



Royal Court of Jersey
Viscount's Department
Jersey Court Service

Guide to Debt Remission Orders

GUIDE TO DEBT REMISSION ORDERS

1. About this Guide

This guide has been written to try to explain the Debt Remission (Individuals) (Jersey) Law 2016 (“the **Law**”) in everyday language. It is a summary of the Law only.

If you need any further advice, or if you would like to apply for a debt remission order, you should contact Jersey Citizen’s Advice, who will be able to help you. Their contact details are included in section 6.

In this guide, a debt remission order will be referred to as a “**DRO**”.

2. What is a DRO?

A DRO is intended to help people who have fallen on hard times because of unexpected events such as illness, redundancy, bereavement or the breakdown of a relationship, and who are unlikely to be able to repay their debts.

3. Who can apply for a DRO?

Any person can apply for a DRO so long as they meet these conditions:

Personal requirements: The applicant (the **debtor**) must be over 18 and must have lived in Jersey for the last five years.

A DRO will not be granted if the debtor has had a DRO in the previous five years nor if they are already bankrupt.

Assets and income: The debtor must not own assets worth more than £5000 (excluding a motor vehicle worth up to £2000). His or her monthly disposable income, after tax, social security and normal household expenses, must be less than £100.

Total debts: The debtor can only apply for a DRO if the debts that will be covered by the DRO are less than £20,000 (see section 5 for details of debts that will not form part of a DRO).

Good faith: The debtor must have acted in good faith in relation to their property and debts. A person will not be considered to be in good faith if they have:

- disposed of their property at less than its true value;
- incurred debts knowing that they will be unable to repay them;
- been involved in gambling, high risk speculation and/or unreasonable extravagance;
- been careless about their business affairs;
- behaved fraudulently;
- not co-operated with Jersey Citizens Advice or the Viscount in relation to their DRO.

4. What is the effect of a DRO?

The main effect of a DRO will be to create a 'moratorium', or "breathing space", over the debts listed in the DRO. This means that creditors (the people who are owed money) cannot take any action to recover or enforce their debts during this period. The moratorium will usually last for 12 months from the date of the order, although there may be exceptions. At the end of the moratorium, the debts which are covered by the DRO will be discharged. This means that they are effectively written off and cannot be pursued in the future.

During the moratorium, if the debtor's circumstances improve enough for them to make payments to their creditors, the Viscount will consider whether or not to bring the DRO to an end. If the changes happen close to the end of the 12 month moratorium, the Viscount can extend the moratorium for up to 3 months to allow the debtor to come to an arrangement with creditors.

A debtor must continue to pay ongoing liabilities such as rent and utility bills and will be responsible for any debts that arise after a DRO has been made.

The DRO will not release any other person, such as a joint borrower or a guarantor, from liability for a debt. Joint borrowers and guarantors will continue to be liable for repayment of the debt.

5. Are there any debts that are not covered by a DRO?

Some debts will not be discharged by the DRO and the debtor will continue to be responsible for paying them. These include:

- Unpaid fines
- Payments due under compensation orders or confiscation orders
- Payments ordered in family proceedings, such as maintenance to a former spouse or child support
- Money due to Health Insurance/Social Security Funds and to the Comptroller of Taxes
- Damages ordered in civil proceedings (e.g. for negligence, breach of statutory or contractual duty)
- Any debt incurred as a result of fraud.

6. How do I apply for a DRO?

If you want to apply for a DRO, you should contact Citizens Advice Jersey. Citizens Advice will help you decide if a DRO is appropriate for you. If so, Citizens Advice will help you to make an application and check that it is properly completed. Citizens Advice will also help you work out if you are able to pay something to your creditors and will make sure that you understand the requirements and conditions for a DRO and the consequences of making the application.

It is a criminal offence to provide false or misleading documents or information to Citizens Advice or the Viscount.

When applying for a DRO, you will have to provide Citizens Advice Jersey with:

- a full list of your income, assets and liabilities, including the names and addresses of your creditors and the amount you owe them; and
- any other information about your financial affairs that Citizens Advice needs to be able to consider your application.

Citizens Advice can be contacted at:

Citizens Advice Jersey, St Paul's Centre, New Street, St Helier, JE2 3WP

Telephone – Freephone 0800 735 0249

Email – advice@cab.org.je

Website – www.adviceguide.org.uk.

7. What happens next?

Citizens Advice will review the information you provide and your circumstances. If they think that you qualify for a DRO and they agree that it is appropriate for you, they will send the application to the Viscount, with their recommendation.

The Viscount will then decide whether or not a DRO should be made.

When considering the application, the Viscount will take into account the information provided by Citizens Advice and can ask for more information. The Viscount will refuse to make a DRO if you do not qualify for one or if you do not provide any information that the Viscount asks you for.

If the Viscount refuses to make a DRO, you will be given reasons for the decision. You may be able to appeal against the decision.

8. What about my creditors?

When a DRO is made, the Viscount will write to your creditors to let them know that the DRO has been made and its effect. If the debt is caught by the DRO, the creditor cannot continue to chase you for payment of it.

A creditor can object to the DRO within 28 days of being told about the DRO. If an objection is accepted, the Viscount can amend or cancel the DRO or refer the matter to the Royal Court. If the creditor is still unhappy, they may be able to appeal against the decision.

9. What happens while a DRO is in effect?

If a DRO is made, there are some things that you are not allowed to do while it is in effect. These include:

- You must not borrow more money or run up further debt of £500 or more, unless you have told the lender about the DRO in advance. This includes any borrowing you make jointly with another person. This would include, for example, ordering goods but then not paying for them when they are delivered.
- If you carry on a business under a trading name that is different from your own name, you must tell everyone that you do business with (including your suppliers) that the DRO has been made.
- You may not hold certain offices, including being a member of the States of Jersey, while the DRO is in effect and for 5 years after it comes to an end.

10. Important information

A DRO brings a lot of benefits for a debtor – it allows them to reduce their debts and move on with their lives, so long as they meet the obligations on them under the Law. Failure to meet some of these obligations can be a criminal offence. These include:

- Providing false or misleading information in relation to the application for a DRO
- Not providing all relevant information
- Concealing, falsifying or destroying relevant information and documents
- Disposing of property fraudulently before making a DRO application or during the time a DRO is in effect
- Obtaining credit without telling the lender that a DRO is in effect
- Continuing business under a trading name without disclosing that a DRO is in effect.

If you are found guilty of one of these offences, you may be liable to a fine and/or imprisonment.

If you need more information, please contact Citizens Advice Jersey or the Viscount's Department Insolvency Team:

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