

THE DEBT RESPITE SCHEME

Breathing Space

coming into force 4th May 2021

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THE DEBT RESPIRE SCHEME

“There are an estimated 9 million over indebted people in the UK, of which only 1.1 million receive advice each year...Evidence suggest that people’s emotions, knowledge and attitudes to their debt create barriers to accessing advice...which can be compounded when creditors start to take enforcement action...”

HM Treasury

Impact Assessment dated 27/08/2019



THE DEBT RESPITE SCHEME

- ⌘ Gives a 60-day window moratorium
- ⌘ Pauses creditors' actions including contact, possession and enforcement actions
- ⌘ Freezes interests, charges and penalties



TWO TYPES OF BREATHING SPACE

Standard

- ⌘ 60 days moratorium
- ⌘ Debtor contact debt advisers directly
- ⌘ Applicant should not have a breathing space in the last 12 months
- ⌘ Liable for on-going liabilities

Mental Health Crisis

- ⌘ Lasts as long as the debtor is receiving mental health crisis treatment, plus 30 days
 - ⌘ Certification from an approved mental health professional
 - ⌘ No limit on frequency
 - ⌘ Not liable for on-going liabilities
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W H O Q U A L I F I E S

Anyone who is usually resident in England and Wales and who cannot or is unlikely to be able to repay their debts. Includes sole traders with business debts, that are not only related to the business.



W H O D O E S N O T Q U A L I F Y

- ⌘ A debtor who is able to repay debts with budgeting help or the sale of assets
- ⌘ Those who can enter into a more immediate suitable solution
- ⌘ Those that have an existing debt relief order, individual voluntary arrangement or is an undischarged bankrupt



QUALIFYING DEBTS

Included

- ⌘ Rent Arrears
- ⌘ Council Tax Arrears
- ⌘ Non-domestic rates Arrears
- ⌘ Utility Bill arrears
- ⌘ Penalty charge notices

Excluded

- ⌘ Council tax not yet due
- ⌘ Non-domestic rates not yet due
- ⌘ Advance payment of universal credit
- ⌘ Debts incurred by fraud
- ⌘ Secured debts eg mortgages
- ⌘ Court fines for offences



ON-GOING LIABILITIES

- ⌘ During a standard breathing space, a debtor has to continue paying on-going liabilities, such as rent on primary residence and local taxes/rates for local authorities.
- ⌘ If on-going liabilities are not paid, a debt adviser might cancel the breathing space during the midway review process.



ON BEING SERVED WITH NOTIFICATION OF A BREATHING SPACE

Suggested steps:

1. Cease contacting the debtor, unless to respond to a direct query/complaint. Communication should be minimal and carefully worded
2. Search records for all debts
3. Communicate with the debt adviser regarding any additional debt. Be mindful of the Data Protection Act when sharing information



ON BEING SERVED WITH NOTIFICATION OF
A BREATHING SPACE

4. For existing court proceedings, inform the court
5. Stop enforcement action
6. Pause the accrual of interest and penalties.

Note any action taken, which was not allowed, is null and void and may expose the creditor to debtor's costs.

If a time limit for enforcement or new claims ran out during the breathing space, it is extended to 8 weeks after it ends.



CANCELLATION OF BREATHING SPACE

A creditor can request a breathing space review within 20 days of the start date based on:

- ⌘ Discriminatory treatment in respect of the debt
- ⌘ The debtor is not eligible
- ⌘ The debt does not qualify

If the breathing space is not cancelled, the creditor can take further action within 50 days of the start date.



END OF MORATORIUM

On being notified that the moratorium has ended, the creditor can:

- ⌘ Resume contact
- ⌘ Start or continue any legal or enforcement proceedings
- ⌘ Start applying interest, fees and penalties (no backdating)

But first, check the individual insolvency register to see if the debtor had entered in to a formal insolvency solution.



WHAT TO DO BEFORE 4TH MAY 2021

Recommended steps before the Debt Respite Scheme comes into force include:

- ❖ Check if current debt and possession proceedings protocols are up to date
- ❖ Ensure that on receipt of notification all departments can be quickly informed
- ❖ Get familiar with the guidance prepared by the Insolvency Service and the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020



WHAT'S NEXT

Government intends to implement the Statutory Debt Repayment Plan (SDRP) after the Breathing Space. The SDRP will extend the protections of Breathing Space to debtors who commit to fully repaying their debts on a manageable timeline. This plan will be developed on a slower timeline and after the impact of the Breathing Space is assessed.



USEFUL LINKS

- ☞ The Debt Respite Scheme (Breathing Space) guidance for creditors.
<https://www.gov.uk/government/publications/debt-respite-scheme-breathing-space-guidance/debt-respite-scheme-breathing-space-guidance-for-creditors>
- ☞ The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium)(England and Wales) Regulations 2020.
<https://www.legislation.gov.uk/uksi/2020/1311/contents/made>
- ☞ Insolvency Register.. <https://www.gov.uk/search-bankruptcy-insolvency-register>

