

SCHEDULES

SCHEDULE 2

Section 23

TEMPORARY MORATORIUM ON ENFORCEMENT OF PROTECTED RENT DEBTS

Preliminary: interpretation

- 1 (1) This Schedule applies in relation to a protected rent debt under a business tenancy.
- (2) In this Schedule—
- (a) references to “the protected debt” or “the debt” are to the whole or any part of that protected rent debt;
 - (b) “the business tenancy” is the business tenancy under which the protected debt arose;
 - (c) “the landlord” and “the tenant” refer respectively to the landlord and the tenant under that tenancy;
 - (d) “the moratorium period”, in relation to the protected debt, has the meaning given by section 23(2);
 - (e) a reference to doing something “in relation to” the protected debt includes, where appropriate, its being done on the basis of the debt.

Commencement Information

I1 Sch. 2 para. 1 in force at Royal Assent, see [s. 31\(4\)](#)

Making a debt claim

- 2 (1) The landlord may not, during the moratorium period for the debt, make a debt claim to enforce the protected debt.
- (2) In this paragraph “debt claim” means a claim to enforce a debt in civil proceedings (including by a counterclaim or any other way of claiming payment of a debt in such proceedings).

Commencement Information

I2 Sch. 2 para. 2 in force at Royal Assent, see [s. 31\(4\)](#)

Debt claims made before the day on which this Act is passed

- 3 (1) This paragraph applies to proceedings on a debt claim which—
- (a) is made on or after 10 November 2021 but before the day on which this Act is passed,
 - (b) is made by the landlord against the tenant, and

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- (c) relates to, or to debts which include, the protected rent debt.
- (2) Either of the parties to the business tenancy may apply to the court for the proceedings on the debt claim to be stayed in order to enable the matter of payment of the protected rent debt to be resolved (whether by arbitration or otherwise).
- (3) Where such an application is made in respect of proceedings on a debt claim the court must stay the proceedings (unless it is satisfied that they are not proceedings to which this paragraph applies).
- (4) Sub-paragraphs (5) to (7) apply if judgment on the debt claim is given in favour of the landlord during the period described in sub-paragraph (1)(a).
- (5) So long as the judgment debt so far as relating to the protected rent debt, or any interest on it, is unpaid, then—
 - (a) the matter of relief from payment of the judgment debt so far as relating to the protected rent debt, or any interest on it, may be resolved by arbitration under Part 2 of this Act or by agreement (as if that part of the judgment debt and any interest on it were a protected rent debt), despite the judgment having been given,
 - (b) the judgment debt, so far as relating to the protected rent debt or any interest on it, may not be enforced or relied on by the landlord before the end of the moratorium period for the protected rent debt, and
 - (c) if relief from payment is awarded or agreed, the effect of the judgment debt is to be taken as altered in accordance with the award or agreement.
- (6) Where it comes to the attention of the officer of the court in which the judgment is entered that—
 - (a) the judgment relates solely to the protected rent debt,
 - (b) relief from payment of the protected rent debt has been awarded under Part 2 of this Act or agreed, and
 - (c) the moratorium period for the protected rent debt has ended,
the officer must send a request to the registrar to cancel the entry in the register of judgments under section 98 of the Courts Act 2003.
- (7) Following receipt of a request under sub-paragraph (6), the registrar must cancel the entry.
- (8) In this paragraph—
 - “debt claim” has the same meaning as in paragraph 2;
 - “tenant” includes—
 - (a) a person who has guaranteed the obligations of the tenant under a business tenancy,
 - (b) a person other than the tenant who is liable on an indemnity basis for the payment of rent under a business tenancy, and
 - (c) a former tenant who is liable for the payment of rent under a business tenancy.

Commencement Information

I3 Sch. 2 para. 3 in force at Royal Assent, see [s. 31\(4\)](#)

Changes to legislation: There are currently no known outstanding effects for the
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Using CRAR (the commercial rent arrears recovery power)

- 4 (1) The landlord may not, during the moratorium period for the protected debt, use CRAR in relation to the debt.
- (2) This means that during that period—
- (a) an authorisation to exercise CRAR on behalf of the landlord in relation to the protected debt may not be given,
 - (b) a notice of enforcement may not be given in relation to the protected debt on behalf of the landlord, and
 - (c) the protected debt is to be disregarded in calculating the net unpaid rent for the purposes of section 77 of the Tribunals, Courts and Enforcement Act 2007 (the rent recoverable using CRAR).
- (3) In this paragraph “CRAR” and “notice of enforcement” have the same meaning as in Chapter 2 of Part 3 of that Act.
- (4) In section 77 of that Act, after paragraph (b) of subsection (1) insert “;
- (c) it is not excluded from recovery using CRAR by paragraph 4 of Schedule 2 to the Commercial Rent (Coronavirus) Act 2022 (temporary moratorium on enforcement of protected rent debts).”

