

Breathing Space Moratorium

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The Regulations

The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020

S I 2020/1311

Effective from 4th May 2021

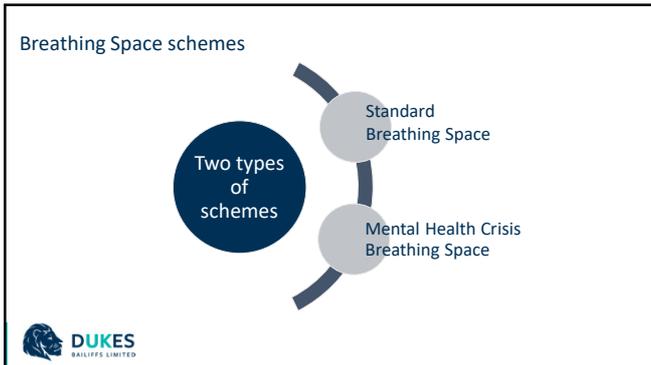
<https://www.legislation.gov.uk/uksi/2020/1311/contents/made>



What is Breathing Space?



Under these regulations – creditors cannot add any interest, fees, penalties or charges either.



Two types of schemes – Main differences

	Standard Breathing Space	Mental Health Crisis Breathing Space
Eligibility	An individual with a qualifying debt(s) who meets the criteria and conditions	A individual with a qualifying debt(s) who meets the criteria and conditions, who is receiving mental health crisis treatment.
Duration	Up to 60 days	The length of their crisis treatment, plus 30 days
Frequency	Only one a year	No limit
Review	Midway review between days 25 and 35	No midway review but ongoing treatment must be confirmed every 20 – 30 days

Breathing Space: who is eligible?

Standard Breathing Space	Mental Health Crisis Breathing Space
<p>INDIVIDUALS ONLY:</p> <ul style="list-style-type: none"> Who are resident, or normally live in England or Wales; Are not an undischarged bankrupt; Do not have a current debt relief order; individual voluntary arrangement (IVA), or an interim order; Have a qualifying debt(s); Cannot meet those debts as they fall due; and Are not currently subject to another breathing space moratorium, or a mental health crisis moratorium. 	<p>INDIVIDUALS ONLY:</p> <ul style="list-style-type: none"> Who are resident, or normally live in England or Wales; Are not an undischarged bankrupt; Do not have a current debt relief order; individual voluntary arrangement (IVA), or an interim order; Have a qualifying debt(s); Cannot meet those debts as they fall due; and Are not currently subject to another breathing space moratorium, or a mental health crisis moratorium. Are receiving mental health crisis treatment.

Who can apply for Breathing Space?

Standard Breathing Space

Generally the debtor will apply, but can also come from their representative.

Representatives are:-

- A person who has been granted –
 - i) An enduring power of attorney under the Mental Health Capacity Act 2005
 - ii) A lasting power of attorney under the Mental Health Capacity Act
- A deputy appointed by the court under the Mental Health Capacity Act 2005;
- A person appointed a guardian under the Guardianship (Missing Persons) Act 2017.

Mental Health Crisis Breathing Space

Rules as in Standard Breathing Space apply, but additionally:-

- A debtors carer;
- An approved mental health professional (AMHP);
- Care coordinator;
- A mental health nurse;
- Social worker;
- Independent mental health advocate or mental health capacity advocate;
- An appropriate person under the Mental Health Capacity Act 2005



How is Breathing Space applied for?

ONLY THROUGH A DEBT ADVICE PROVIDER

Either of:-

1. A Financial Conduct Authority (FCA) authorised debt advisor, or
2. A Local Authority (where they provide debt advice to residents)



Debt types applicable for Breathing Space

Any debt or liability (whether in sole or joint names), including any under:-

- An order or warrant for possession of their home or place of business;
- A court judgment;
- A controlled goods agreement
- Any debt owed or liability payable to the Crown.

WILL INCLUDE



- a) Ongoing mortgage payments; ****
- b) Ongoing rent payments; ****
- c) Ongoing insurance payments;
- d) Ongoing taxes, duties and NI contributions;
- e) Ongoing water, sewerage, gas, electricity, heating oil or solid fuel charges;
- f) VAT owing from running a business;
- g) Business debts incurred as part of a partnership;
- h) Debts or liabilities owed due to fraud; ****
- i) Court fines imposed due to an offence or recognisance; ****
- j) Repayment of advances of UC, PIP, JSA and ESA;
- k) Ongoing council tax and business rates payments;
- l) Child maintenance orders; social fund loans; and repayment of student loans;
- m) Damages due to negligence, nuisance or breach of statutory, contractual or other duty under the Consumer Protection Act.

