



The Debt Respite Scheme

(Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020



The new Breathing Space scheme, originally outlined by the Government in February 2020, will go live on 4th May 2021.

What is the Debt Respite Scheme (Breathing Space)?

Breathing Space is a new initiative to allow those in problem debt- those who cannot, or are unlikely to be able to repay their debts- the right to legal protection from their creditors by entering into a “breathing space”. Breathing space lasts for a period of 60 days (with a review after 30 days) and is designed to give debtors time to resolve their financial issues while allowing respite from being pursued by creditors and freezing interest/ fees on any debts included.

To enter into a breathing space, a debtor must apply to a debt advice provider. Although all applications for Breathing Space must be considered, the debt advisor might decide that it is not appropriate for the debtor. For example, if a person could pay their debts with some budgeting help, if they have access to funds or income, or they already have assets that could easily be sold to clear the debt, a breathing space would not be the right solution. A breathing space might also not be appropriate for a someone who can enter a more suitable debt solution straight away, without needing the protections.

During the 60 day period, individuals will receive professional debt advice to find a long-term solution to their financial difficulties. Further protection will be given to those in mental health crisis treatment. It is important to understand that a breathing space is not a payment holiday. Debtors cannot be pursued for debts incurred before the breathing space started, however they are legally required to continue paying any current financial responsibilities during the moratorium period. In the case of tenants, this means that rent arrears cannot be pursued for the period that a tenant is in a breathing space, however they are legally required to pay their current rent.

When is it being introduced and what debts does it include?

Breathing space comes into effect on 4th May 2021. Some debts are exempt from breathing space; for example student loans, council tax, child maintenance and secured loans such as mortgages.

What does it mean for me as a landlord?

Debt advisors must inform the landlord if a breathing space has been created for their tenant and negotiate a debt solution. However, there is no obligation for the landlord to agree to this.

During the 60 day Moratorium period:

- The debt cannot be pursued in any way; the landlord cannot write to the tenant, phone or email them about the debt.
- No fees or interest can be charged.
- No court orders can be made or pursued.
- Possession orders cannot be executed.
- No section 8s can be served. However, section 21 and possession for ASB can be served if it is not debt related.
- Full current rent must be paid by the tenant and landlords can accept these payments.
- Landlords can communicate with tenants regarding other matters, for example repairs, but must not demand payments of debts.
- Landlords can communicate through the debt advisor regarding the debt.
- Landlords can apply to have it stopped if the tenant does not pay their current rent.
- The moratorium will be reviewed after 30 days however the landlord can demand a review earlier if they feel it is unfair or will be financially detrimental to themselves. Landlords can apply to court if the debt advisor does not agree.
- Landlord can ask the court to consider a section 8 if the Moratorium is broken.
- New debts incurred during a breathing space are not qualifying debts.

Mental Health Breathing space

A mental health crisis breathing space is only available to someone who is receiving mental health crisis treatment and it has some stronger protections. It lasts as long as the person's mental health crisis treatment, plus 30 days (no matter how long the crisis treatment lasts). For more information about the breathing space initiative, click [here](#).

