

Responding to coronavirus (COVID-19): leasing advice

We're here for small business

LEASING ADVICE

To ease financial hardship faced by commercial tenants and landlords as a result of coronavirus (COVID-19), the Victorian Government introduced the [Commercial Tenancy Relief Scheme \(the Scheme\)](#). The Scheme has been further extended to 28 March 2021.

IMPORTANT CHANGES THAT APPLY UNTIL 28 MARCH 2021

1. Commercial tenants seeking rent relief between 1 January 2021 and 28 March 2021 will need to apply to their landlord in writing with evidence of their eligibility as soon as possible, as a landlord is only required to provide rent relief from the date of application.

2. If a tenant has already made a request and is seeking further rent relief for this extended period, then they will need to make another request to their landlord supplying the required evidence.

3. Rent relief must, at a minimum, be in proportion to an eligible tenant's fall in turnover.

What steps should a tenant take if they are having trouble paying rent?

They need to apply to their landlord for rent relief as soon as possible, making sure they include:

- a statement confirming their business is a small to medium sized enterprise and
- a statement confirming their lease is an eligible lease under the Commercial Tenancy Relief Scheme and
- evidence that they are taking part in JobKeeper (their Business Registration for JobKeeper Wage Subsidy ATO receipt number – this can be requested from the [ATO's call centre](#) – and a copy of their most recent notice to the ATO under the JobKeeper Rules) and
- evidence of their fall in turnover, which must be one of the following:
 - extracts from their accounting records or
 - their business activity statement(s) that relate to the relevant turnover test period or
 - statements issued by an authorised deposit-taking institution (e.g. a bank) that relate to their account or
 - a statement prepared by a practising accountant.

To make it easier, we've created a [letter](#) that a tenant can use to request rent relief – they just need to fill in the parts highlighted in yellow.

What if a tenant and landlord can't agree or get a response from the other party?

They can [apply for free mediation](#) to help resolve their dispute. If a tenant or landlord has questions, they can contact us on 13 8722 or at enquiries@vsbc.vic.gov.au.

What if a tenant isn't eligible?

Commercial tenants who have been impacted by coronavirus but don't fall under the Scheme are encouraged to contact their landlord to negotiate rent relief, as guided by the [Australian Government's Mandatory Code of Conduct](#).

If an agreement can't be reached, the tenant or landlord can [apply for free mediation](#) to help resolve their dispute.

SCENARIO: A RESTAURANT IN MELBOURNE'S CBD

Impact

Because of restrictions to trade in response to coronavirus and surrounding businesses closing, the business owner has experienced a 40 per cent drop in turnover.

Access to JobKeeper

The business owner (the commercial tenant) is eligible for and is accessing JobKeeper payments.

Access to rent relief

The tenant writes to their landlord on 1 January 2021 requesting rent relief **but doesn't supply the necessary documents**. On 15 January 2021, the tenant then supplies the following required information to their landlord:

- A statement confirming their business is a small to medium sized enterprise
- A statement confirming their lease is an eligible lease under the Commercial Tenancy Relief Scheme
- Evidence that they are taking part in JobKeeper
- Their business activity statement for the last quarter compared to the same period in 2019 (as one of the four types of

evidence a tenant much choose from to show their fall in turnover)

The tenant's current rent is \$4,000 per month. The tenant asks their landlord for rent relief that's in proportion to their fall in turnover (40 per cent).

The landlord responds to the tenant's request within the required 14 days. The tenant and landlord agree to \$1,600 rent relief per month – matching the tenant's 40 per cent drop in turnover – for the period 15 January 2021 to 28 March 2021 (**i.e. from the date the tenant supplied all of the required information**).

The rent relief is made up of \$800 in rent being waived each month (the minimum 50 per cent of rent relief that must be made up of a waiver) and \$800 in rent being deferred each month until 28 March 2021.

The landlord and tenant agree on a payment schedule for the deferred rent (\$2,000) to be paid over 24 months.

The tenant's lease was going to end on 31 March 2021. Under the [regulations for the Scheme](#), a landlord must offer their tenant an extension of their lease equal to the length of time that the rent is deferred.

As the rent is deferred for two and a half months, the landlord offers the tenant a two and a half month extension. The tenant accepts the offer.

MORE INFORMATION

- [Steps for tenants and landlords under the Scheme](#)
- [Responses to frequently asked questions](#)