



UK rent concessions during the COVID-19 outbreak

2 April 2020

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The Coronavirus crisis has affected all of us and will continue to present serious challenges for businesses for the foreseeable future. With so many aspects of the country's economic and social fabric to consider, it is understandable that the Government's initial measures to address the impact of COVID-19 on the Real Estate sector have focussed on the occupiers of property rather than on the landlord community. In particular, the support that the Government has introduced - including the widening of exemption from business rates for retail and leisure operators and the imposition of a moratorium on the forfeiture of leases until 30 June 2020 – whilst welcome, address only a few of the numerous issues that will continue to arise for both landlords and tenants over the coming months.

With the can having been firmly kicked down the road until the June quarter day, unless there is a meaningful waiver of rental liability, which most landlords will struggle to afford, then it is extremely difficult to see how beleaguered tenants are going to be able to meet a double rent quarter without further Government intervention. Whilst the occupier community will have welcomed the moratorium, in reality it is illusory, as not many landlords would have wished to take back space at a time of the market when they will face uncertainty as to whether they can re-let and then bear empty property costs. Far better to leave a tenant in situ, hopefully paying service charge and other outgoings and whatever rent they can afford, whilst interest continues to rack up, at the contractual rates, on unpaid sums.

So far, there has been little or no intervention to help landlords service their loans, which will become increasingly difficult if they have no / reduced income and we can expect to see a number of banking covenant breaches as the tests under facility agreements are applied. In addition the Government announced on 28th March their intention to bring forward proposals when parliament returns at the end of April to amend insolvency legislation. The proposal is to introduce:

- i. a period of "breathing space" – another moratorium – to allow viable companies more time to consider the options to rescue their business free from creditor action;
- ii. a new restructuring plan procedure that will provide an alternative option for companies to restructure their debts; and
- iii. new rules to prevent suppliers terminating contracts solely by virtue of a company entering an insolvency process.

In the meantime, businesses and their advisers need to try to navigate a course through these unfamiliar waters. These are entirely novel circumstances and we have all been challenged to think differently. The institutional investor and the small property company will have a different outlook on the situation and widely varying abilities to cope with radically changed economic circumstances.

Whilst it is impossible at this stage to accurately predict the duration of the crisis, there are steps that landlords and tenants can be taking to address the immediate issues. A number of options are being considered and applied in the market as ways of giving contractual substance to supplement the ban on forfeiture. These include:

- i. Rent **deferral** under which the tenant is allowed not to pay rent for a period but then to pay by way of additional rent the amount which has been deferred by equal monthly instalments over a specified period of time;
- ii. **Monthly** rent where the tenant will pay rent monthly rather than quarterly for a specified period of time;
- iii. Rent **reduction** where the tenant is allowed to pay a reduced rent over a specified period of time; and
- iv. Rent **abatement** where the tenant is not obliged to pay any rent during the specified period and there is no obligation to pay the rent at a later date.

These arrangements, seeking to share some of the rental risk, will help to ease tenants' pain in the short term. There is a need to move rapidly to provide the certainty that landlords and tenants require.

To meet these needs, we have developed an online, secure client portal where you can efficiently manage the drafting of rent concession letters using contract automation technology, allowing the immediate production of letters. Please contact your usual client partner, a member of your client service team or Katie Jacobson for further information and access to this platform.

You can find further practical guidance in our Coronavirus: A UK real estate perspective article, where we highlight other issues that may arise from a UK real estate perspective in the wake of the COVID-19 outbreak.

Please visit our Coronavirus Resource Centre for more guidance across a spectrum of topics.

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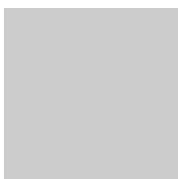


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