REAL ESTATE | Commercial property evictions ban extended until March 2021

The Government has confirmed that it will be renewing the measures it introduced to protect tenants in the commercial property sector unable to pay their rent due to the COVID-19 pandemic. Currently, commercial tenants benefit from a prohibition on landlords forfeiting commercial leases for non-payment of rent. This measure was due to end on 31 December 2020, however the Government has announced that the restriction on forfeiture will be extended until 31 March 2021.

For commercial landlords, although this renewal of protection for tenants was widely expected, it will be of significant consolation that the Government has confirmed that this will be the final extension to protections from the threat of eviction, to give tenants a final three months to come to an agreement with landlords on unpaid rent. Although a large number of landlords and tenants will have engaged proactively to seek a joint approach to navigate the effects of the pandemic, a number of landlords have had to contend with tenants simply refusing to pay rent even though they can and should be paying, or using the measures as an opportunity to seek to restructure their lease obligations. This announcement makes it clear that it is the end of the road for those who can pay rent but have refused to do so, and that those tenants must pay their rent. The Government will be publishing further guidance shortly to support negotiations between landlords and tenants to agree rent payment options. This will sit alongside the Government’s Code of Practice published in June.

The Government will also be extending the measures introduced by the Corporate Insolvency and Governance Act 2020 restricting the use of statutory demands and winding-up petitions and the restrictions on landlords using Commercial Rent Arrears Recovery (CRAR) to recover unpaid rent, both of which were due to expire on 31 December 2020, but have now been extended until 31 March 2021 as well.

Interestingly, the Government has also announced a review of landlord and tenant legislation relating
to the commercial property sector early next year. The review will consider a broad range of matters including Part II of the Landlord and Tenant Act 1954, different models of rent payment and an analysis of the impact of coronavirus on the market. Further updates on the scope and detail of the review will follow when the review is published.

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