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DRAFT STATUTORY INSTRUMENTS

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**2020 No.**

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

**PART 3**

**Mental health crisis moratorium**

**Application for a mental health crisis moratorium**

**29.**—(1) Any of the following persons may submit an application to a debt advice provider for a mental health crisis moratorium in relation to a debtor—

- (a) the debtor,
- (b) the debtor’s carer,
- (c) an approved mental health professional,
- (d) a care co-ordinator appointed in respect of the debtor,
- (e) a mental health nurse,
- (f) a social worker,
- (g) an independent mental health advocate appointed in respect of the debtor for the purposes of arrangements made under sections 130A(1) or 130E(1) of the Mental Health Act 1983(1),
- (h) an independent mental capacity advocate appointed in respect of the debtor for the purposes of arrangements made under section 35(1) of the Mental Capacity Act 2005(2),
- (i) a relevant person’s representative,
- (j) an approved mental capacity professional approved under paragraph 39 of Schedule AA1 to the Mental Capacity Act 2005(3), or
- (k) an appropriate person as specified in paragraph 42(5) of Schedule AA1 to the Mental Capacity Act 2005(4).

(2) The application must include the following information—

- (a) sufficient information to identify the debtor, and

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(1) 1983 c. 20. Section 130A was inserted by the Mental Health Act 2007 (c. 12), section 30(2) and amended by the Mental Health Act (Wales) Measure 2010 (nawm 7), Schedule 1, paragraph 2 and the Health and Social Care Act 2012 (c. 7), section 43(1). Section 130E was inserted by the Mental Health Act (Wales) Measure 2010 (nawm 7), section 31.

(2) 2005 c. 9. Section 35(1) was amended by the Health and Social Care Act 2012 (c. 7), Schedule 5, paragraph 134(a) and the Mental Health Act 2007 (c. 12), Schedule 9, paragraph 3. Section 35(1) is also amended by the Mental Capacity (Amendment) Act 2019 (c. 18), Schedule 2(1), paragraph 3 but those amendments are not yet in force.

(3) 2005 c. 9. Schedule AA1 is inserted by the Mental Capacity (Amendment) Act 2019 (c. 18), Schedule 1 but that insertion is not yet in force.

(4) 2005 c. 9. Schedule AA1 is inserted by the Mental Capacity (Amendment) Act 2019 (c. 18), Schedule 1 but that insertion is not yet in force.

- (b) evidence from an approved mental health professional that the debtor is receiving mental health crisis treatment.
- (3) For the purpose of paragraph (2)(b), evidence from an approved mental health professional must include the following—
- (a) sufficient information to identify the debtor,
  - (b) the name and contact details of the approved mental health professional,
  - (c) the name and contact details of the debtor’s nominated point of contact,
  - (d) a declaration by the approved mental health professional that the debtor is receiving mental health crisis treatment, and
  - (e) a signed statement by the approved mental health professional that the evidence is, to the best of their knowledge and belief, correct.
- (4) In addition to the information specified in paragraph (2), the application may include the following information where it is known by the person submitting the application, is relevant and has not already been provided in accordance with paragraph (2)(a)—
- (a) the debtor’s full name, date of birth and usual residential address,
  - (b) the trading name or names and address of any business carried on by the debtor,
  - (c) details of the debts to which the debtor is subject at the date of the application and the contact details of the creditor to whom each debt is owed, and
  - (d) details of any enforcement agent or other agent instructed by the creditor for the purpose of collection or enforcement of the debt including the agent’s contact details.
- (5) The nominated point of contact referred to in paragraph (3)(c) may be the approved mental health professional who provided the evidence referred to in paragraph (2)(b).
- (6) An application to a debt advice provider under this regulation may include an application for non-disclosure of the debtor’s usual residential address under regulation 38.
- (7) In this regulation—
- (a) “adult” means a person aged 18 or over;
  - (b) “carer” means an adult who—
    - (i) provides care for another adult, and
    - (ii) is in receipt of carer’s allowance or an award of universal credit of an amount under regulation 29 of the Universal Credit Regulations 2013<sup>(5)</sup>;
  - (c) “carer’s allowance” means an allowance paid to a person in accordance with section 70 of the Social Security Contributions and Benefits Act 1992;
  - (d) “relevant person’s representative” means a person appointed in respect of the debtor in accordance with paragraph 137 of Schedule A1 to the Mental Capacity Act 2005<sup>(6)</sup> or that provision as it continues in force by virtue of any transitional or savings provisions made in connection with its repeal by the Mental Capacity (Amendment) Act 2019<sup>(7)</sup>.

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(5) S.I. 2013/376. Regulation 29 was amended by S.I. 2015/1754, regulation 13 and S.I. 2017/204, regulation 4(6) subject to transitional and savings provisions in Schedule 2(2) of that instrument.

(6) 2005 c. 9. Schedule A1 was inserted by the Mental Health Act 2007 (c. 12), Schedule 7, paragraph 1. Schedule A1 is also repealed by the Mental Capacity (Amendment) Act 2019 (c. 18), Schedule 2(1), paragraph 2(c) but that repeal is not yet in force.

(7) 2019 c. 18. This Act is not yet in force.