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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

**Debtor eligibility for a mental health crisis moratorium and debt advice provider obligations**

**30.**—(1) When considering an application for a mental health crisis moratorium made under regulation 29, a debt advice provider must—

- (a) assess whether the debts included in the application are qualifying debts, and
- (b) obtain information relevant to the financial standing of the debtor from at least one credit reference agency.

(2) Having considered an application for a mental health crisis moratorium, a debt advice provider must initiate a mental health crisis moratorium on behalf of a debtor if the debt advice provider considers that—

- (a) the debtor meets the eligibility criteria in paragraph (3),
  - (b) the conditions in paragraph (4) are met, and
  - (c) the debts to be included in the moratorium are qualifying debts.
- (3) The eligibility criteria referred to in paragraph (2)(a) are that the debtor—
- (a) is an individual,
  - (b) owes a qualifying debt to a creditor,
  - (c) is domiciled or ordinarily resident in England or Wales,
  - (d) is not subject to a debt relief order,
  - (e) is not subject to an interim order or individual voluntary arrangement,
  - (f) is not an undischarged bankrupt, and
  - (g) is not subject to a breathing space moratorium or a mental health crisis moratorium.

(4) The conditions referred to in paragraph (2)(b) are that, in light of the information provided in accordance with regulation 29(2) and (4) and any other information obtained by the debt advice provider—

- (a) the debtor is unable, or is unlikely to be able, to repay some or all of their debt as it falls due,
- (b) a mental health crisis moratorium would be appropriate, and
- (c) an approved mental health professional has provided evidence that the debtor is receiving mental health crisis treatment.

(5) For the purpose of paragraph (4)(b), when considering whether a mental health crisis moratorium is appropriate, the debt advice provider—

- (a) must consider whether the debtor has sufficient funds or income to discharge or liquidate their debt as it falls due, and
- (b) may have regard to any other factor that the debt advice provider considers relevant.

(6) In this regulation, “credit reference agency” means a person who carries on by way of business an activity of the kind specified by article 89B of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.