

2021 No. 459

MAGISTRATES' COURTS, ENGLAND AND WALES

The Magistrates' Courts (Amendment) Rules 2021

<i>Made</i> - - - -	<i>8th April 2021</i>
<i>Laid before Parliament</i>	<i>13th April 2021</i>
<i>Coming into force</i> - -	<i>4th May 2021</i>

The Lord Chief Justice makes the following Rules in exercise of the powers conferred by section 144 of the Magistrates' Courts Act 1980(a), with the concurrence of the Lord Chancellor.

Citation, commencement and extent

1.—(1) These Rules may be cited as the Magistrates' Courts (Amendment) Rules 2021 and come into force on 4th May 2021.

(2) These Rules extend to England and Wales.

Amendment of the Magistrates Court Rules 1981

2.—(1) The Magistrates' Courts Rules 1981(b) are amended as follows.

(2) After rule 60 (enforcement where periodical payments made under more than one order), insert—

“60A Applications under regulation 7(2)(b) of the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020

(1) In this Rule the “2020 Regulations” means the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020(c).

(2) Where the permission of a magistrates' court is sought for the purposes of regulation 7(2)(b) (effect of moratorium) of the 2020 Regulations, an application must be made by complaint in writing and Part II of the Magistrates' Courts Act 1980 applies accordingly, with the exception of paragraphs (2) to (8) of section 55 (non-appearance of defendant).

(3) The complainant must serve on the debt advice provider named in the notification provided for the purposes of regulation 4(3) (debt advice provider fees and referrals) of the

(a) 1980 c. 43; section 144 was amended by section 109(1) and (3) and paragraphs 245(1), (2) and (5) of Schedule 8 and Schedule 10 to the Courts Act 2003 (c. 39), section 15(1) and paragraphs 99 and 102 of Schedule 4 to the Constitutional Reform Act 2005 (c. 4), section 208(1) and paragraphs 42 and 43(b) of Schedule 21 to the Legal Services Act 2007 (c. 29), section 17(6) and paragraphs 39, 52 and 99 of Schedule 10 to the Crime and Courts Act 2013 (c. 22), section 3 and paragraph 10 of the Schedule to the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33) and S.I. 2012/2398.

(b) S.I. 1981/552.

(c) S.I. 2020/1311.

2020 Regulations a copy of the summons that is issued to the debtor following a complaint under paragraph (1).”

Burnett of Maldon, C.J.
Lord Chief Justice

I agree

David Wolfson
Parliamentary Under Secretary of State
Ministry of Justice

8th April 2021

EXPLANATORY NOTE

(This note is not part of the Rules)

Regulation 7 of the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 (S.I. 2020/1311) (the “2020 Regulations”) provides that a creditor is prohibited from taking certain steps to enforce a debt against a debtor who is in a breathing space moratorium or a mental health crisis moratorium in relation to that debt, unless the county court or any other court or tribunal where legal proceedings concerning the debt have been or could be issued has given permission for the creditor to take that step.

These Rules amend the Magistrates’ Courts Rules 1981 (S.I. 1981/552) to provide that where the permission of a magistrates’ court is required for the purposes of regulation 7(2)(b) of the 2020 Regulations, an application to a magistrates’ court for such permission must be made by complaint in writing and the complainant must serve a copy of the summons on the relevant debt advice provider.

Part II of the Magistrates Court Act 1980 (c. 43) and the Magistrates’ Courts Rules 1981 (S.I. 1981/551) apply to applications by complaint made to magistrates’ courts in England and Wales.

No impact assessment has been prepared for these Rules as no, or no significant, impact on the private, public or voluntary sector is foreseen.

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£4.90

<http://www.legislation.gov.uk/id/uksi/2021/459>

ISBN 978-0-34-822245-6



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