

01 July 2020

To Whom It May Concern

**Code of Practice for commercial property relationships during the COVID-19
Pandemic
Sustainable leasing and avoiding evictions**

For business tenants, commercial landlords, investors and lenders, the COVID-19 crisis has put significant pressure on budgets and leasing arrangements. It has been vital for all parties to consider their positions and those of others, and to consider, together, agreements that are flexible in the short-term and sustainable in the longer-term. Our collective need to respond, and show appropriate flexibility, will only become more important in the coming period, as we continue to collaborate to suppress the virus and restart the economy.

As you will be aware, government has sought to support businesses through this crisis using a range of regulatory, fiscal and monetary measures. I know that stakeholders continue to engage with Scottish Government officials and relevant representative bodies and business organisations are ensuring their members remain well-briefed on these measures that the Scottish Government and UK Government have introduced. These are summarised at Annex A and are kept up-to-date at <https://findbusinesssupport.gov.scot/>.

Moreover, following the three monthly review of the Coronavirus (Scotland) Act on 24 June it was decided to keep the anti-irritancy provisions in place, see [Schedule 7](#), whereby commercial leases cannot be terminated for non-payment of rent for a period of 14 weeks from issue of a warning letter by the landlord.

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However, what is also required is reasonable and constructive dialogue and understanding between tenants, landlords and lenders at this time. In that regard, please note that important guidance has now also been issued by UK Government, on 19 June, in the form of the *Code of Practice for commercial property relationships during the COVID-19 pandemic*. The full text can be found at <https://www.gov.uk/government/publications/code-of-practice-for-the-commercial-property-sector>.

The Code was published in response to the impacts of COVID-19 on landlords and tenants in the commercial property sector and covers the whole of the United Kingdom, including Scotland. It is intended to reinforce and promote good practice amongst landlord and tenant relationships as, together, they deal with income shocks caused by the pandemic. This is a voluntary code and does not change the underlying legal relationship or lease contracts between landlord and tenant and any guarantor. However, the Scottish Government and the UK Government strongly urge landlords and tenants to utilise this Code, and for lenders to provide support as pro-actively as possible to enable tenancies to endure that were viable before the crisis took hold, in order to sustain jobs and maintain productive capacity.

The Code's objective for the commercial property sector during this period is simple: to provide the right support to those in the chain of commercial property payments - from customers to tenant businesses, commercial landlords and lenders - so that our economy can swiftly and sustainably recover. It will support businesses to come together to negotiate, and if necessary re-negotiate, affordable rental agreements in these unprecedented circumstances. The Code builds upon the discussions already taking place by giving those tenants and landlords affected by the crisis insight and guidance to come to mutually beneficial agreements, ensuring that best practice becomes common practice.

Taken together with the anti-irritancy measures, the Code will help provide the breathing space for tenants to work with landlords and other partners on a plan for a sustainable future. The transition back to normality will take time and both the Scottish Government and the UK Government will continue to monitor the economy to determine whether further intervention is necessary. However, this Code of Practice represents a good starting point on our road to economic recovery and I strongly encourage you to utilise it.

The Code's principles have the support of many representative bodies, from both the landlords' and tenants' perspectives, including the: British Property Federation, Royal Institution of Chartered Surveyors, British Retail Consortium and Federation of Small Businesses.

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

The need for a government Code of Practice for commercial landlords and tenants highlights the gravity of the economic impact of Covid-19, and subsequent measures, has had on Scotland's commercial sector, and the need for professionalism, engagement and transparency.

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RICS professionals operate and report on all aspects of the property market, so RICS uniquely placed to consider the competing priorities, and focus entirely on achieving an outcome that is in the public interest.

We played a leading role in helping to shape the Code; we fully endorse it; and have encouraged professionals to adhere to Code's principles until June 2021. The Code's approach is consistent with the established principles in existing guidance for the sector, and will provide a basis for negotiated outcomes that recognise the mutual importance and interdependence of landlords and tenants in contributing to the economy.

