



Llywodraeth Cymru
Welsh Government

PUBLICATION

Business tenancies forfeiture for non-payment of rent moratorium extension: integrated impact assessment

How the moratorium extension will benefit businesses affected by the COVID-19 pandemic.

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Business tenancies forfeiture for non-payment of rent moratorium extension

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Department

ESNR, Business and Regions, Economic Policy

Head of Division/SRO (name)

Claire McDonald: Deputy Director, Economic Policy
Business and Regions, ESNR

Minister responsible

Vaughan Gething MS, Minister for Economy

Start date

June 2020 (updated September 2021)

What action is the Welsh Government considering and why?

The Coronavirus Act 2020 makes provision that a right of re-entry or forfeiture, under a relevant business tenancy, for non-payment of rent may not be enforced, by action or otherwise, during the “relevant period”, or such later date as may be specified by the relevant national authority in regulations made by statutory instrument (and that power may be exercised on more than one occasion so as to further extend the period). The relevant national authority for Wales is the Welsh Government.

This impact assessment relates to proposals to lay regulations which will make provision to extend the duration of the moratorium provided by section 82 of the Coronavirus Act 2020 to 25 March 2022.

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The proposals were introduced via a Statutory Instrument laid before the Senedd. A Regulatory Impact Assessment has been completed.

The impact of Coronavirus required an immediate response from both the UK and Welsh Governments to support many businesses that would not survive, with devastating consequences for jobs and livelihoods across Wales.

Long term

It is expected there will be significant long term impacts on the economy due to Covid-19. This proposal aims to reduce the impact by protecting businesses from eviction by landlords which will help them with cashflow, to stay afloat and safeguard jobs. As such, it should therefore have a positive impact for the long-term survival of businesses.

Prevention

It will not be possible to prevent the full impact of Covid-19 on the economy, however, this proposal will support businesses which have seen drastic reductions in revenue or have had to temporarily cease trading. The aim of the proposal is to help prevent those businesses from being evicted by landlords.

Integration

This proposal has been developed to fit within the wider policy context of Welsh Government, including the policy framework set out in **Prosperity for All: Economic Action Plan** by supporting people and businesses, and the Well-Being of Future Generations' objective of securing a resilient and prosperous Wales.

The proposal sits alongside other interventions announced by the UK Government, Welsh Government and the Development Bank of Wales, including the Economic Resilience Fund and associated funding for businesses.

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Collaboration

The Minister and officials regularly met with stakeholders to understand issues faced by companies/sectors and to inform policy direction, including:

- social partners
- trade unions
- Ministerial Advisory Board
- local authorities
- business representative organisations
- Council for Economic Development
- retail sector

Involvement

Whilst business tenants or landlords were not initially involved due to the pace of change needed at the start of the Covid-19 pandemic, the UK Government's Code of Practice has been discussed and developed with industry bodies and a range of stakeholders. The Code of Practice will have a greater long-term impact as it aims to change behaviour. We also undertook a view seeking exercise with stakeholders in relation to extending the "relevant period".

Impact

A number of sectors of the economy have been shut down as a result of COVID-19. These include: hospitality, retail, and leisure and tourism. They are particularly at risk of eviction and unlikely to have the resources to meet rental payments due.

Other sectors, including manufacturing, aviation, and construction, have also been heavily impacted, particularly with regard to supply chain issues. The widespread nature of impacts of falling demand has and will continue to permeate all sectors of the economy.

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The proposals enable Welsh Government to continue to support businesses unable to pay rent. There is limited data on how many businesses have benefitted from the protection to date or a prediction of how many and what type of businesses are likely to benefit from the proposed extension. The same applies to the impact on commercial landlords. However research ([Remit Consulting reports a further shortfall in the collection of commercial property rents](#)) suggests that in the UK 67.2% of rents and 63.7% of service charge payments due in December were received within 21-days of the due date, and that office and industrial sectors saw increases in rent collection rates compared to the September quarter, while retail and leisure sectors saw collection rates fall.

It is expected that protecting commercial tenants from eviction will have a positive effect on poverty and unemployment by enabling businesses to pay rent at a later date and by enabling them to keep their premises in anticipation of reopening. This will enable them to retain staff and potentially avoid making redundancies.

The proposals do not incur any costs or savings to the public purse. However, there may be a knock on effect on the landlords' lenders and investors, and therefore there may be potential financial implications if it is deemed necessary to provide commercial landlords with additional financial support to counteract protection provided to tenants. Extending the protection is intended to facilitate the re-starting of the economy by trying to ensure businesses are still in a position to operate as the restrictions are lifted.

