

Commercial Rent (Coronavirus) Bill

AMENDMENTS TO BE MOVED ON REPORT

Clause 2

LORD GRIMSTONE OF BOSCOBEL

Page 2, line 42, at end insert –

- “(6) “English business tenancy” means a business tenancy comprising premises in England.
- (7) “Welsh business tenancy” means a business tenancy comprising premises in Wales.”

Member’s explanatory statement

The amendment would define “English business tenancy” and “Welsh business tenancy”.

Clause 8

THE EARL OF LYTTON

Page 6, line 14, leave out paragraph (e)

Page 6, line 16, leave out “on any one of the grounds in subsection (2)” and insert “in the event that both parties request the arbitrator’s removal.”

Page 6, line 18, leave out subsection (2)

Clause 9

LORD GRIMSTONE OF BOSCOBEL

Page 7, line 10, leave out from “period” to end and insert “allowed by subsection (2) for making references to arbitration in the case of –

- (a) English business tenancies,
- (b) Welsh business tenancies, or
- (c) English business tenancies and Welsh business tenancies.”

Member's explanatory statement

The amendment would clarify that the power to extend the period for making references to arbitration can be exercised for English business tenancies or for Welsh business tenancies only, as well as for both.

Page 7, line 13, leave out subsection (5)

Member's explanatory statement

The amendment would omit a definition that is redundant if Lord Grimstone's proposed amendment to Clause 23 at page 14, line 27 is made.

Clause 10

THE EARL OF LYTTON

Page 7, line 27, leave out “an arbitrator may not be appointed,”

Page 7, line 39, leave out “an arbitrator may not be appointed, and”

Clause 19

THE EARL OF LYTTON

Page 12, line 24, after “debt” insert “or the complexity of the case”

Page 12, line 27, leave out “arbitration fees (other than oral hearing fees)” and insert “the fees and expenses of any approved arbitration body concerned”

Page 12, line 31, leave out “half the arbitration fees paid under subsection (4)” and insert “—

- (a) half of the arbitrators' fees and expenses (including any oral hearing fees), and
- (b) half of the fees and expenses of any approved arbitration body subject to any adjustments applicable to small and medium-sized enterprises under the approved arbitration body's fee structure.”

Clause 20

THE EARL OF LYTTON

Page 13, line 11, leave out “in advance”

Page 13, line 13, leave out “in advance”

Clause 23

LORD GRIMSTONE OF BOSCOBEL

Page 14, line 27, leave out “for making references to arbitration,” and insert “of six months beginning with that day,”

Member's explanatory statement

The amendment would mean that the moratorium period is no longer defined directly by reference to the period under Clause 9(2) for making of references to arbitration. Instead the period under Clause 23(2)(b)(i) will end 6 months from Royal Assent, unless extended.

Page 14, line 30, at end insert –

“(2A) Subsection (2) is subject to any extension of the period mentioned in paragraph (b)(i) that –

- (a) is made by or by virtue of section (*Alteration of moratorium period*), and
- (b) has effect in relation to the protected rent debt.”

Member's explanatory statement

The amendment would acknowledge that the period ending as specified in Clause 23(2)(b)(i) may be extended as provided for in the new Clause proposed by another amendment in the name of Lord Grimstone.

After Clause 23**LORD GRIMSTONE OF BOSCOBEL**

Insert the following new Clause –

“Alteration of moratorium period

- (1) In this section “extension regulations” means regulations under section 9(3) extending the period allowed by section 9(2) for making references to arbitration.
- (2) Where extension regulations made by virtue of section 9(3)(a) or (c) extend that period in the case of English business tenancies, the period specified in section 23(2)(b)(i), so far as it applies in the case of a protected rent debt under an English business tenancy, is extended for the same period of time.
- (3) Subsection (4) below applies where extension regulations made by virtue of section 9(3)(b) or (c) extend that period in the case of Welsh business tenancies.
- (4) The Secretary of State may by regulations made by statutory instrument extend the period specified in section 23(2)(b)(i), so far as it applies in the case of a protected rent debt under a Welsh business tenancy, for the same period of time.
- (5) Regulations under subsection (4) must provide for the extension referred to in that subsection –
 - (a) to have effect for the purposes of this Part including the purposes of Schedule 2, or
 - (b) to have effect for the purposes of this Part other than the purposes of Schedule 2.
- (6) The power to make the provision referred to in subsection (5)(a) is exercisable only with the consent of the Welsh Ministers to the extension having effect for the purposes of Schedule 2 other than the purposes of paragraph 3(6) and (7).
- (7) A statutory instrument containing regulations under subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament.”

Member's explanatory statement

The amendment deals with the effect of use of the Clause 9(3) power on the moratorium period under Clause 23(2). For debts under Welsh business tenancies the effect will depend on regulations, which would require the consent of the Welsh Ministers if a change in the moratorium period affects Schedule 2 (apart from paragraph 3(6) and (7), dealing with reserved matters).

