



REMEDIES AVAILABLE TO LANDLORDS ON CORPORATE TENANT INSOLVENCY

	Moratorium	Disclaimer	Proceedings	Distress (Law due to be changed)	Forfeiture		Recovery of debts from Rent Deposit	Recovery of debts from Subtenant	Recovery of debts from Former Tenant/ Guarantor
					Peaceable re-entry	By proceedings			
Administration	✓ A moratorium from all proceedings & enforcements is granted to allow time to trade out of difficulties or to sell some or all of the business.	x Not available.	Not without leave of the Court or consent of the Administrator.	Not without leave of the Court or consent of the Administrator.	Not without leave of the Court or consent of the Administrator. NB - A landlord should be very careful not to waive the right.	Not without leave of the Court or consent of the Administrator. NB - A landlord should be very careful not to waive the right.	Subject to the terms of the Rent Deposit and the manner in which the rent deposit is held.	✓ Subject to service of appropriate notices.	✓ Rent and other fixed charges due under the lease, subject to service of appropriate notices not later than 6 months after the sum became due.
Liquidation: Voluntary (by resolution of the Company)	x	✓	However, a Liquidator or creditor may apply to restrain such action.			✓	✓	✓	✓
Liquidation: Compulsory (by order of the Court)	x No formal moratorium applies but see effect of Liquidation on proceedings.	✓ A Liquidator can elect to disclaim the lease. If so, rights of the tenant determine but rights and obligations of former tenants, guarantors and subtenants continue. A landlord can serve notice requiring the liquidator to make an election within 28 days.	Proceedings begun after presentation of a petition may be stayed by the Court. Once a winding up order is made no proceedings may be started or continued without leave of the Court or consent of the Liquidator.	Not without leave of the Court if a winding up order granted. Action begun before the presentation of a petition may continue but can be challenged. Distress levied up to 3 months prior to a liquidation is charged to preferential creditors.	Not without leave of the Court if a winding up order has been made. Action begun before or after presentation of a petition but before an order is made may continue but can be challenged. NB - A landlord should be very careful not to waive the right.	As per general proceedings - not without leave of the Court or consent of the Liquidator once a winding up order has been made. NB - A landlord should be very careful not to waive the right.	Subject to the terms of the Rent Deposit and the manner in which the rent deposit is held.	✓ Subject to service of appropriate notices.	✓ Rent and other fixed charges due under the lease, subject to service of appropriate notices not later than 6 months after the sum became due.
Voluntary Arrangements (CVAs)	✓ Generally only available for 'small companies' satisfying 2 or more of the criteria set out in s.382(3) of the Companies Act 2006.	x Not available.	✓	✓ Unless a moratorium is in place. A CVA is an agreement between the company and its creditors approved by creditors representing 75% of the value of the company's debts. A valid CVA will bind all the company's existing creditors to the extent that they are dealt with by the CVA. CVAs can also include an arrangement re: future liabilities of the company such as rent.	✓	✓	✓ Depends on the terms of the CVA.	✓ Depends on the terms of the CVA and subject to service of appropriate notices.	✓ Depends on the terms of the CVA and subject to service of appropriate notices.
Administrative/ LPA Receiver	x Not available.	x Not available.	✓	✓	✓ A landlord should be very careful not to waive the right.	✓ A landlord should be very careful not to waive the right.	Subject to the terms of the Rent Deposit and the manner in which the rent deposit is held.	✓ Subject to service of appropriate notices.	✓ Rent and other fixed charges due under the lease, subject to service of appropriate notices.

This bulletin summarises complicated issues and should not be relied upon for specific matters. You are advised to take legal advice on particular problems. This information is correct as at December 2009.

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