

Can't Get Paid by A? Try B!

One of the less well-known ways in which a business or person who is owed money by someone who fails to pay can obtain payment is by the use of a Third Party Debt Order (TPDO). In essence, this is a court order which requires someone (B) who owes money to another (A) to pay you instead, when A owes a debt to you. Usually, B is a bank or building society.

A TPDO can be applied for at any time after you have obtained judgment against A in court. An order will not be made unless A has failed to pay the amount of the judgment when it was due or has failed to pay one or more of the instalments due under the terms of the judgment.

The application for a TPDO is examined by the court and, if granted, you and B will be sent a notice. A week later, the notice is sent to A. This stops A from being able to circumvent the order by moving cash out of an account before the order is put into effect.

Once notice of the order has been served on B, it serves to freeze money held on A's account on the day the notice is received by B. So, for example, if the order is received by B on Tuesday, money paid into the account on Wednesday will not be frozen. This makes the planning of the timing of service important.

At a later date, a hearing is held to confirm that the money frozen is to be paid to you.

If B is not a bank or a building society, they must let you and the court know within seven days if they claim not to owe A any money or to owe less than the sum claimed. If you wish to dispute this, you must file your written evidence with the court not less than 3 days before the hearing.

If B is a bank or building society, it will supply information regarding the accounts held by A and will confirm that the sum it holds on A's account is sufficient to pay the sum due or advise the balance if not. It will also advise if it is entitled to retain any sum to offset A's liabilities to B.

A can file an objection to the order not less than 3 days before the hearing is due to take place. The objection must be in writing and A must send you a copy. The judge will hear A's objections at the hearing. If A is an individual, rather than a business, and can prove that he and his family are suffering hardship in not being able to meet day to day living expenses as a result of an amount or amounts being frozen, then a hardship payment order may be made which will 'unfreeze' some of the frozen money. Where A is a business, it must prove that real prejudice would be suffered by not having access to the money.

A TPDO will not normally be issued where A has become insolvent.

If you are having trouble collecting debts due to you, contact us for advice.