CANNOT INCLUDE



How will Breathing Space notifications be received

Creditors will be notified of Breathing Space by either:

Creditors can then also view and manage their notifications through:

Creditor notifications:

- Issued through Gov.Notify
- Sent for each individual debt
- Notifications sent in real time
- Sent in batches
- Daily email notification advising that Breathing Space notifications are ready to collect
- Organisations will need to build API capability

Insolvency Service Creditor Onboarding

Good morning/afternoon

As you may know, the Breathing Space scheme is due to be launched on 4th May 2021.

You can find the guidance for creditors on Breathing Space here: [Debt Respite Scheme \(Breathing Space\) guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/debt-respite-scheme-breathing-space-guidance)

We are currently in the process of gathering the details of organisations who are likely to be frequently included in Breathing Space applications with the intention that these organisations will receive their Breathing Space notifications electronically.

Electronic notification of Breathing Space starting and ending could entail us providing you with access to our electronic service so you can receive automated notifications direct to your IT system (an API). Alternatively, you could opt to receive the notifications by email.

We would appreciate it if you could provide the details requested below, if you represent more than one organisation, please provide the details for each one.

Please complete the details below and return to breathingspace@insolvency.gov.uk by 12th March 2021.

Breathing Space – Creditor Information

General Organisation Details

Organisation Name(s)	
Organisation Address	
General Email Address	
Organisation Telephone Number	
Website Address	
Organisation Type	
Preferred communication method for Breathing Space notifications (email or API)	

Insolvency Service Creditor Onboarding

Contact Details

We will use these details to contact you if we have any questions about the information supplied, or if there are any issues with sending notifications to you once Breathing Space goes live.

Primary Contact Name	
Primary Contact Job Role	
Primary Contact Email address	
Contact Telephone number	
Secondary Contact Name	
Secondary Contact Job Role	
Secondary Contact Email Address	
Primary Contact Email address	
Further information	

Debt Types

This information will be used to enable Debt Advisers to select from the specified debt types when entering your organisation as a creditor.

Please therefore ensure that any debt types specified will make sense to the debt adviser as this will help ensure the right one is selected (so for example, avoid acronyms or internal department names).

We would also suggest a maximum of 6 debt types if possible.

Please provide the names of the debt types for your organisation, if you do not wish to utilise debt types please indicate this in the box below.

Debt Types
Example: Credit Card

We do not require any debt types:



Insolvency Service Creditor Onboarding

Email Address for Notifications

This will be the email address that Breathing Space notifications are sent to. We recommend that that a mailbox with shared access is used for this purpose.

You can also provide details of an alternative email address to be used if for any reason you are unable to receive notifications at the primary address.

Email Address	
Secondary Email Address	

Super User Details

The super-user would be the person responsible for giving members of your organisation access to the Breathing Space portal once it goes live.

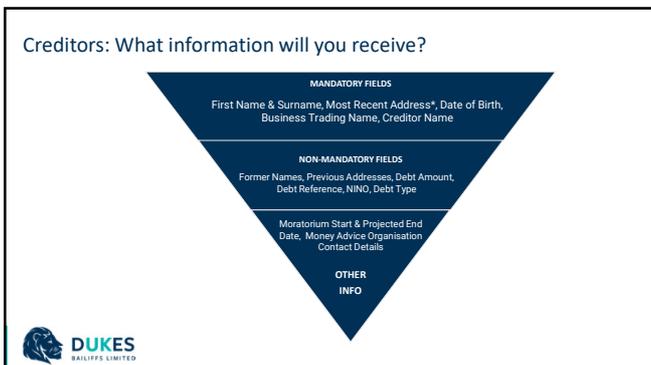
Organisation Name	
Super User Name	
Email Address	

Your Details

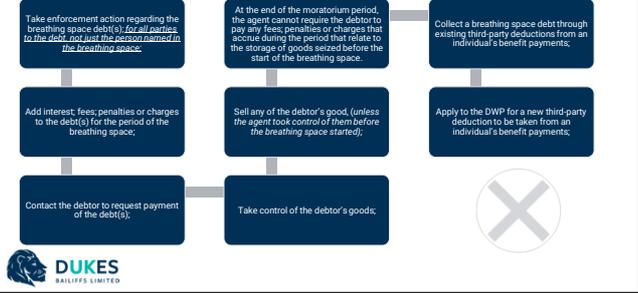
Name	
Email Address	
Date	

Please send the completed form to: bss@inspaces@insolvency.gov.uk
Forms need to be returned by the **17th March 2021**





Enforcement agents: What we must **not** do once we receive a notification



What this means in practice





Thank you

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