



New Laws and Code of Practice to Resolve Outstanding Commercial Rent Arrears

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Business Secretary, Kwasi Kwarteng has announced today (9 November 2021) that a new Code of Practice is being introduced to tackle the outstanding and ongoing disputes regarding rent arrears between landlord and tenants of commercial premises.

The moratorium on forfeiture on the basis of outstanding rent arrears is due to end on 25 March 2022. This was brought in by the Coronavirus Act 2020. This “breathing space” period has given some landlord and tenants the opportunity to try and reach an agreement and negotiate as to how commercial rent debts as a result of Covid-19 could be resolved.

From today, to assist with negotiations, landlords and tenants are being encouraged to follow the new Code of Practice which will apply across the UK and is due to come into force from 25 March 2022. The Commercial Rent (Coronavirus) Bill will introduce a legally-binding arbitration process for commercial landlords and tenants and it will apply to those rent arrears which have accrued as a result of certain business closures which were forced to close during the various lockdowns. Debt however accrued during other periods when that business was not forced to close will not be included within this bracket. The window to apply for arbitration will be 6 months and the maximum time frame to repay arrears will be 24 months.

The result of the arbitration process will be a legally-binding agreement which the landlord and tenant must adhere to, as a means of assisting the market return to normal as quickly as possible.

From today, the government is also protecting commercial tenants from debt claims, including County Court Judgements (CCJs), High Court Judgements (HCJs) and bankruptcy petitions, issued against them in relation to rent arrears accrued during the pandemic. It is not clear what form this will take as the Code itself nor the protection suggested has been detailed as yet but once more information is provided we will provide more updates.

It seems that the Government is perhaps unhappy with the recent rulings which were discussed in our previous article ([click here to read](#)) whereby it was discussed that Landlords should be comforted by the decision to

pursue tenants for non-payment of rent caused as a result of the COVID-19 pandemic but the new scheme was mentioned as a possibility for the future.

The recent decision of *Atmore v TFS Stores Limited* [2021] again confirms another decision handed down where a landlord obtained summary judgment in a claim for arrears and it was held that the tenant could not successfully defend the claim. Therefore we will have to see over the next few months the effects of the Code and the protocol to be followed.

If you are a landlord or tenant and you have any questions or concerns about commercial rent arrears in relation to your matter, please contact our specialist [property litigation lawyers](#) by emailing online.enquiries@la-law.com