Commencement Information

I4 Sch. 2 para. 4 in force at Royal Assent, see [s. 31\(4\)](#)

Enforcing a right of re-entry or forfeiture

- 5 (1) The landlord may not, during the moratorium period for the protected debt, enforce, by action or otherwise, a right of re-entry or forfeiture for non-payment of the debt.
- (2) No conduct by or on behalf of the landlord during the moratorium period, other than giving an express waiver in writing, is to be regarded as waiving a right of re-entry or forfeiture, under the business tenancy, for non-payment of the debt.
- (3) For the purposes of determining whether the ground mentioned in section 30(1)(b) of the Landlord and Tenant Act 1954 (persistent delay in paying rent which has become due) is established in relation to the business tenancy, any failure to pay the debt during the moratorium period is to be disregarded.
- 6 (1) This paragraph applies where—
- (a) a superior landlord enforces, by action or otherwise, a right of re-entry or forfeiture in relation to a superior tenancy during the moratorium period, and
 - (b) the tenant applies for relief from forfeiture in relation to its interest in the property comprised in the tenancy.
- (2) For the purposes of determining whether to grant the tenant relief from forfeiture and, if so, the terms of such relief, the court must disregard any failure to pay the protected rent debt.

Commencement Information

I5 Sch. 2 para. 5 in force at Royal Assent, see [s. 31\(4\)](#)

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I6 Sch. 2 para. 6 in force at Royal Assent, see [s. 31\(4\)](#)

Using landlord's right to appropriate rent

- 7 (1) This paragraph applies in relation to a payment of rent under a business tenancy which is paid during the moratorium period for the debt at a time when—
- (a) the tenant owes the landlord an unprotected rent debt in addition to the debt, and
 - (b) the tenant has not exercised the tenant's right to appropriate the payment to any particular rent debt owed to the landlord.
- (2) The landlord's right to appropriate the payment must be used to apply the payment to meet the unprotected rent debt before it is applied to the protected rent debt.
- (3) In this paragraph an "unprotected rent debt" is a debt consisting of—
- (a) rent that is not protected rent, or
 - (b) interest on rent that is not protected rent.
- 8 (1) This paragraph applies in relation to any payment of rent under a business tenancy which was paid during the period mentioned in sub-paragraph (2) at a time when—
- (a) the tenant owed the landlord an unprotected rent debt in addition to the debt, and
 - (b) the tenant had not exercised the tenant's right to appropriate the payment to any particular rent debt.
- (2) The period relevant for the purposes of sub-paragraph (1) is the period—
- (a) beginning with the day after the last day of the protected period for the debt, and
 - (b) ending with the day before the first day of the moratorium period for the debt.
- (3) During the moratorium period for the debt, the landlord's right to appropriate the payment must be used to apply the payment to meet the unprotected rent debt before it is applied to the protected rent debt.
- (4) If the landlord used that right during the period mentioned in sub-paragraph (2) to appropriate the rent to the debt, then—
- (a) the appropriation of the payment to the debt is ineffective to the extent of the unprotected rent debt, and
 - (b) the payment is to be treated for all purposes as having been appropriated to the unprotected rent debt first.
- (5) In this paragraph "unprotected rent debt" has the same meaning as in paragraph 7.

Commencement Information

- I7** Sch. 2 para. 7 in force at Royal Assent, see [s. 31\(4\)](#)
I8 Sch. 2 para. 8 in force at Royal Assent, see [s. 31\(4\)](#)

Using tenant's deposit to apply towards unpaid rent debt

- 9 (1) This paragraph applies where a tenancy deposit is available to the landlord for the purpose of applying towards an unpaid rent debt.

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- (2) The landlord may not, during the moratorium period for the debt, recover the debt from the tenancy deposit.
- (3) If the landlord has lawfully recovered the debt from the tenancy deposit before the beginning of the moratorium period, the tenant is not required to make good any shortfall in the deposit before the end of that period.

Commencement Information

19 Sch. 2 para. 9 in force at Royal Assent, see [s. 31\(4\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Commercial Rent (Coronavirus) Act 2022, SCHEDULE 2.