days of the occurrence of the making of a debt relief order in respect of the holder, to give notice in writing of that event to the traffic commissioner by whom the licence was granted¹.

1. Public Passenger Vehicles Act 1981, section 19

60.125 Licensed Conveyancer

Where an individual applies for a licence to be a licensed conveyancer while or after being subject to a Debt Relief Order (DRO) the Council (Council of the Law Society) may grant a licence with such conditions as it feels appropriate¹.

1. Administration of Justice Act 1985, section 16

60.126 Right to buy

A council or local authority tenant will not be able to exercise a right to buy the property in which they reside while they are subject to a debt relief order moratorium¹.

1. Housing Act 1985, section 121

60.127 Assessors of Compensation For Miscarriages Of Justice (Criminal Justice Act 1988)

The Secretary of State may at any time remove a person from office as an assessor if satisfied that they have had a debt relief order made in respect of them¹.

1. Criminal Justice Act 1988, schedule 12 para 5

60.128 An appointed person under the Trade Marks Act 1994

An appointed person (an individual appointed by the Lord Chancellor to hear and decide appeals) may be removed from office by the Lord Chancellor if he becomes subject to a Debt Relief Order¹.

1. Trade Marks Act 1994, section 77

60.129 Goods Vehicle Operators Licence

A Goods Vehicle Operators licence may be revoked, suspended or curtailed by the traffic commissioner who issued the licence upon the making of a Debt Relief Order. A Goods Vehicle Operators Licence may have certain specific obligations attached to it regarding notifying the appropriate traffic commissioner of the making of a DRO or the occurrence of any other insolvency event. The licence should be checked to establish if there are specific reporting requirements. There is also an obligation imposed upon a licence holder to notify the traffic commissioner, within 28 days, of any circumstances that would affect their ability to hold a licence¹.

1. Goods Vehicles (Licensing of Operators) Act 1995, section 26

60.130 Trustee of a Occupational Pension Scheme

The trustee of an organisational Pension Scheme may, by order, be suspended upon an application of the Occupational Pensions Regulatory Authority where the trustee is the subject of an application for a debt relief order. The order for suspension, if made, will last until the application for the debt relief order has been determined. Upon the making of a debt relief order the individual will be disqualified from holding office as a trustee of an occupational pension scheme¹.

2. Pensions Act 1995, section 29

60.131 The Judicial Appointments and Conduct Ombudsman

The Lord Chancellor may remove the Judicial Appointments and Conduct Ombudsman from office if he is satisfied that the Ombudsman is a person in relation to whom a moratorium period under a debt relief order applies¹.

1. Constitutional Reform Act 2005 schedule 13 para 5

60.132 Power of Attorney - Appointing a donee

An individual who has a debt relief order made against them may not be appointed as donee of a lasting power of attorney in relation to an individual's property and affairs¹.

1. Mental Capacity Act 2005, section 5

60.133 Power of Attorney – Revocation

Where a lasting power of attorney is in place and the donee becomes subject to a DRO the power of attorney shall be revoked so far as it relates to the donor's property and affairs (Where the donee remains subject to a DRO as a result of the existence of a IDDRO the power is simply suspended for so long as the IDDRO has effect). The making of a debt relief order in respect of a donee does not terminate their appointment, or revoke the power, where their authority relates to the donor's personal welfare¹.

1. Mental Capacity Act 2005 section 13

60.134 Power of Attorney – Effect on registration

The Public Guardian must cancel the registration of an instrument as a lasting power of attorney on being satisfied that the power has been revoked or a debt relief order has been made in respect of the donor¹.

The Public Guardian must cancel the registration of an instrument creating an enduring power of attorney if satisfied that the power has been revoked by the making of a debt relief order in respect of the donor or attorney².

For joint and several attorneys see paragraph 22 of the Mental Capacity Act 2005

1. Mental Capacity Act 2005 schedule 1 para 17

2. Mental Capacity Act 2005 schedule 4 para 17

60.135 Gambling

In the case of an operating licence issued to an individual, the licence shall lapse if a debt relief order is made in respect of the licensee¹.

In the case of a premises licence issued to an individual, the licence shall lapse if a debt relief order is made in respect of the licensee².

A Family Entertainment Centre Gaming Machine Permit held by an individual shall lapse if a debt relief order is made in respect of them³.

A Prize Gaming Permits held by an individual shall lapse if a debt relief order is made in respect of them⁴.

1. Gambling Act 2005, section 11

2. Gambling Act 2005, section 194

3. Gambling Act 2005, schedule 10 para 15

4. Gambling Act 2005 schedule 14 para 15

60.136 National Health Service Act 2006

A person in relation to whom a moratorium period under a debt relief order applies, may not become or continue as a member of the council of governors of a public benefit corporation¹.

1. National Health Service Act 2006 schedule 7 para 8

60.137 Assessors Of Compensation For Miscarriages Of Justice (Armed Forces Act 2006)

The Secretary of State may at any time remove a person from office as an assessor if satisfied that a debt relief order has been made against them¹.

1. Armed Forces Act 2006 schedule 9 para 5

60.138 Charities Act 2011

The Commission may remove a charity trustee by order made of its own motion if within the last 5 years, the trustee previously having been the subject of a debt relief order, has been discharged from all the qualifying debts under the debt relief order¹.

