

The Commercial Rent (Coronavirus) Bill: update



As anticipated, on 24 March 2022 the Commercial Rent (Coronavirus) Act (the 'Act') received Royal Assent.

In our earlier articles ([Rent arrears: reminder for commercial landlords](#) and [The Commercial Rent \(Coronavirus\) Bill](#)), we discussed the finer details of the Act and the guidance to arbitrators. Below we highlight the changes made since our earlier publications.

The Code of Practice

The Commercial Rent Code of Practice was subsequently updated on 7 April 2022 in line with the Act. The Code is aimed at landlords and tenants: it encourages them to work together to resolve issues of unpaid rent. It has been designed to guide landlords and tenants through the arbitration process. It sets out the behaviours expected by landlords and tenants: transparency and collaboration, a unified approach, to act reasonably and responsibly to reach a swift resolution. The key point is that the parties are expected to negotiate – a collaborative approach as opposed to the traditional and arguably more adversarial approach.

Guidance Note

The Arbitrators Guidance Note was updated and published on 8 April 2022. The main changes are:

- The guidance note is now divided into two sections. Section 1 provides the statutory guidance to arbitrators and follows to a large extent the previous draft guidance. Part 2 is new and is a non-statutory guidance to approved arbitration bodies.
- The government will publish a list of arbitration bodies approved by the Secretary of State.

- Stage 1 – the pre-arbitration stage – reference to arbitration must be made by *23 September 2022*. The Secretary of State has the power to extend this period.
- Stage 2 and 3 – the arbitration guidance now provides a useful table of possible indicators and evidence to provide the arbitrator with guidance on the viability of the tenant's business.
- Stage 3 – the Act requires that awards reached following the arbitration process must be published (excluding confidential information) on the approved arbitration body's website. The publication of the award is intended to enable stakeholders to see the outcomes of the arbitration process on rent arrears for different business circumstances, establishing market expectations as to what is a fair outcome.
- It is expected that the majority of cases can and will be dealt with by documents only but the parties have the right to request an oral hearing.

It will be interesting to see how the Act impacts upon the landlord and tenant relationship and whether landlords of unprotected rent debt take a more collaborative approach now that the moratorium on traditional debt recovery methods has been lifted.



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