Clause 27

LORD GRIMSTONE OF BOSCOBEL

Page 15, line 39, at end insert –

“(1A) Regulations under this section may –

- (a) be made so as to apply in relation to –
 - (i) English business tenancies,
 - (ii) Welsh business tenancies, or
 - (iii) English business tenancies and Welsh business tenancies;
- (b) exclude the provisions mentioned in subsection (7B)(a) to (c) from the provisions being re-applied in relation to Welsh business tenancies.”

Member's explanatory statement

The amendment would enable regulations under Clause 27 to be made just for English business tenancies or just for Welsh business tenancies (as well as for both) and also to exclude (in the case of Welsh business tenancies) provisions of the Act which deal with devolved matters in Wales.

Page 16, leave out lines 15 and 16 and insert –

“(7) Regulations under this section may –”

Member's explanatory statement

The amendment would omit the current specific power to exclude any of the provisions of the Act from applying again by virtue of regulations under Clause 27.

Page 16, line 17, after “such” insert “necessary”

Member's explanatory statement

The amendment would limit the power to modify the provisions of the Bill being re-applied to modifications necessary for the re-applied provisions of the Act to work in the circumstances in which the power is being used.

Page 16, line 19, leave out from “provision” to first “for” in line 20

Member's explanatory statement

The amendment would limit subsection (7)(c) to making different provision for England and for Wales.

Page 16, line 23, at end insert –

“(7A) For the purposes of subsection (7)(b) –

- (a) “modifications” means omissions, additions or variations, and

Clause 27 - continued

- (b) modifications are “necessary” if they appear to the Secretary of State to be necessary for the provisions being re-applied to operate correctly in relation to business tenancies adversely affected by the closure requirements in question.
- (7B) The power under this section is exercisable only with the consent of the Welsh Ministers so far as it relates to the re-application, in relation to Welsh business tenancies, of –
 - (a) Schedule 2 apart from paragraph 3(6) and (7),
 - (b) section 23 so far as relating to Schedule 2 apart from paragraph 3(6) and (7), and
 - (c) Part 1 and this Part, so far as relating to the provision mentioned in paragraphs (a) and (b).”

Member’s explanatory statement

The amendment would require the consent of the Welsh Ministers to regulations re-applying the moratorium provisions of Part 3, with the exception of paragraph 3(6) and (7) of Schedule 2 (the subject-matter of which is reserved under Welsh devolution legislation).

Page 16, line 24, leave out “The regulations” and insert “Regulations under this section”

Member’s explanatory statement

This is a drafting amendment that would secure consistency of expression in Clause 27.

After Clause 27

LORD GRIMSTONE OF BOSCOBEL

Insert the following new Clause –

“Concurrent power for Welsh Ministers to apply moratorium provisions again

- (1) The Welsh Ministers may exercise the power conferred by section 27, concurrently with the Secretary of State, so far as it relates to the re-application, in relation to Welsh business tenancies, of –
 - (a) Schedule 2 apart from paragraph 3(6) and (7),
 - (b) section 23 so far as relating to Schedule 2 apart from paragraph 3(6) and (7), and
 - (c) Part 1 and this Part, so far as relating to the provision mentioned in paragraphs (a) and (b).
- (2) Section 27 has effect in relation to regulations made by the Welsh Ministers by virtue of this section as if –
 - (a) references to the Secretary of State were to the Welsh Ministers,
 - (b) subsection (1A)(a)(i) and (iii) and (b) were omitted,
 - (c) in subsection (7) –
 - (i) the references in paragraph (b) to provisions of this Act were references to provisions mentioned in subsection (1)(a) to (c) above, and

After Clause 27 - continued

- (ii) the reference in paragraph (d) to an Act of Parliament included a reference to an Act or Measure of Senedd Cymru,
 - (d) subsection (7B) were omitted, and
 - (e) in subsection (8)(b), for “each House of Parliament” there were substituted “Senedd Cymru”.
- (3) In Schedule 7B to the Government of Wales Act 2006 (general restrictions on legislative competence of Senedd Cymru), in paragraph 11(6)(b) (exceptions to restrictions relating to Ministers of the Crown) –
- (a) omit the “or” at the end of paragraph (vii), and
 - (b) after paragraph (viii) insert “; or
 - (ix) section 27 of the Commercial Rent (Coronavirus) Act 2022.””

Member’s explanatory statement

The amendment would insert a new Clause enabling the Welsh Ministers, concurrently with the Secretary of State, to use the section 27 power to apply again the moratorium provisions specified in subsection (1)(a) to (c) of the new clause in relation to Welsh business tenancies affected by new coronavirus restrictions in Wales.

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28 February 2022
