
DRAFT STATUTORY INSTRUMENTS

2020 No.

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

PART 4

Debt respite scheme administration

Electronic system maintained by the Secretary of State

- 35.**—(1) The Secretary of State must maintain an electronic system for the purpose of—
- (a) giving and receiving communications and notifications in connection with moratoria, and
 - (b) maintaining a register of matters relating to moratoria.
- (2) The Secretary of State may send and receive communications in connection with moratoria by means of the electronic system where the Secretary of State considers it appropriate to do so.
- (3) The following persons are entitled to information contained on the electronic system that concerns or is relevant to a debtor—
- (a) the Secretary of State,
 - (b) the debt advice provider who initiated a moratorium on behalf of the debtor, and
 - (c) the debt advice provider to whom the debtor has been referred since the start of the moratorium.
- (4) The following persons are entitled to information contained on the register that concerns or is relevant to a debtor—
- (a) the debtor,
 - (b) the Secretary of State,
 - (c) any debt advice provider, and
 - (d) those creditors who have received notification of a moratorium relating to the debtor under these Regulations.
- (5) A creditor is not entitled to information contained on the register or otherwise held by the Secretary of State about—
- (a) any other creditor of the debtor,
 - (b) any moratorium debt owed by the debtor to any other creditor, or
 - (c) the debtor's usual residential address where regulation 38 applies.
- (6) The Secretary of State must delete from the register all information concerning a moratorium where fifteen months have elapsed from the date on which the moratorium ended or was cancelled under these Regulations.

Information about a debtor held on the register

36.—(1) The register maintained by the Secretary of State in accordance with regulation 35(1) (b) must include the following information relating to a moratorium—

- (a) information provided by a debt advice provider under these Regulations concerning—
 - (i) the identification details of the debtor to whom the moratorium relates, including the debtor’s full name, date of birth and usual residential address,
 - (ii) the trading name or names and address of any business carried on by the debtor,
- (b) the date on which the moratorium started, and
- (c) where a moratorium has ended, the date on which the moratorium ended or was cancelled in accordance with these Regulations.

(2) This regulation is subject to regulation 38.

Notifications provided to and by the Secretary of State

37.—(1) Any information provided by a debt advice provider to the Secretary of State under these Regulations must be given by means of the electronic system maintained by the Secretary of State in accordance with regulation 35(1).

(2) Any notification by the Secretary of State to a person under these Regulations must be given by one of the following methods—

- (a) transmitting it by means of electronic communication,
- (b) leaving it at the person’s address, or
- (c) posting it to that address.

(3) Paragraphs (1) and (2) are subject to regulation 38.

(4) Unless the contrary is shown a notification will be deemed to have been received on the following days—

- (a) on the day the electronic communication was sent by the Secretary of State,
- (b) on the day that the notification was left at the person’s address, or
- (c) at the end of the period of four business days beginning with the day on which the notification was posted by the Secretary of State.

(5) The Secretary of State may provide notification by means of electronic communication if the person to whom it has to be provided—

- (a) has indicated to the debt advice provider or the Secretary of State (and has not withdrawn the indication) that they are willing to receive notification by those means, and
- (b) has provided, to the debt advice provider or the Secretary of State for this purpose, an e-mail address or other electronic identification.

(6) An e-mail address or other electronic identification provided to the debt advice provider or the Secretary of State for receiving notifications is sufficient indication for the purpose of paragraph (5) (a).

(7) In this regulation “address” means the registered office, registered principle address or any address provided to the debt advice provider or the Secretary of State for receiving notifications.

Non-disclosure of a debtor’s usual residential address

38.—(1) In the circumstances specified in this regulation, the Secretary of State must not include a debtor’s usual residential address—

- (a) in any entry made on the register under these Regulations relating to the debtor that is or would be available to creditors, or
 - (b) in any notification sent to creditors or agents under these Regulations.
- (2) A debtor, or the person applying for a moratorium on the debtor's behalf, may make an application to a debt advice provider under this regulation for non-disclosure of the debtor's usual residential address.
- (3) An application for non-disclosure of a debtor's usual residential address must contain—
- (a) a statement of the grounds on which the application is made,
 - (b) evidence which supports the statement of the grounds on which the application is made.
- (4) The grounds for non-disclosure of a debtor's usual residential address are that disclosure of the debtor's usual residential address might reasonably be expected to lead to violence against the debtor or against a person who normally resides with the debtor as a member of the debtor's family.
- (5) A debt advice provider must consider any application for non-disclosure of a debtor's usual residential address and determine whether the address should be disclosed.
- (6) Within 7 days beginning with the day on which a determination by a debt advice provider under paragraph (5) is made, the debt advice provider must notify the outcome of the determination to the debtor or the person who made an application for a moratorium on the debtor's behalf.
- (7) If a debt advice provider determines that the grounds specified in paragraph (4) apply, when providing information to the Secretary of State in accordance with these Regulations, the debt advice provider must notify the Secretary of State that the debtor's usual residential address must not be included in—
- (a) any entry made on the register under these Regulations relating to the debtor that is or would be available to creditors, or
 - (b) any notification sent to creditors or agents under these Regulations.
- (8) Where an application under this regulation is unsuccessful, a notification under paragraph (6) must inform the debtor, or the person applying for a moratorium on the debtor's behalf, of their right to appeal to the county court under paragraph (9).
- (9) Where an application under this regulation is unsuccessful, a debtor, or the person applying for a moratorium on the debtor's behalf, may appeal to the county court against the determination on the grounds specified in paragraph (4) before the end of the period of 28 days beginning with the day on which the debt advice provider notified the outcome of the determination under paragraph (6).
- (10) Where an application is made to a debt advice provider under this regulation, the debt advice provider may not initiate a moratorium under these Regulations until the earliest of—
- (a) the day on which the debt advice provider determines that the address should not be disclosed,
 - (b) where the application is unsuccessful but no appeal proceedings are brought under paragraph (9), the end of the period of 28 days beginning with the day on which the debt advice provider notified the outcome of the determination under paragraph (6), or
 - (c) the conclusion of any appeal proceedings relating to the application under this regulation.

Electronic system malfunction

39.—(1) In the event of any malfunction or error in the operation of the electronic system, the Secretary of State must inform debt advice providers that information, communications and notifications may be provided under these Regulations to the Secretary of State in such a form as the Secretary of State will specify.

Draft Legislation: This is a draft item of legislation and has not yet been made as a UK Statutory Instrument.

This draft has been replaced by a new draft, The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 ISBN 978-0-348-21173-3

(2) In the event of any malfunction or error in the operation of the electronic system, where the Secretary of State is required to send notifications under these Regulations, the Secretary of State is required to send the notifications as soon as is reasonably possible.