One of the unintended consequences is that businesses that are capable of paying rent can take advantage of the position and not pay their landlords. The provisions have put landlords at a disadvantage in terms of negotiating, but as there is currently a lack of evidence to show what percentage of landlords are people from protected groups, we are unable to determine whether this policy creates a disproportionate impact.

It is considered likely that the numbers of distressed tenant businesses will increase in time so more businesses might be at risk, and some Landlords may face many months without rental income and the associated difficulty in servicing their debts/paying dividends to investors, etc.

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As the principal aim of the scheme is to protect tenant businesses and jobs, removal of the current protection would put those businesses back at risk. It is unlikely that commercial landlords would want to see their tenants cease trading permanently.

Given the protective intent of the current arrangements, and the likely continuing difficulties for tenants, it is recommended to keep the provisions in place until 25 March 2022 while Welsh Government Officials work with the UK Government to introduce a Commercial Rent (Coronavirus) Bill which will make provision enabling relief from payment of certain rent debts under business tenancies adversely affected by coronavirus to be available through arbitration.

Conclusion

How have people most likely to be affected by the proposal been involved in developing it?

Due to the need to act quickly to ensure support is in place in light of the pandemic, it was not possible to discuss the proposal with stakeholders prior to the development/launch of the scheme. However, stakeholders were regularly involved in discussions relating to the overall package of support and when considering whether to extend the moratorium period a 'views seeking' exercise was undertaken with key business representative groups and our social partners in Wales which were taken on board in the decision-making process.

What are the most significant impacts, positive and negative?

These proposals contribute to the overall package of support which aims to prevent tenants being evicted by commercial language and as such help to safeguard employment in Wales.

We have concentrated on the impact of not extending the protection, which

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could lead to the closure of businesses due to eviction. The impacts expected as a result of the proposed action are positive for tenants. However, landlords are likely to experience negative impacts as a result of not being able to receive rent owed to them.

Not extending the provision would likely impact the ability of many businesses in Wales to continue trading during and after the Covid-19 pandemic. If commercial landlords are able to evict for non-payment of rent, this could lead to the long term closure of businesses, increase in unemployment, closure of local services, and vacant properties.

Protecting business tenants across Wales will help to save jobs and ensure services and products are located closer to home.

The proposals aim to enable business tenants to remain in their premises (not be evicted for non-payment of rent). This would reduce the likelihood of increased number of empty properties. Vacant properties can reinforce low levels of consumer confidence, if shoppers are faced with boarded/closed shops on the high streets and shopping centres.

Based on the evidence available, these proposals are likely to have a positive impact on young workers under 25 years old and particularly young female workers who are most likely to be working in industries forced to close.

Although there is a lack of data relating to these proposals, the proposal is likely to have minimal impact on children, other than by protecting businesses from eviction could mean that parents/carers remain in employment protecting salaries for those households. Some children in the 16 to 18 year old bracket may be employed in sectors that have been forced to close and again this proposal will have a positive impact on those.

This proposal aims to ensure suitable conditions and an economic environment where the Welsh language and its speakers can thrive. Keeping businesses open in local communities can have a positive effect on the Welsh Language, particularly for those Welsh speaking communities.

We will continue to review the impact of Covid-19 on an ongoing basis to

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monitor whether there are disproportionate outcomes in terms of people with protected characteristics. However, it should be noted that due to the package of support schemes provided to businesses, it will be difficult to measure the impact of this particular intervention.

In light of the impacts identified, how will the proposal:

- maximise contribution to our well-being objectives and the seven well-being goals
- avoid, reduce or mitigate any negative impacts?

The proposal has a positive and direct impact on economic well-being for business and an indirect impact on the general public and individuals, which should contribute to well-being goals relating to prosperity and resilience. The proposals aim to support the Welsh economy and, through this, help tackle poverty. Due to the limited evidence available it is not possible at this time to measure the specific impacts of this intervention.

We will continue to review the evidence in relation to Covid-19, particularly in regard to equality and any information relating to the impact on Welsh language and will aim to mitigate against any negative impacts where possible.

How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

What plans are in place for post implementation review and evaluation?

We will continue to review the impact of Covid-19 to monitor whether there are disproportionate outcomes in relation to people with protected characteristics. This Integrated Impact Assessment will be reviewed before any decisions are made in terms of extending Business Tenancies Forfeiture Protection any further. However, it should be noted that due to the package of support schemes provided to businesses, it will be difficult to measure the specific impacts of this particular intervention.

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