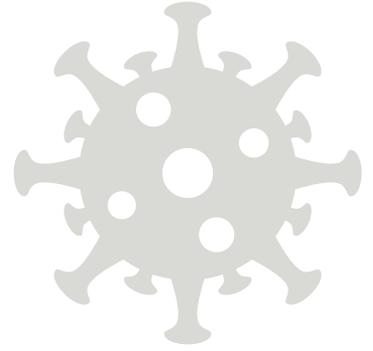


# The law & Covid-19



## The laws – they are (always) a-changin’!

**T**he Business and Planning Bill was expected to be considered in Parliament on Monday June 29

2020 with a view to it becoming law the next day. I am now told that it will be considered in the House of Lords on July 6 and it then needs to go back to the Commons. So we are looking at mid-end of July at the earliest.

The Bill proposes to relax certain laws relating to the provision of outside tables and chairs and off sales of alcohol. Expect loud opposition from resident groups and possibly the police and so the Bill may not have a smooth journey into law.

### PAVEMENT LICENCES

Presently a licence is required from your local council if you want to place tables, chairs or other temporary furniture on the pavement in England and Wales. In some scenarios planning consent is also necessary. This licence should not be confused with an alcohol licence. It is sometimes referred to as a street trading licence. The government is introducing a fast-track process to enable any business that sells food or drink for consumption on or off the premises to apply for what it has called a pavement licence. A pavement licence will allow the licence holder to put removable furniture on part of a relevant highway adjacent to the premises for the purpose of the sale of and the consumption of food and drink.

The pavement licence will trump any requirement for planning permission. Provided the application process is followed correctly there is a seven-day consultation period. A public notice is displayed on the premises. The council must have regard to representations made and at the end of the seven-day

period either grant or reject the application. The pavement licence can be issued for a fixed period of time but if unlimited it will expire on September 30, 2021.

### CHANGES TO LICENSING ACT

The drafting of this part of the Bill is complex. It may yet be changed before it becomes law.

The intention seems to be to allow pubs and restaurants with on licences (premises licences that authorise the sale of alcohol for consumption on the premises) permission to sell alcohol for consumption off the premises. Most pubs already have such licences but restaurants tend to have on licences only.

Premises licences will be automatically varied to allow for off sales and alcohol delivery. The variation will apply until September 30, 2021. This does not obviate the need for a pavement licence (see above).

The variation does not apply if an application to include off sales has been refused in the past three years or if a condition restricting off sales has been imposed during this period. My concern is that many licences are subject to conditions that control the use of outdoor space. For example, a condition may require the removal of all tables and chairs by 9pm. The parliamentary draughtsman has not catered for this and so we may have conflicting pieces of legislation to deal with. Petrol retailer premises licences are restricted to off sales only and so this change to the Licensing Act will not help you. But retailers can apply for temporary licences (temporary event notices) to permit the sale of alcohol in an outdoor space.

### RENT

The rent quarter day June 24 has just been and gone. Many tenants



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“I would very much welcome feedback and suggestions on these issues or any areas you would like me to cover in future articles.

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“Meanwhile I wish all my readers and their families well over the coming weeks”

will not have paid. The government has published its Code of Practice for Commercial Property Relationships during the pandemic. The Code is voluntary and so has no legal implications. It will apply to all commercial leases that have been negatively affected by the pandemic and will run until 24 June 2021.

Many petrol retailers are operating under a lease and so as tenants they operate under rental obligations which would have seemed attainable before lockdown. Some retailers are also landlords, having let space to car dealers, car washes, cafes, EV chargers and more. As restrictions are steadily lifted by the government, retailers will have to consider how best to keep their business operating during the recovery period. The Code has been developed to help landlords and tenants who may choose to have new arrangements outside of their existing leases in order to create a shared recovery plan. The Code states that tenants who can pay in full should continue to do so and where tenants are unable to pay in full, they should communicate with the landlord and pay what they can.

When engaging in any negotiations for any side arrangements, the Code suggests various different options that landlords and tenants may consider, including; a full or partial rent-free period for a set number of payment periods, a deferral of the whole or part of the rent for one or more payment periods, rental variations and tenants and landlords agreeing to split the cost of the rent for the unoccupied period between them.

The list is not exhaustive and is merely a starting point for parties who have not reached any side arrangements and want to do so. ◉