



Commercial Rent (Coronavirus) Act 2022

2022 CHAPTER 12

An Act to make provision enabling relief from payment of certain rent debts under business tenancies adversely affected by coronavirus to be available through arbitration; and for connected purposes. [24th March 2022]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

INTRODUCTORY PROVISIONS

1 Overview

- (1) This Act enables the matter of relief from payment of protected rent debts due from the tenant to the landlord under a business tenancy to be resolved by arbitration (if not resolved by agreement).
- (2) In this Act—
 - (a) sections 2 to 6 define for the purposes of this Act the terms “protected rent debt”, “the matter of relief from payment” and other key terms used in this Act;
 - (b) Part 2 provides for statutory arbitration between the landlord and the tenant under a business tenancy in relation to the matter of relief from payment of a protected rent debt;
 - (c) Part 3 provides for temporary restrictions on the availability of certain remedies and insolvency arrangements that would otherwise be available in relation to a protected rent debt.
- (3) Nothing in this Act is to be taken as—

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- (a) affecting the capacity of the parties to a business tenancy to resolve by agreement, at any time, the matter of relief from payment of a protected rent debt (or any other matter relating to the tenancy), or
- (b) preventing an agreement resolving the matter of relief from payment of a protected rent debt from having effect or being enforced.

2 “Rent” and “business tenancy”

- (1) “Rent”, in relation to a business tenancy, means an amount consisting of one or more of the following—
 - (a) an amount payable by the tenant to the landlord under the tenancy for possession and use of the premises comprised in the tenancy (whether described as rent or otherwise);
 - (b) an amount payable by the tenant to the landlord under the tenancy as a service charge;
 - (c) interest on an unpaid amount within paragraph (a) or (b).
- (2) In subsection (1)—
 - (a) a reference to an amount includes any VAT chargeable on that amount;
 - (b) a reference to the landlord includes a person acting for the landlord (such as a managing agent);
 - (c) “service charge” means an amount—
 - (i) which is payable (directly or indirectly) for services, repairs, maintenance, improvements, insurance costs or the landlord’s management costs (including management costs of a superior landlord which the landlord is required to pay), and
 - (ii) which is a fixed amount or an amount that varies or may vary according to the relevant costs (or a combination of the two).
- (3) In subsection (2)(c)—
 - (a) “insurance costs” includes costs incurred by the landlord in connection with insuring against loss of rent or in complying with obligations under the tenancy either to insure the whole or any part of—
 - (i) the premises comprised in the tenancy, and
 - (ii) any common parts of a property which includes those premises,
 or to pay the costs of such insurance incurred by any superior landlord;
 - (b) “the relevant costs” means the costs or estimated costs incurred or to be incurred by or on behalf of the landlord in connection with the matter for which the service charge is payable, and for this purpose—
 - (i) “costs” includes overheads, and
 - (ii) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.
- (4) An amount drawn down by the landlord from a tenancy deposit to meet the whole or part of a rent debt is to be treated as unpaid rent due from the tenant to the landlord (and such rent is “paid” where the tenant makes good any shortfall in the deposit).
- (5) “Business tenancy” means a tenancy to which Part 2 of the Landlord and Tenant Act 1954 applies.

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(6) “English business tenancy” means a business tenancy comprising premises in England.

(7) “Welsh business tenancy” means a business tenancy comprising premises in Wales.

3 “Protected rent debt”

(1) A “protected rent debt” is a debt under a business tenancy consisting of unpaid protected rent.

(2) Rent due under the tenancy is “protected rent” if—

- (a) the tenancy was adversely affected by coronavirus (see section 4), and
- (b) the rent is attributable to a period of occupation by the tenant for, or for a period within, the protected period applying to the tenancy (see section 5).

(3) Rent consisting of interest on an unpaid amount within section 2(1)(a) or (b) is to be regarded for the purposes of subsection (2)(b) as attributable to the same period of occupation by the tenant as that unpaid amount.

(4) A period of occupation by the tenant that began, or ended, at a time during a particular day is to be treated as including the whole of that day.

(5) If any rent due under the tenancy is attributable to a period of occupation by the tenant of which only part is of the description in subsection (2)(b), then so much of the rent as can be reasonably attributed to that part of the period is protected rent.

(6) An amount treated by section 2(4) as unpaid rent is to be regarded as unpaid protected rent if the rent debt that was satisfied (in whole or part) by drawing it down from the tenancy deposit would otherwise have been a protected rent debt.

4 “Adversely affected by coronavirus”

(1) A business tenancy was “adversely affected by coronavirus” for the purposes of section 3(2)(a) if, for any relevant period—

- (a) the whole or part of the business carried on by the tenant at or from the premises comprised in the tenancy, or
- (b) the whole or part of those premises,

was of a description subject to a closure requirement.

