



There are increasing reports that tenants are failing to uphold their obligation to pay rent as a result of Covid-19. This may be because the tenant has been [laid off or made redundant](#) and, as such, is struggling to pay their rent. This, in turn, can have serious implications for landlords who may have buy-to-let mortgages or otherwise rely on their rental income.

Whilst a failure to pay rent will constitute a breach of the tenancy agreement, any tenant must be evicted pursuant to an order of the Petty Debts Court (the “**PDC**”). On 23 March 2020, the PDC issued guidance stating that all ongoing eviction actions have been adjourned “*sine die*”, that is temporarily paused with no fixed date for the resumption of proceedings. Any new eviction proceedings will also be adjourned “*sine die*”.

Further protection for residential tenants has now been provided by the Covid-19 (Residential Tenancy) (Temporary Amendment of Law) (Jersey) Regulations 2020 (the “**Regulations**”). These Regulations provide that:

- If the term of a residential tenancy is coming to an end, the tenancy continues as a periodic tenancy unless the landlord and tenant enter into a new agreement with a specified term or agree that the tenancy has expired.
- Where there is already a periodic tenancy, that tenancy can only be ended with the written agreement of both parties.
- If a landlord validly served notice to quit the property or the tenant provided notice to terminate the tenancy prior to the enactment of the Regulations and the date to vacate the property has not yet passed, the tenant may give written notice to the landlord that he intends to remain in occupation of the property and the tenancy will continue as a periodic tenancy.
- A periodic tenancy is a tenancy “*under which the tenant occupies a residential unit on the basis of a recurrent period*” with the “*recurrent period*” being calculated with reference to when the rent is paid (e.g. weekly or monthly). The Regulations provide that only agreement between the landlord and tenant can end a periodic tenancy. Normally, however, a landlord can terminate a periodic tenancy by providing the tenant with 3 months’ written notice and, should the tenant refuse to vacate the property following the notice period, can commence eviction proceedings in the PDC to evict the tenant. A tenant can terminate a periodic tenancy by providing the landlord with 1 month’s written notice. Once the Regulations have expired, these notice periods will resume.
- Where the landlord has agreed to let the property to a new prospective tenant and the Regulations have caused the existing tenant to remain in occupation of the property, both the landlord and new prospective tenant are “*released from any obligation to each other*” save that the landlord must reimburse the new prospective tenant any sum which it has paid to secure the prospective tenancy (such as a deposit).
- Landlords may not increase the rent due before 1 October 2020 and any landlord who does so commits an offence and is liable for a fine of up to £10,000.

Perhaps most importantly, where a tenant has failed to pay rent (or any other sum owing to the landlord) and has notified the landlord in writing that the breach is as a result of “*financial hardship caused by the Covid-19 outbreak*” and has, in addition, “*provided appropriate supporting evidence*” the landlord may not apply to the PDC to evict the tenant. Moreover, where the failure to pay rent is as a result of “*financial*”



*hardship*", the landlord is not permitted to impose any financial penalty for late payment nor can he charge interest on the rent outstanding. "*Financial hardship*" is not defined in the Regulations nor is it clear, at this stage, what constitutes "*appropriate supporting evidence*".

The Regulations do state that where the tenant has failed to pay rent due to "*financial hardship*" this does not remove the "*liability of the tenant to pay rent...to the landlord*". Moreover, the Regulations state that the PDC may require the tenant to pay interest on the rent owing "*if it determines that the breach...was not a result of financial hardship*".

In practice, the Regulations severely curtail the possibility of evictions and provide significant protection for tenants whilst the effects of Covid-19 are ongoing. Landlords are left to bear the cost of these measures. The Regulations are currently due to remain in force until 30 September 2020. Supporting guidance about the Regulations will shortly be published and the Minister and the Courts are currently liaising to put in place "*interim arrangements...to deal with claims for rent arrears and [other] breaches of lease*." We will provide further updates on these developments as they occur.

For further information or specific advice, please do not hesitate to contact [Dexter Flynn](#), [Frances Littler](#).