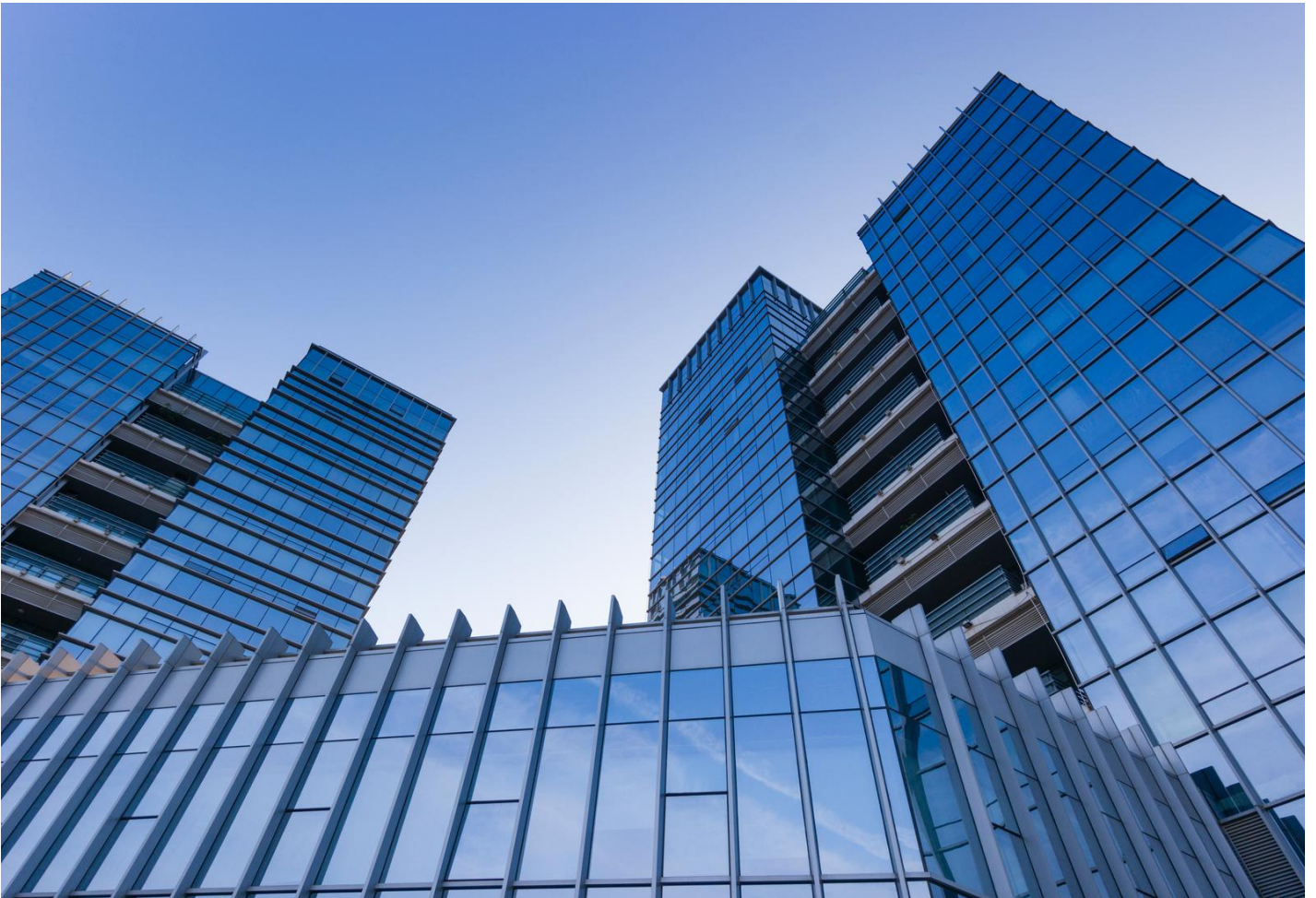




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# PROPERTY LITIGATION NEWS

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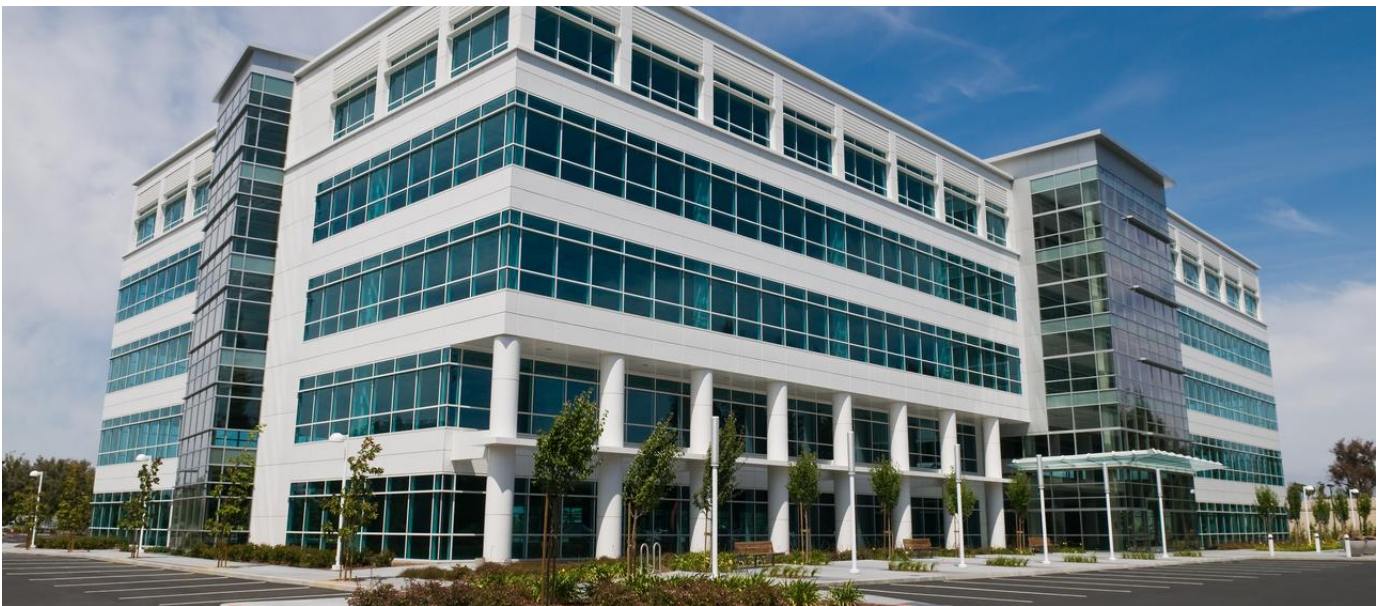


