



- The Insolvency Service (<https://www.gov.uk/government/organisations/insolvency-service>)

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Guidance

Bankruptcy Restrictions Orders and Undertakings

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Contents

1. Overview
2. Why you might get a BRO
3. How you will hear about a BRO
4. How to respond
5. What happens after a BRO or a BRU is made
6. BRO and BRU restrictions
7. What happens if you break the restrictions
8. What happens if your bankruptcy ends before your hearing
9. What happens if your bankruptcy is cancelled (annulled)
10. How to complain about an individual who is breaching the terms of a BRO/BRU

1. Overview

If you are bankrupt and the official receiver thinks you have been dishonest or are to blame for your debts, the court can make a bankruptcy restrictions order (BRO) against you.

Your bankruptcy already places restrictions on what you can do for a set period. A BRO extends this period of restrictions for between 2 and 15 years and subjects you to further restrictions.

2. Why you might get a BRO

Examples of behaviour that can lead to a BRO include:

- giving away assets or selling them for less than their value
- paying some creditors in preference to others
- borrowing money that you know you can't repay
- neglecting your business so that your debts increase
- not cooperating with the official receiver
- behaving fraudulently eg giving false details to obtain credit

This is not a complete list. Any dishonest or blameworthy behaviour could lead to a BRO. The court may consider conduct that occurred before or after your bankruptcy order.

Being bankrupt for a second time in six years is also a matter to be considered but is not, in itself, sufficient reason to apply for a BRO.

The fact that you have done one of these things doesn't mean that you will be automatically subject to a BRO, but it does mean that the official receiver needs to look at the conduct and decide whether the public needs protection.

3. How you will hear about a BRO

The official receiver must apply to court for a BRO before your discharge, unless they have permission from the court to apply later.

They will write to tell you if they plan to apply for a BRO and why, unless less than 6 weeks remain to your discharge.

4. How to respond

You have 21 days to reply to this letter about your behaviour.

If you accept the allegations against you, you can offer to enter into a bankruptcy restrictions undertaking (BRU). A BRU has the same legal effect as a BRO but you don't need to go to court. As you accept the allegations made against you, the period of the BRU may be shorter than if the court made a BRO. If you have any comments to explain your conduct, you can tell the official receiver, as this may further reduce the period.

If you don't reply to the official receiver within 21 days, or there are less than 6 weeks until your discharge, they will schedule a court hearing to consider your case. You will be sent details of the case and the date of your hearing. You will be asked to confirm receipt and what you intend to do on a form that you should return to the court within 14 days. If you do not do this then you can still attend the hearing but may not take part without the court's permission.

If you want to challenge the allegations against you, you have 28 days from when you receive notice of the hearing to give your evidence to the court. The official receiver may provide further evidence in response to this. The court will take all of the evidence into account.

You can still suggest a BRU at this time or anytime up to the hearing. If a BRU is accepted before the date of the hearing then the official receiver will make an application to court to ask that the hearing be vacated (cancelled). The official receiver will tell you when they have done this.

At the hearing, the court will consider your case, even if you are not there, and decide whether a BRO is appropriate.

5. What happens after a BRO or a BRU is made

You will be sent a copy of the BRO or BRU.

Once a BRO or BRU has been made, your creditors will be told.

Also, the details of your BRO or BRU:

- will be listed on the Individual Insolvency Register (<https://www.insolvencydirect.bis.gov.uk/eiir/>)
- further information about the BRO/ BRU will be displayed on the Bankruptcy Restrictions Search Facility (<https://www.insolvencydirect.bis.gov.uk/IESdatabase/viewbrobrusummary-new.asp>) for 3 months - after this time the public may still request details of the misconduct
- may appear in a press release

6. BRO and BRU restrictions

BRO and BRU restrictions include the rules you have to keep to when you are made bankrupt and other extra rules. For example, you must not:

- act as a director of a company, or form, manage or promote a company, without permission from the court
- carry on business under a different name without telling people you do business with that you're subject to bankruptcy restrictions
- try to borrow more than £500 without saying you are subject to restrictions
- be a trustee of a charity
- work in various posts in education such as being a school governor

There are many other restrictions; a more detailed list of restrictions can be found in the document *Additional effects of a bankruptcy restrictions order or undertaking*

(<https://www.gov.uk/government/publications/bankruptcy-additional-effects-of-a-bankruptcy-restrictions-order-or-undertaking>). To check whether a BRO/BRU stops you being elected to, or remaining in, a particular office or position, you should read our list and also seek guidance from the appointing or authorising body. In some cases you may be able to carry out these roles with permission from the relevant authority. The Insolvency Service's Enquiry Line may also be able to check, but if you are uncertain, get legal advice.

Email: Insolvency.EnquiryLine@insolvency.gsi.gov.uk

Telephone: 0300 678 0015 (Monday to Friday, 9am to 5pm)

In addition many organisations and professions may apply their own rules and you should contact them to find out if you are affected by them, and, if necessary, seek your own legal advice.

7. What happens if you break the restrictions

If you break the restrictions you can be prosecuted and a further BRO application may be made.

If you take part in a company's management without the court's permission, you will be personally responsible for the debts that arise while you are managing it.

If you ask another person to do something that enables you to act in contravention of the restrictions, that person may also be prosecuted and in relation to a company be liable for the debts that arise while you are managing it.

8. What happens if your bankruptcy ends before your hearing

If your bankruptcy comes to an end (you are 'discharged') before the BRO goes to court, you may be given an interim BRO. An interim BRO imposes BRO restrictions on you until the court makes a decision about your case.

9. What happens if your bankruptcy is cancelled (annulled)

If your bankruptcy is cancelled ('annulled') because it shouldn't have been made, your BRO or BRU will also be annulled. However, any application for a BRO, the BRO or BRU will remain if your bankruptcy was cancelled because you've:

- paid your debts
- got an individual voluntary arrangement (<https://www.gov.uk/options-for-paying-off-your-debts/individual-voluntary-arrangements>)

10. How to complain about an individual who is breaching the terms of a BRO/BRU

For details of how to complain about an individual who is breaching the terms of a BRO/BRU visit our website (<https://www.gov.uk/complain-about-someone-bankrupt>).