

New Legislation to resolve remaining COVID-19 commercial rent debts.

- What is rent debt?
- What is the protected (ring fenced) period?
- What is protected and unprotected rent debt?

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Why commercial landlords and tenants need to know if any of their rent debt is unprotected rent debt.

The general moratorium on commercial evictions ended on 25 March 2022. As such, landlords can again initiate the recovery of all rent debt, via the usual rent recovery mechanisms i.e.

1. Forfeiture of the lease (the landlord's ability to end a tenancy and a business' right to occupy the premises via peaceable re-entry of the premises or the issue of proceedings at Court - subject to the terms of the tenancy agreement).
2. The seizing of tenant's goods (under the Commercial Rent Arrears Recovery system).
3. The issuing of claims at Court for the recovery of rent arrears (Statutory Demands and winding up petitions).
4. Drawing down on existing rent deposits.
5. Making rent debt claims against guarantors.

From 24 March 2022 The Commercial Rent (Coronavirus) Act 2022 became law. Its aim is to encourage commercial landlords and tenants to negotiate agreements on accrued rent debt, using the established Code of Practice. In the event agreement cannot be reached, the legislation provides a new binding arbitration system to resolve the dispute.

The Act prevents landlords from recovering 'protected rent debt' from qualifying tenants for the period of the arbitration process, as long as an application for arbitration is made no later than 24 September 2022 i.e. within 6 months of the Bill becoming law.

The message is clear – Commercial landlords and tenants should:

- be aware of the distinction between their protected and unprotected rent debt
- be aware protected rent debt can potentially be the subject of the new arbitration process
- be aware that all unprotected rent debt is liable to the usual arrears recovery mechanisms
- still attempt to negotiate agreements using the Code of Practice in the knowledge of the above