

# COMMERCIAL RENT ARREARS RECOVERY IN 2022



## Chris Badger

Director of Legal and  
Compliance at Just

Commercial rent arrears recovery (CRAR) has become a popular topic of late and it is easy to see why. With the news that restrictions on the use of CRAR imposed near the start of the pandemic are being changed and on the 25th of March with a new Act, many landlords, collections agencies, creditors and tenants are wondering what comes next.

For the best part of two years, landlords have been unable to collect rent arrears from struggling tenants, while this was a positive and necessary measure to protect tenants as we waded our way through a difficult financial period, it also meant that landlords had no real recourse when a tenant defaulted.

As an expert on the topic, Just's Director of Legal and Compliance has given his insights on what CRAR is and how landlords can get back on track while still making sure their tenants are treated fairly and appropriately.

### Commercial rent arrears recovery explained

Commercial Rent Arrears Recovery (CRAR) refers to the legal process a property owner must follow to recover rent arrears and other sums due under the lease from former tenants and their guarantors.

The Commercial Rent Arrears Recovery procedure is detailed in section 72 of the Tribunals, Courts and Enforcement Act 2007 which covers the types of rent that can be recovered and procedures relevant to the use of enforcement agents.

Only proprietors of commercial premises can use CRAR. A minimum of 7 days' rent needs to be outstanding before any action can be taken and there must also be a lease in writing for the statutory procedure to begin.

The procedure for enforcement involves filling out an instruction form. The enforcement agent will then issue a seven-day notice to the tenant and, if required, may then enter the property to take control of goods for satisfaction of the outstanding debt.

A fixed fee is permitted set by the Ministry of Justice for each stage of the Commercial Rent Arrears Recovery process. This includes the compliance stage, enforcement stage and sale stage. In some cases, this cost is recoverable against the tenant. These fees are prescribed by the Taking Control of Goods (fees) Regulations 2014.

### Commercial rent arrears recovery during COVID

As the potential financial impact of the pandemic became increasingly evident and store foot traffic rapidly declined, it became clear that it would become necessary to halt enforcement action. Towards the start of the pandemic, the use of CRAR was prohibited by the government with the aim of keeping tenants protected whilst economic circumstances remained unpredictable. The most recent guidance in place prohibited the use of CRAR unless 554 days rent has been outstanding. Those restrictions will now come to an end on the 25th of March 2022.

During this period, tenants have been protected to help the safeguard those that were vulnerable through or because of the pandemic, a move that has helped a great deal of people.

However, it has also meant that landlords have been unable to collect outstanding rent for some time and it is now more important than ever to properly understand the CRAR process.

### **What to expect after the 25th and how landlords can recover**

The Government are introducing the Commercial Rent (Coronavirus) Act 2022, which will define a new arbitration procedure for rent arrears provides for 'protected rent debt'.

The act should receive Royal Assent on the 25th of March and will provide for a statutory arbitration process to resolve disputes concerning the ability of the tenant to pay what is due, providing for a moratorium to prevent landlords from using usual enforcement remedies to recover a protected rent debt until the conclusion of the arbitration process. The Act will prohibit enforcement action in relation to protected rent debt for 6 months (25th September 2022) or until after the arbitration process has been concluded.

This new procedure will not however apply to rent incurred before March 2021 or those incurred since the 18th of July 2021. Neither does the new law apply to premises that were not required to close by the Governments Coronavirus restrictions.

### **How Just can help**

We realise it can be difficult to assess whether your debt is caught by the new Act. At Just we can provide advice on whether your debt is going to be affected and assist in suggesting the best options for recovering outstanding rent in the post-pandemic arena.

We have comprehensive experience dealing with land and property. We provide swift recovery processes in accordance with the Commercial Rent Arrears Recovery (CRAR) Taking Control of Goods Regulations 2013. We recognise that the creditors and our clients' reputation is important and always act in a manner to safeguard their reputation and protect the wellbeing of the tenant.

Visit [our website](#) to find out more about our Commercial Rent Arrears services.

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*Chris Badger is a Authorised High Court Enforcement Officer and Director of Legal and Compliance at Just.*

*About Just*

*We are a majority-owned subsidiary of The Arum Group which has been providing debt and credit advisory services internationally for over twenty years.*

*Just is the enforcement market integrator. Using market integration, we simplify the enforcement process by managing a market wide panel, simplifying the supply chain, and taking the burden and cost off local government organisations.*

*Just procures, managing and overseeing multiple debt suppliers for better results made easy, providing easy access to use a diverse network of industry-leading experts to resolve problem debt.*

*Our executive team consists of some of the most experienced people in supply chain management, technology, debt resolution and compliance. Many of them were part of the UK's first debt market integration project that was formed in 2015 as a joint venture between the private sector and UK Government.*