A person is disqualified from being a charity trustee or trustee for a charity if he is subject to a moratorium period under a debt relief order; or a debt relief restrictions order or interim debt relief restriction order².

This disqualification does not apply if leave has been granted under section 11 of the Company Directors Disqualification Act 1986³.

1. Charities Act 2011 section 80

2. Charities Act 2011 section 178

60.139 MOT Authorised examiner

A Motor Vehicles Test (MOT) authorised examiner shall cease to be authorised if he has a debt relief order made against them¹. This provision does not relate to nominated testers.

1. Motor Vehicles (Tests) Regulations 1981 reg 9

60.140 Births, Marriages and Deaths Registration Officer

No person shall be qualified for appointment to any registration office if he is a person in relation to whom a moratorium period under a debt relief order applies, or he is the subject of a debt relief restrictions order or an interim debt relief restrictions order¹.

1. Registration of Births, Deaths and Marriages Regulations 1968, reg 5

Restrictions imposed on an individuals subject to DRROs/IDRROs and DRRUs

60.141 Obtaining credit over the prescribed amount

A person subject to a DRRO, DRRU, IDRRU or IDRRO commits an offence if they, alone or jointly with another person, obtain credit of £500 or more without disclosing their status¹.

1. Section 251S

60.142 Engaging in business under a different name

A person subject to a DRRO, DRRU or IDRRO commits an offence if they engage in any business under a name other than the one in which the DRO was made without disclosing to all that they enter into business transactions with the name under which the DRO was made¹.

60.143 Promotion, formation and management of a company

It is an offence for an individual subject to a DRRO, DRRU or IDRRO to act as a director of, or directly or indirectly take part in or be concerned in the promotion, formation or management of a company, except with the leave of court¹. An application by an individual subject to the above restrictions for leave to act as a director or to take part in the promotion, formation or management of a company is made to the court and how the contents of the application are set out in the insolvency rules².

1. Company Director's Disqualification Act 1986 section 11

2. Rule 10.128

60.144 Acting as an Insolvency Practitioner

A person subject to a DRRO, DRRU or IDRRO is not qualified to act as an Insolvency Practitioner. A person commits an offence if they act as an insolvency practitioner whilst not qualified to do so¹.

1. Insolvency Act 1986 section 390(5)

60.145 Acting as a receiver and manager of company property on behalf of a debenture holder

A person is guilty of an offence if they act as receiver or manager of a company's property on behalf of a debenture holder whilst subject to a DRRO, DRRU or IDRRO. This is not the case if the person is acting under an appointment made by the court¹.

1. Section 31

60.146 Limited Liability Partnerships

Regulation 4(2) of the Limited Liability Partnership Regulations 2001 applies the CDDA86 to limited liability partnerships (LLPs), all references to a company are to include an LLP and all references to a director include a member of an LLP. As a result of the application of section 11 of the CDDA86, an individual who is the subject

of a moratorium period under a debt relief order or is subject to a DRRO, DRRU or IDRRO cannot be a member of an LLP except with the leave of court¹.

1. Company Director's Disqualification Act 1986 section 11

60.147 Liquidation committee

An individual subject to a moratorium period under a DRRO, DRRU or IDRRO may not represent a member of a liquidation committee¹.

1. Rule 17.15

60.148 Creditors' committee

An individual subject to a moratorium period under a DRRO, DRRU or IDRRO may not represent a member of a creditors' committee¹.

1. Rule 17.17

60.149 Trustee of a Occupational Pension Scheme

The trustee of an organisational Pension Scheme will be disqualified from holding office as a trustee of an occupational pension scheme while subject to a DRRO, IDRRO or DRRU¹.

1. Pensions Act 1995 section 29

60.150 Births, Marriages and Deaths Registration Officer

No person shall be qualified for appointment to any registration office if he is a person in relation to whom a moratorium period under a debt relief order applies, or he is the subject of a DRRO, IDRRO or DRRU¹.

1. Registration of Births, Deaths and Marriages Regulations 1968, reg 5

60.151 Charities Act 2011

A person is disqualified from being a charity trustee or trustee for a charity if he is subject to a moratorium period under a debt relief order, DRRO, IDRRO or DRRU¹.

This disqualification does not apply if leave has been granted under section 11 of the Company Directors Disqualification Act 1986².

1. Charities Act 2011 section 178

2. Charities Act 2011 section 180

60.152 Power of Attorney – Revocation

Where a lasting power of attorney is in place and the donee becomes subject to a DRO the power of attorney shall be revoked so far as it relates to the donor's property and affairs. Where the donee remains subject to a DRO as a result of the existence of a IDDRO the power is simply suspended for so long as the IDDRO has effect.

The making of a debt relief order in respect of a donee does not terminate their appointment, or revoke the power, in so far as their authority relates to the donor's personal welfare¹.

1. Mental Capacity Act 2005, section 13

60.153 Disqualification from Parliament

A person who is subject to a DRRO/IDRRO or a DRRU is disqualified from membership of the House of Commons or from sitting and voting in the House of Lords. That person will also be prevented from sitting or voting in any committee of the House of Lords or any joint committee of both Houses¹.

1. Section 426A

60.154 Member of a local authority

A person shall be disqualified from being elected or being a member of a local authority if he is the subject of a debt relief restrictions order or interim debt relief restrictions order¹.

1. Local Government Act 1972, section 80