**ISSUE 001**

## **RESTRICTIONS ON RECOVERY OF RENT ARREARS EXTENDED UNTIL 30TH SEPTEMBER 2020**

Over the last month or so, the Government has introduced or extended a host of measures which are intended to protect commercial tenants that have been adversely impacted by the COVID-19 pandemic and resulting economic downturn.

The Government has announced that the protections from forfeiture for non-payment of rent for commercial tenants will be extended to 30th September 2020. This is a three month extension which brings the moratorium on commercial forfeiture to six months in total. The Government will also enact secondary legislation which will prevent landlords from using the Commercial Rent Arrears Recovery (CRAR) route unless they are owed 189 days of unpaid rent or more. Using CRAR, landlords are able to use bailiffs to seize goods and stock from the tenant's premises which are then sold in order to pay the rent.



Further still, whilst some commercial landlords initially sought to issue statutory demands and winding up petitions where their tenants could not afford the rent due to COVID-19, the Government has also introduced the Corporate Insolvency and Governance Act which will prevent this course of action where the debt/rent arrears are due to COVID-19. The Act received royal assent on 25th June 2020 and came into force the following day.

These measures are intended to provide temporary relief/assistance to business tenants that are struggling due to the impact of COVID-19, but will not last forever. We expect to see a surge of commercial landlords taking action when the moratorium is eventually lifted. It is currently not known what, if any, measures will be introduced to limit the potential surge.



## **NEW CODE OF PRACTICE TO ASSIST COMMERCIAL LANDLORDS AND TENANTS OVER RENT ARREARS**

On 19th June 2020, the Government published a new code of practice, the Code of Practice for commercial property relationships during the COVID-19 pandemic.

The Code is voluntary and makes clear that it does not change the legal relationship or terms of the lease between the landlord and tenant. The Code also makes clear that where tenants are in a position to continue to pay their rent in full, they should absolutely do so. The Code seeks to strike a balance between the position of landlords and tenants and sets out expectations that landlords and tenants should share the costs and risks arising from the COVID-19 pandemic in a measured way.

Instead, the Code is intended to promote best practice and facilitate discussions between landlords and tenants. It is there to assist landlords and tenants who are navigating unforeseen problems as a result of the COVID-19 pandemic. It encourages landlords to support tenants who are in need where reasonably possible, whilst still having regard to their own financial position.

In particular, the Code sets out a menu of options that the parties could consider when looking at temporary arrangements that they could agree to which, amongst other suggestions, includes a full or partial rent-free period, a rent deferral, or smaller more regular rent instalments.

The full Code is available on the Government website [available here](https://www.gov.uk/government/publications/code-of-practice-for-the-commercial-property-sector/code-of-practice-for-commercial-property-relationships-during-the-covid-19-pandemic#new-arrangements).

(<https://www.gov.uk/government/publications/code-of-practice-for-the-commercial-property-sector/code-of-practice-for-commercial-property-relationships-during-the-covid-19-pandemic#new-arrangements>)



## GOOD NEWS FOR DEVELOPERS!

Planning permission usually expires after three years if work has not started onsite.

Due to the impact of COVID-19, and in particular the lengthy period of lockdown imposed, developers have faced problems or delays resulting from disruption to supply chains, workers self-isolating, and more recently, adhering to social-distancing requirements. These issues have inevitably led to issues or delays in carrying out the work requirement to implement permissions.



In late June 2020, the Government revealed the Business and Planning Bill which is currently making its way through Parliament. The Bill has introduced an extension for permissions due to expire between 23 March and 31 December 2020 until 1 April 2021, although additional environmental approval will be required in some circumstances. The aim is to prevent work that has been temporarily disrupted by the pandemic from stopping altogether.

The Government has estimated that by the end of this month alone, more than 400 residential permissions providing more than 24,000 new homes would have expired (although it is not clear how many of those permissions have been delayed by the pandemic rather than other unrelated factors). The new measures are aimed at helping these developments and more resume as the economy recovers.

If you would like to discuss or need any help or support on any of the issues above then please contact the Machins' Property Litigation Team on 01582 514 000.

Machins offer a full range of commercial services and our Property Litigation team are able to advise on any disputed landlord and tenant or property issue – whether Covid-19 related or not!



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Machins Solicitors LLP have offices in Berkhamsted, Luton and Hemel Hempstead. We are one of the leading law firms in Hertfordshire and Bedfordshire and recognise the need to establish a proper relationship with our clients which allows us to understand individual requirements and to give effective practical advice in a pragmatic, cost effective way. We provide specialist advice and assistance both for businesses and individuals.