The Chair of the Scottish Property Federation, Robin Blacklock:

The Code of Practice for Commercial property recently agreed by landlords and tenant representatives, as well as the Scottish and UK Governments, provides a basis for addressing questions of rental liabilities in this crisis. Our own evidence suggests that the majority of landlords and tenants are agreeing alternative rental and lease arrangements where necessary. This is welcome and we support and encourage such collaboration, in line with the newly agreed Code of Practice.

David Lonsdale the Director of the Scottish Retail Consortium said:

The Coronavirus pandemic has accelerated longer-term trends in retail property. Rent demands are increasingly out of kilter with current property values and many retailers are being asked to pay rent on closed stores when the tenant has no income.

We welcome the government's Code as a positive first step and are working constructively with Scottish Government and landlords to ensure that otherwise viable businesses are not forced into administration. However, all sides must be prepared to do more if necessary, given that the commercial lettings market is in need of wider adjustment.

I look forward to working with you to sustain tenant businesses and viable commercial property provision through this challenging period towards greater stability. To achieve this, and support the wider economy, I believe that this Code of Practice is a useful tool to engage with pro-actively, collaboratively, empathetically and strategically. In that spirit, my Ministerial colleagues and I are, as ever, keen to engage constructively on this important issue. If you wish to discuss property issues with me or my officials please contact propertydivision@gov.scot.

Yours sincerely,



Ben Macpherson MSP
Minister for Public Finance and Migration

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Annex A

Scottish Government Coronavirus Support for Businesses in Scotland

Grants Based on Rateable Value

Small Business Grant Fund and Retail, Hospitality and Leisure Grant schemes in Scotland will close for new applications on 10th July.

The following grants are available:

A £10,000 Small Business Grant for property with Rateable Value up to £18,000.

£25,000 available to retail, hospitality and leisure business ratepayers with a Rateable Value between £18,001 and £50,999. From 5 May 2020, if you have more than one property, you can apply for a grant for each eligible property.

Small businesses which share properties but do not pay business rates are now eligible to apply for grants of up to £10,000 subject to eligibility criteria.

This means you may be able to get a £10,000 or £25,000 grant for one property. Then each property may be eligible for a:

- Small Business Support Grant of £7,500
- Retail, Hospitality, Leisure Support Grant of £18,500

Non-domestic rates relief to help during coronavirus

All non-domestic properties in Scotland will get a 1.6% rates relief. This relief effectively reverses the change in poundage for 2020-21.

Retail, hospitality and leisure businesses will get 100% rates relief. To get this relief, a property has to be occupied. Properties that have closed temporarily due to the government's coronavirus advice will be treated as occupied.

Scottish airports will get 100% rates relief for a year, as will organisations providing handling services for scheduled passenger flights at Scottish airports.

Coronavirus (Scotland) Act 2020

The Coronavirus (Scotland) Act 2020 has lengthened the period of protection from eviction of commercial tenants for non-payment of rent from 14 days to 14 weeks. As a result of this landlords will not be able to seek repossession of a rented property for 14 weeks. This provision is currently under review and could be extended.

Residential tenants are protected from eviction for six months from 6 April 2020, subject to possible extension.

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Aid for private rental landlords

A £5 million fund will offer interest-free loans to landlords whose tenants are having difficulty paying rent during the coronavirus (COVID-19) crisis.

The Private Rent Sector Landlord COVID-19 Loan Scheme will offer eligible landlords up to 100% of lost rental income for a single property.

It will support private-sector landlords who are not classified as businesses, have five or less properties to rent and have lost rental income due to tenants unable to pay rent as a result of the COVID-19 pandemic.

Please keep an eye on both the [Scottish Governments news pages](#) and [UK Government news pages](#) for any further announcements on support measures in the commercial property market, which are under constant review.

The Bed and Breakfast Hardship Fund is now open for applications for those who operate using a personal account (15 June 2020)

Construction

<https://www.gov.scot/publications/coronavirus-covid-19-construction-sector-guidance/pages/related-guidance/>

<https://www.scottishconstructionnow.com/article/government-invests-78m-to-help-construction-sector-return-to-work>

The Scottish Government has launched a £100 million emergency loan fund supporting small and medium-sized house builders with liquidity issues due to the temporary closure of the housebuilding sector as a result of COVID-19 (18 May 2020)

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