

Tenant protections extended (yet) again

The government was extending to 31 December 2020 the various tenant protections it has brought in since the pandemic began. Perhaps not surprisingly, those protections have now been extended again until 31 March 2021.

14 December 2020

Please note: the information contained in this legal update is correct as of the original date of publication.

We mentioned in our article on 1 October (click [here](#)) that the government was extending to 31 December 2020 the various tenant protections it has brought in since the pandemic began. Perhaps not surprisingly, those protections have now been extended again until 31 March 2021.

So, in summary, until 31 March 2021:

1. A landlord cannot forfeit (i.e. terminate) a business lease for non-payment of rent (and other sums due under a lease).
2. A landlord cannot exercise the statutory procedure known as Commercial Rent Arrears Recovery (or CRAR) (which allows a landlord to instruct an enforcement agent to take control of a tenant's goods and sell them to recover an equivalent value to the rent arrears outstanding) unless a minimum of 366 days' net unpaid rent is outstanding. In effect, this prevents a landlord exercising CRAR even if a tenant has paid no rent since the March 2020 quarter day.
3. A landlord (or indeed any other creditor) cannot present a winding-up petition against its tenant on the basis of a statutory demand and cannot present a winding-up petition on any ground unless it has reasonable grounds for believing that coronavirus has not had a financial effect on the company (or that the debt issues would have arisen even if coronavirus had not had a financial effect on the company).

The government has indicated that this extension is a final one to give landlords and tenants three months to come to an agreement on unpaid rent. The government has also reiterated a constant message since the start of the pandemic that where businesses can pay any or all of their rent, they should do so.

Additional guidance will apparently be published shortly to support landlords and tenants to continue to work together to agree rent payment options where businesses are struggling. This will sit alongside the Code of Practice that the government published back in June and which we discussed in our article on 1 July (click [here](#)).

Intriguingly, the government has also announced a review early next year of what it describes as 'outdated' commercial landlord and tenant legislation to address concerns that the current framework does not reflect the current economic conditions. The government's press release states that:

"This review will consider how to enable better collaboration between commercial landlords and tenants and also how to improve the leasing process to ensure our high streets and town centres thrive as we recover from the pandemic and beyond."

The press release goes on to explain that the review will consider a broad range of issues including Part II of the Landlord & Tenant Act 1954, different models of rent payment and the impact of Coronavirus on the market. Whatever the outcome of this review, it seems pretty clear that, for better or worse, the landlord and tenant relationship will never be the same again.

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