(2) For this purpose—

- (a) “closure requirement” means a requirement imposed by coronavirus regulations which is expressed as an obligation—

- (i) to close businesses, or parts of businesses, of a specified description, or

- (ii) to close premises, or parts of premises, of a specified description; and

- (b) “relevant period” means a period beginning at or after 2 p.m. on 21 March 2020 and ending at or before—

- (i) 11.55 p.m. on 18 July 2021, for English business tenancies, or

- (ii) 6 a.m. on 7 August 2021, for Welsh business tenancies.

(3) A requirement expressed as an obligation to close businesses or premises of a specified description, or parts of businesses or premises of a specified description, every day

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at particular times is to be regarded for the purposes of subsection (2)(a) as a closure requirement.

- (4) It is immaterial for the purposes of subsection (2)(a) that specific limited activities were (as an exception) allowed by the regulations to be carried on despite the obligation to close (and accordingly the fact they were permitted or carried on is to be disregarded in determining whether the tenancy was adversely affected by coronavirus).
- (5) Where the premises comprised in the tenancy were occupied by the tenant for the purposes of a business not carried on solely at or from those premises, the reference in subsection (1)(a) to the business carried on at or from the premises is to so much of the business as was carried on at or from the premises.
- (6) In this section “coronavirus regulations” means regulations—
 - (a) made under section 45C of the Public Health (Control of Disease) Act 1984 (whether or not also made under any other power), and
 - (b) expressed to be made in response to the threat to public health posed by the incidence or spread of coronavirus.

5 “Protected period”

- (1) The “protected period”, in relation to a business tenancy adversely affected by coronavirus, is the period beginning with 21 March 2020 and ending with—
 - (a) where the business tenancy comprises premises in England—
 - (i) if subsection (2) identifies a day earlier than 18 July 2021, that day, or
 - (ii) in any other case, 18 July 2021;
 - (b) where the business tenancy comprises premises in Wales—
 - (i) if subsection (2) identifies a day earlier than 7 August 2021, that day, or
 - (ii) in any other case, 7 August 2021.
- (2) The relevant day for the purposes of subsection (1)(a)(i) or (b)(i) is the last day on which (or for part of which)—
 - (a) the whole or part of the business carried on by the tenant at or from the premises, or
 - (b) the whole or part of those premises,
 was of a description subject to either a closure requirement or a specific coronavirus restriction.
- (3) In subsection (2) “specific coronavirus restriction” means a restriction or requirement (other than a closure requirement) imposed by coronavirus regulations which regulated any aspect of—
 - (a) the way a business, or a part of a business, of any specified description was to be carried on, or
 - (b) the way any premises, or any part of premises, of a specified description were or was to be used.
- (4) But for the purposes of subsection (3)—
 - (a) requirements to display or provide information on premises (or parts of premises), and

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(b) restrictions applying more generally than to specific descriptions of businesses or premises (or parts of businesses or premises),
are not specific coronavirus restrictions.

(5) In this section “closure requirement” and “coronavirus regulations” have the same meaning as in section 4.

6 “The matter of relief from payment”

(1) References to the matter of relief from payment of a protected rent debt are to all issues relating to the questions—

- (a) whether there is a protected rent debt of any amount, and
- (b) if so, whether the tenant should be given relief from payment of that debt and, if so, what relief.

(2) “Relief from payment”, in relation to a protected rent debt, means any one or more of the following—

- (a) writing off the whole or any part of the debt;
- (b) giving time to pay the whole or any part of the debt, including by allowing the whole or any part of the debt to be paid by instalments;
- (c) reducing (including to zero) any interest otherwise payable by the tenant under the terms of the tenancy in relation to the whole or any part of the debt.

PART 2

ARBITRATION

Approved arbitration bodies

7 Approval of arbitration bodies

(1) The Secretary of State may approve one or more bodies to carry out the functions under section 8 (and a body which is for the time being so approved is referred to in this Act as an “approved arbitration body”).

(2) The Secretary of State may only approve a body which the Secretary of State considers to be suitable to carry out those functions.

(3) The Secretary of State may withdraw an approval given under subsection (1) if the Secretary of State considers that the body is no longer suitable to carry out those functions.

(4) Where the Secretary of State proposes to withdraw an approval given under subsection (1), the Secretary of State must notify the body in question and give the body an opportunity to make representations.

(5) Where an approval given under subsection (1) is withdrawn from a body, the Secretary of State must make arrangements relating to—

- (a) the repayment of any fees or expenses already paid to the body (if any), and
- (b) the body’s entitlement (if any) to fees or expenses.