

Real Estate
Case Law Update
Rosling King LLP



The Coronavirus Act 2020 (the “**Act**”) is now in force and brings into force provisions protecting business and residential tenants from eviction.

Business Tenancies

Section 82 of the Act sets out the position concerning protection from forfeiture relating to business tenancies in England and Wales.

The key points are as follows:

- The “*relevant period*” currently ends on 30 June 2020, although there is provision allowing for this date to be extended (*section 82(12)*);
- A landlord’s right of re-entry or forfeiture, under a relevant business tenancy, for non-payment of rent may not be enforced during the relevant period (*section 82(1)*);
- During the relevant period, a landlord can only waive a right to forfeit for non-payment of rent expressly (*section 82(2)*);
- In relation to ongoing proceedings, an order cannot be made during the relevant period requiring a tenant to give up possession during the relevant period (*section 82(4)*);
- In relation to conditional possession orders taking effect during the relevant period, the Court must postpone the requirement to give possession until after the relevant period, upon application by the tenant to vary the order (*section 82(5) and (6)*);

Residential Properties

Schedule 29 of the Act sets out the position concerning protection from eviction relating to residential tenancies in England and Wales.

The key points are as follows:

- The “*relevant period*” currently ends on 30 September 2020, although there is provision allowing for this date to be extended (*paragraph 1, Schedule 29*);
- Notices served by landlords under section 8 of the Housing Act 1988 (e.g. for rent arrears) during the relevant period must specify a notice period of 3 months (*paragraph 6, Schedule 29*);
- Notices served by landlord under section 21 of the Housing Act 1988 (i.e. end of term evictions or “no fault” evictions) must specify a notice period of 3 months (*paragraph 7, Schedule 29*);
- There is power to alter the 3 month notice period to up to 6 months (*paragraph 13, Schedule 29*).

Conclusion

Following a decision by the Master of the Rolls with the Lord Chancellors agreement the court service will suspend all ongoing housing possession actions – this means that neither cases currently in, or any about to go in, the system can progress to the stage where someone could be evicted. This suspension of housing possession actions will initially last for 90 days, but this can be extended if needed. This measure will protect all private and social renters, as well as those with mortgages and those with licenses covered by the Protection from Eviction Act 1977. This will apply to both England and Wales.

The message from the Government is for landlords and tenants to work together to try to resolve issues, where possible. Tenants are still liable for their rent and should pay this as usual. If they face financial hardship and struggle to pay this, support is available. In the first instance they should speak to their landlord if they think they will have difficulty meeting a rental payment, and in this unique context tenants and landlords are being encouraged to work together to put in place a rent payment scheme.

For further information, please contact [Ann Ebberson](#) or the Partner with whom you usually deal.