

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (CLAIMS AND PAYMENTS) (AMENDMENT)
REGULATIONS 2021

2021 No. 456

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The purpose of this instrument is to make provisions for deductions for ongoing liabilities of housing, fuel and water to continue to be made from Income Support (IS), State Pension Credit (SPC), income-related Employment and Support Allowance (IR ESA) and income-based Jobseeker's Allowance (IB JSA) whilst the original debt is subject to a moratorium under the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 (Breathing Space Regulations)¹.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent and application of this instrument is England and Wales and Scotland.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

6. Legislative Context

- 6.1 The instrument will amend the Social Security (Claims and Payments) Regulations 1987 so that deductions for ongoing liabilities of housing, fuel and water may be made from IS, SPC, IR ESA and IB JSA, whilst the original debt is subject to a moratorium under the Breathing Space Regulations.

¹ <https://www.legislation.gov.uk/ukSI/2020/1311/contents/made>

7. Policy background

What is being done and why?

- 7.1 The Breathing Space Regulations prevent debt deductions during a moratorium period. This includes debts relating to housing, water and fuel that precede the moratorium.
- 7.2 Currently deductions from IS, SPC, IR ESA and IB JSA for the payment of ongoing liabilities of housing, fuel and water may only be made simultaneously with a deduction to repay an existing debt or after that debt has been discharged.
- 7.3 This amendment is therefore necessary so that, where deductions for ongoing liabilities of housing, fuel and water are being made simultaneously with deductions for the original debt, deductions for ongoing liabilities may continue to be made whilst the original debt is subject to a moratorium. This is necessary because if an individual subject to a moratorium failed to meet their responsibilities for ongoing liabilities they could lose the protection afforded by the moratorium.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 None.

10. Consultation outcome

- 10.1 Further to Her Majesty's Treasury's consultation² on the Breathing Space Regulations which considered ongoing liabilities, it was deemed that it was not necessary to carry out a consultation in respect of this proposal.

11. Guidance

- 11.1 Guidance to support staff is being updated and will be published on the Department's website.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because no significant impact is foreseen on the private, public or voluntary sectors.
- 12.4 It is noted that Her Majesty's Treasury's impact assessment³ on the Breathing Space Regulations considered individuals subject to a moratorium having to meet their ongoing liabilities, as this instrument enables individuals to continue to meet their ongoing liabilities no significant impact is foreseen.

² <https://www.gov.uk/government/consultations/breathing-space-scheme-consultation-on-a-policy-proposal/breathing-space-scheme-consultation-on-a-policy-proposal>

³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/863869/Breathing_Space.pdf

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 There are no plans to review the impact of these amendments, they allow persons subject to a moratorium to continue to meet ongoing liabilities where these liabilities were being met by deductions from benefit, which helps to ensure that they continue to benefit from a moratorium.

14.2 The regulation does not include a statutory review clause.

15. Contact

15.1 Michael Bond at the Department for Work and Pensions Telephone: 07823 533655 or email: michael.bond@dwp.gov.uk can be contacted with any queries regarding the instrument.

15.2 Chris Guest, Deputy Director for Fraud, Error and Debt division at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 Will Quince Parliamentary Under-Secretary of State for Welfare Delivery at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.