

10 April 2020

To Whom It May Concern

**Commercial leases – protection from eviction
Coronavirus Act (Scotland) 2020**

I know that you have regular engagement with Scottish Government officials and that the Cabinet Secretary for Economy, Fair Work and Culture joined you for a productive discussion this week. The conversation included all we are doing to respond to the Covid-19 economic challenges and moving forward from the response to reset phase for the economy. I know that you are ensuring your members are well-briefed on the fiscal measures the Scottish Government and UK Government have introduced, and I write to encourage you to also highlight that the Scottish Government's emergency legislation includes an important provision for commercial leases.

As you will be very aware, currently, commercial leases can be terminated for non-payment of rent. The exact mechanism will depend on the lease but the legislation requires the landlord to issue a warning letter to the tenant. The warning letter has to give the tenant a minimum of 14 days to make payment of the outstanding arrears. If payment is not made, the landlord can terminate the lease. Our new emergency measures extend the minimum period in the warning letter from 14 days to 14 weeks, and this minimum period applies to all commercial property leases and includes those where a warning notice may already have been issued. If a warning letter has already been issued, and the 14 days has not yet expired, then that notice will be invalid. This measure is of course designed to provide some comfort to tenants, knowing that their landlord is not able to terminate their lease where the financial difficulties may be - and currently probably are - outside of the tenant's control. The

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legislative provision for 'irritancy clauses in commercial leases: non-payment of rent or other sums' due can be found at [Schedule 7 Coronavirus \(Scotland\) Act](#).

Details of the range of emergency measures to support businesses from both the Scottish Government and UK Government, in addition to this legislative amendment, can be found at <https://findbusinesssupport.gov.scot/>. My Cabinet colleague Fiona Hyslop also announced a telephone helpline to provide support to businesses. The business helpline number is 0300 303 0660 and is open during normal business hours.

These measures have been welcomed by the property sector:

Head of UK Government Relations and City Strategy at the Royal Institution of Chartered Surveyors (RICS) Hew Edgar said:

"These are exceptional circumstances, and the Scottish Government has introduced many necessary measures to support those who operate and participate in Scotland's commercial market."

"RICS welcomes the Minister's advice that landlords and tenants should seek advice from professionals who can assist in the navigation of the amended business rates regime, how to access recently established grants and loans on offer, as well as assist parties who want to introduce temporary payment measures to seek compromise"

The chair of the Scottish Property Federation, Robin Blacklock said:

"The property industry recognises the severity of the health and economic emergency facing society and we have welcomed the Act on this basis. It is important that both landlords and their tenant customers work together to manage the impact of the Covid-19 crisis, including where tenants struggle to meet rental liabilities through no fault of their own."

I end with a word of caution, recognising that arrears will still be mounting up during and after 14 weeks has expired, and that tenants could still be in a difficult financial position at the end of this 14 week period. Both landlords and tenants should therefore engage constructively with each other and seek early professional advice, as they deem appropriate, about how best to manage their specific situations.

My Ministerial colleagues and I are, as ever, keen to engage constructively with you and your members. If you wish to discuss property issues with my officials please contact propertydivision@gov.scot.

Best regards,



BEN MACPHERSON

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