

# Business Tenancies - Landlord Remedies for Non-payment of Rent – from 29 September 2020

Reflecting the introduction of various legislation providing temporary relief for tenants during the COVID-19 pandemic

Landlord's Remedies	Summary of remedy	Is the remedy available now?
<b>Forfeiture</b>	Landlord takes back possession of the premises by court proceedings or by peaceable re-entry i.e., by instructing bailiffs to change the locks	<b>No</b> Suspended until 31/12/20 (NB forfeiture still available for other breaches of lease)
<b>CRAR</b> (Commercial Rent Arrears Recovery)	Landlord instructs an enforcement agent to serve notice, enter the premises, take control of a tenant's goods and sell them to recover the value of the rent arrears (normally available if 7 days' rent owing)	<b>Yes</b> But only if 276 days' rent is owing, increasing to 366 days' rent after 25/12/20
<b>Court Proceedings</b>	Proceedings are issued at Court for the debt – but judgment will still need to be enforced once obtained	<b>Yes</b>
<b>Statutory Demand</b>	A statutory demand is a written demand for payment of a debt and can be served for rent arrears of at least £750 (corporate tenant) or £5,000 (individual tenant) – failure to pay is used to establish insolvency for a winding-up petition to be presented	<b>Yes</b> – for a tenant who is not a UK company For tenants who are UK companies, there is no point as statutory demands issued 1/3/20 to 31/12/20 will be void
<b>Winding-up petition</b>	A winding-up petition is a court application for a corporate debtor to be put into compulsory liquidation on the grounds that it is unable to pay its debts	<b>Yes</b> but: <ul style="list-style-type: none"> <li>• Not on the basis of a statutory demand.</li> <li>• Not unless the landlord believes EITHER that coronavirus has not had a financial effect on the company OR that the company would have been unable to pay its debts irrespective of the financial effect of coronavirus</li> </ul>
<b>Rent deposit</b>	A rent deposit may be taken when the lease is granted as protection against default – landlord can draw down from this if rent is unpaid	<b>Yes</b>
<b>Recover from Guarantor</b>	Third parties may have indemnified the tenant's liabilities, either as guarantor under the lease, or by being a former tenant ("old lease" or AGA) Former tenants must be served with a s.17 notice (under the Landlord and Tenant (Covenants) Act 1995) within 6 months of the debt arising	<b>Yes</b>
<b>Recover from Subtenant</b>	Where there is a subtenant, a landlord can serve notice under s.81 Tribunals Courts and Enforcement Act 2007 to divert the rent owed by the subtenant direct to the landlord (circumventing the tenant which is not paying rent)	<b>Yes</b> - but it is considered that the number of days' rent required to exercise CRAR (see above) apply to this remedy too

For more information or advice on the remedies outlined above please contact:



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