



**DON'T** serve a section 17 notice on a former tenant in financial difficulty if there is a better alternative (such as that tenant's guarantor).

**DO** remember that receipt of a section 17 notice will entitle the recipient (who pays up) to an overriding lease of the property.

## To forfeit or not to forfeit?

**DO** think about the implications carefully before taking this step. For the reasons set out below, the decision to forfeit is not as easy as it once was.

**DO** remember that you will need to obtain the consent of the administrator, liquidator, or the court, if you want to forfeit the lease of a defaulting tenant in insolvency.

**DON'T** waive your forfeiture rights by default through lack of knowledge.

**DO** since the period of empty rates relief has been reduced to 6 months for industrial and warehouse properties and 3 months for other commercial properties think very carefully before voluntarily bringing the lease (and therefore the tenant's liability) to an end either by forfeiture or acceptance of a surrender.

**DON'T** accept the property back unless you have an immediate use for it since, once it has come to an end, the clock will start ticking against you for the purposes of empty rates relief.

**DO** have regard to special considerations that apply when dealing with a liquidator or an administrator, arising out of their statutory obligations and protections.

**DO** consider the implications of agreeing to abandon, permanently or temporarily, quarterly rental payments since acceptance of a month's rent on a quarter day will have the effect of waiving the right to forfeit until the next quarter day. It will not stop the other two months' rent becoming payable but these will have to be recovered by distraint (which will be coming under its own statutory regime shortly) until the tenant becomes the subject of insolvency proceedings, or as a simple unpaid debt



For further information contact  
[philip.freedman@mishcon.com](mailto:philip.freedman@mishcon.com)



For further information contact  
[daniel.levy@mishcon.com](mailto:daniel.levy@mishcon.com)



For further information contact  
[danny.davis@mishcon.com](mailto:danny.davis@mishcon.com)

IMPORTANT: This Update is only intended as a general statement and no action should be taken in reliance on it without specific legal advice.