



Commercial Property Update: Government Extends Moratorium on Forfeiture of Commercial Leases and CRAR Until the End of 2020

Forfeiture of commercial leases:

Section 82 of the Coronavirus Act 2020, which has been in force since 25 March 2020, originally prevented landlords from forfeiting leases by re-entry or proceedings until 30 June 2020. That date had subsequently been extended to 30 September 2020.

However, in a move to provide a degree of certainty to many businesses that faced evictions and other enforcement activity, Robert Jenrick, the Secretary of State for Housing, Communities and Local Government, confirmed yesterday (16 September 2020) that the government will extend its moratorium on commercial tenant evictions, due to the non-payment of rent, until the end of 2020.

This follows the announcement made last week that the moratorium on forfeiture of commercial leases due to the non-payment of rent had been extended to 31 December 2020 in Wales.

What this means is that landlords will be unable to forfeit commercial leases due to the non-payment of rent by their tenant. However, landlords may still be entitled to forfeit leases on other grounds, such as a breach of other covenants prescribed in the lease.

In a statement, the government has said that the purpose of the extension is to protect jobs. That may well be the case, but it is a move that will likely cause further divisions between landlord and tenants in an already hostile environment.

The government has reiterated that where tenants are able to pay their rent, they should do so. It is likely that

landlords and tenants will be encouraged to continue to apply the voluntary [Code of Practice](#) for commercial property relationships during the COVID-19 pandemic in a bid to reach a mutually acceptable way forward.

Commercial Rent Arrears Recovery (CRAR):

The government has also indicated it will extend the existing protection for tenants against CRAR until the end of the year.

Landlords had been prevented from using CRAR to attempt to recover goods from a tenant's premises to apply to the debt, unless an amount of at least 189 days' rent is due, under the Taking Control of Goods and Certification of Enforcement Agents (Amendment) (No.2) (Coronavirus) Regulations 2020. This restriction has been in force from 24 June 2020 and was also due to end on 30 September 2020.

We do not yet know whether the government will seek to extend the amount of days for which rent is due (currently 189) to enable a landlord to recover goods from tenants to apply to the debt.

What next?

Although the government has extended the suspension of a landlord's ability to exercise a right to forfeit a lease on the basis of a tenant's non-payment of rent, a landlord will not be regarded as waiving its right to forfeit for non-payment of rent unless it expressly confirms as such in writing. Consequently, a landlord will be entitled to forfeit the lease on the basis of the tenant's non-payment of rent during the suspension period if it remains unpaid once the suspension period has expired.

Despite the extension of these restrictions, there are still other options available to landlords dealing with tenants who are refusing to pay rent. In the absence of an agreement for a deferment or a reduction, the arrears remain contractually payable.

If you are a commercial landlord and need expert legal advice, contact our [property litigation](#) solicitors on [0344 967 0793](tel:03449670793) or email online.enquiries@LA-law.com.