

Eviction protection extended for businesses most in need

- New rules to be established to ringfence COVID-19 commercial rent arrears and guide tenants and landlords to agree repayment plans
- Measures to protect commercial tenants extended until new rules come into force
- Announcement welcomed by the hospitality sector

Businesses that have had to remain closed during the pandemic and are unable to pay rent on their commercial property will continue to be protected from eviction, giving them the breathing space they need and helping to protect jobs, the government has announced today (16 June 2021).

In order to give places such as nightclubs and other hospitality businesses the help they need to recover from the pandemic, Communities Secretary Robert Jenrick has announced that legislation will be introduced in this session to ringfence outstanding unpaid rent that has built up when a business has had to remain closed during the pandemic. Landlords are expected to make allowances for the ringfenced rent arrears from these specific periods of closure due to the pandemic, and share the financial impact with their tenants.

The legislation will help tenants and landlords work together to come to an agreement on how to handle the money owed – this could be done by waiving some of the total amount or agreeing a longer-term repayment plan.

This agreement should be between the tenant and landlord and, if in some cases, an agreement cannot be made, the law will ensure a binding arbitration process will be put in place so that both parties can come to a formal agreement. This will be a legally binding agreement that both parties must adhere to.

In order to ensure landlords are protected, the government is making clear that businesses who are able to pay rent, must do so. Tenants should start paying their rent as soon as restrictions change, and they are given the green light to open.

The existing measures in place to protect commercial tenants from eviction will be extended to 25 March 2022. This is to ensure that the sectors who are unable to open have enough time to come to an agreement with their landlord without the threat of eviction.

Statutory demands and winding up petitions will also remain restricted for a further three months to protect companies from creditor enforcement action where their debts relate to the pandemic.

Communities Secretary Robert Jenrick said:

We have provided unprecedented support to businesses to help them through the pandemic. However, as we continue to lift restrictions and start to return to business as usual, tenants and landlords should be preparing to pay rent or come to an agreement if they have not done so already.

This special scheme reflects the unprecedented nature of the pandemic and responds to the unique challenges faced by some businesses. It strikes the right balance between protecting landlords while also helping businesses most in need, so they are able to reopen when it is safe to do so.

They will ensure many viable businesses can continue to operate and debts accrued as a result of the pandemic are resolved to mutual benefit swiftly. The government has committed £350 billion to keep businesses running, people in jobs and ensure we can build back better from the pandemic.

Business Secretary Kwasi Kwarteng said:

Sorting out commercial rent debts will be key to enabling businesses to plan ahead with certainty and ultimately build back better from the pandemic.

The new arbitration process will be underpinned by law, providing commercial tenants and landlords with peace of mind that Covid-related rent debts will be settled fairly, and with finality. In the meantime, I encourage landlords and tenants to keep working together to reach mutually beneficial agreements.

Extending the ban on commercial evictions is a necessary measure to help businesses through the final stages of the pandemic, and comes on top of our generous £350 billion package of support that has been available throughout the pandemic.

Chief Secretary to the Treasury Steve Barclay said:

We've helped businesses and landlords to get through the pandemic with our £350 billion plan for jobs, including the furlough scheme, generous grants and business rate support – and this support is continuing through the summer months.

We welcome ongoing negotiations between landlords and tenants about accrued rent as we continue to recover from the pandemic. To support these, we're now providing a new backstop to help businesses and tenants to return to normal. This will help preserve jobs and livelihoods as we build back better.

Today's announcement follows the call for evidence which sought views from a broad range of stakeholders on how we can move forward after the pandemic. Responses from businesses, landlord groups, lenders and investors has helped the government to develop this new approach which will support businesses to reopen and allow commercial landlords to continue to operate.

Last year, government introduced legislation to prevent landlords of commercial properties from being able to evict tenants for not paying rent. This measure will be in place until 25 March 2022 alongside the restrictions on landlords' abilities to recover rental arrears through the seizure of goods. Restrictions on the service of statutory demands and winding-up petitions, implemented through the Corporate Insolvency and Governance Act 2020, are also set to be extended.

Kate Nicholls, UKHospitality's CEO, said:

We welcome these measures as they will banish a grim shadow that has hung over hospitality since the Covid crisis began. This legislation will form a strong bedrock for negotiated settlements that can help heal the damage that the pandemic has wrought, and we are pleased that the government has listened to our sector, and acted to ease its plight by bringing in an equitable solution where both landlords and tenants share the pain.

The extension applies to all businesses, but the new measures that will be introduced by primary legislation will only cover those impacted by closures. This means that rent debt accumulated before March 2020 and after the date when relevant sector restrictions on trading are lifted, will be actionable by landlords as soon as the tenant protection measures are lifted.

The arbitration process will be delivered by private arbitrators but in accordance with guidelines which we will set out in the legislation, and they will have to go through an approval process to prove their impartiality.

A government response to the call for evidence on commercial tenancies will be published in due course.

The review of commercial landlord and tenant legislation will be launched later this year and will consider a broad range of issues including the Landlord & Tenant Act 1954 Part II, different models of rent payment, and the impact of Coronavirus on the market.

The Ministry of Justice have confirmed that the restriction on the use of the Commercial Rent Arrears Recovery (CRAR) process by landlords will also be extended. The total number of days' outstanding rent required for CRAR will remain at 544 days. This measure will continue to provide protection to tenants of commercial leases with rent arrears accumulated during the coronavirus period, while protections from forfeiture for business tenancies are in place under the Coronavirus Act 2020.