

Government's proposals for dealing with pandemic rent arrears finally reach the statute book

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As a reminder, arrears of rent (and other sums) accrued by businesses that were forced by the government to close during the pandemic will be ring-fenced for the period from 21 March 2020 to 18 July 2021 (in England) (or, if earlier, the date when restrictions for the business in question were fully lifted). If landlords and tenants cannot agree how to deal with these ring-fenced arrears, either party has six months to refer the matter to an arbitrator, although the government does have power to extend this period.

An arbitrator's decision to write off all or part of the debt or to give more time to pay the debt (up to 24 months) will be final and binding. In reaching their decision, an arbitrator has to consider the tenant's viability and affordability and the landlord's solvency.

All landlords' remedies to recover these ring-fenced arrears will be restricted during the arbitration process or until the time for referring a matter to arbitration has passed.

The existing pandemic restrictions (which apply to all leases) on landlords forfeiting leases, exercising the process known as Commercial Rent Arrears Recovery (CRAR) and winding-up companies for non-payment of rent expire today (25 March) (in the case of forfeiture and CRAR) and at the end of the month (in the case of winding-up).

This will hopefully signal the beginning of the end for a saga which has been rumbling on since the pandemic began and which at times has left both landlords and tenants feeling angry, vulnerable and neglected.

Anecdotally, we believe that two years down the line, most landlords and tenants have already come to amicable arrangements to 'share the pain' and will want to avoid a process which could at best be described as unpredictable and at worst as somewhat of a lottery. For similar reasons, we believe that the 'bloodbath' that some people have been predicting when the existing restrictions on landlords' remedies expire will not actually come to pass. However, the next few months should tell us for certain.

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