



Commercial L&T Coronavirus Act 2020

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5 Key questions for today

1. Does the Tenant still need to pay rent?
2. Can a landlord forfeit a lease and recover possession?
3. What remedies are available if the tenant doesn't pay rent?
4. Will non-payment by the tenant affect a future lease renewal?
5. In what ways can the L&T relationship be protected for the future?

1. Does the tenant still have to pay rent?

- Yes, but! The tenant remains contractually obliged to make the rental payments in accordance with lease terms, however, there are situations where it will depend!
- New legislation, namely Section 82 Coronavirus Act 2020 suspends a landlord's right to forfeit pending the moratorium
- What is rent - widely defined – any financial payment due under the tenancy – s.82(12)

Coronavirus Act 2020

- *Section 82(1)*
 - *a right of re-entry or forfeiture, under a relevant business tenancy, for non-payment of rent may not be enforced, by action or otherwise, during the relevant period.*
- *“relevant period” – from 26 March 2020 to 30 June 2020*
- *Waiver – s.82(2)*

2. Can a landlord recover possession under a re-entry provision or by action?

- Forfeiture can be in one of two ways – i.e. physical re-entry or by the service of court proceedings
- Section 82(1) provides a moratorium in respect of forfeiture for non-payment of rent under business tenancies during the relevant period.
- It is retrospective – catches cases where possession proceedings had already been issued or possession orders already made before 26 March 2020. Covers arrears whenever they arose.
- Injunctions
- Does not cover non-financial breaches

3. What remedies are available if the tenant doesn't pay?

- Section 82 does only deals with landlord's right to forfeit.
- It doesn't affect any other remedies for non-payment of rent
 - Debt action
 - Statutory demand
 - CRAR
 - Insolvency

4. Will non-payment by the tenant affect a future lease renewal?

- Tenants will not be penalised for a failure to pay rent during the crisis
- Section 82(11) - For the purposes of determining whether the ground mentioned in section 30(1)(b) of the Landlord and Tenant Act 1954 (persistent delay in paying rent which has become due) is established in relation to a relevant business tenancy, any failure to pay rent under that tenancy during the relevant period (whether rent due before or in that period) is to be disregarded.

5. How can the L&T relationship be protected for the future?

- Talk to each other
- Consider arrangements to temporarily re-schedule rent payments eg: monthly rents; deferred payments; rent holiday
- Document any arrangements you agree by side letter
- If possible:
 - Make sure arrangements are personal to the tenant
 - Make them time limited

Any questions



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