

Update on tenant protections

We reported that the Government was extending to 30 September 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 December 2020.

01 October 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 July (click [here](#)) that the Government was extending to 30 September 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 December 2020.

So, in summary, until 31 December 2020:

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 276 days' net unpaid rent is outstanding (where CRAR takes place on or before 24 December 2020) or a minimum of 366 days' net unpaid rent is outstanding (where CRAR takes place on or after 25 December 2020). In effect, this prevents a landlord exercising CRAR even if a tenant has paid no rent on the March, June and September 2020 quarter days.
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).

When discussing these proposed extensions in the House of Commons, Robert Jenrick (the Secretary of State for Housing, Communities and Local Government) made some telling comments that tenants in particular would do well to heed. He stressed that these are temporary measures which cannot go on indefinitely and that this is not a rent 'holiday' (the rent is still due), he recognised the impact these extensions have on landlords and he urged both landlords and tenants to use this time to negotiate with each other in good faith. He also referred to the voluntary code of practice published in June (which we also discussed in our article on 1 July) which should form the basis of any negotiations and reiterated a consistent Government message since the start of the pandemic that tenants who are able to pay rent in full should do so.

The underlying message is actually pretty stark. If both sides do not use this extra breathing space to reach amicable solutions, the Government will intervene if necessary. A potential iron fist in a velvet glove indeed!

Contact

Sarah Parkinson



Partner

sarah.parkinson@brownejacobson.com

+44 (0)115 976 6575

Related expertise

Services

Real estate for retail