

COMMERCIAL TENANCY RELIEF



Yesterday (7th April 2020) the Government announced SME Commercial Leasing Principles During CoVid 19 that is to be implemented between landlords and tenants through the COVID-19 crisis.

Throughout the pandemic and a reasonable recovery period the document appears to be very supportive of the Tenants (which is usually the business)

“Reasonable recovery period” is a term that is very noticeable throughout the document, and this flags the government’s aim to support businesses long term. Further provisions are to ensure that any agreed repayments can be stretched out over 24 months (or further if required) and are not onerous. Note this can even apply if the lease term has ended.

Basically, if your turnover is less than the \$50M threshold and in addition the JobKeeper system applies, then the code should be applied to you as a tenant.

At the moment it is unclear how the code is going to be upheld in a legal sense as it is not intended to supersede legislation in each state, but it aims to compliment such legislation

It specifies that the landlords are to agree tailored, bespoke and temporary arrangements for each tenant

The code specifies:

1. A lease cannot be terminated by the landlord due to non payment of rent during the period. This also includes for a reasonable subsequent recovery period
2. The offer must be proportionate reductions up to 100% of any amount payable and refers to the pandemic period as well as the subsequent period

3. At a minimum, the rent reduction should be the equivalent of the % decline in turnover (ie decrease of 50% in turnover, reduction in rent a minimum of 25%)
4. Deferral
 - a. The repayment of this deferred amount should be repaid over the great of the lease term remaining or 24 months
 - b. Any repayments should not start until the earlier of the Government ending the pandemic or the lease finishing
5. Any discounts/decreases in statutory charges must be passed on (eg rate, land tax, or insurance proceeds)
6. No fees/charges/interest can be applied
7. Landlord cannot recover amounts owing from Security Bond
8. Complete freeze on rental increases

Example: If your rent is \$3,000

- a 80% loss in turnover would result in a guaranteed 80% cash flow relief of \$2,400 net rent \$600.
 - At a minimum, half is provided as rent free/rent waiver (\$1,200) for the proportion of which the qualifying tenant's revenue has fallen.
 - Up to half (\$1,200) could be through a deferral of rent, with this to be recouped over at least 24 months in a manner that is negotiated by the parties

Based on the examples provided, it appears that for whatever total % cashflow relief is agreed, the application of that % is for 50% rent abatement and 50% rental deferral.

The deferred payments are to be recouped over at least a 24 month period that would begin when the COVID-19 pandemic is officially over. This is in line with what we have been expecting and discussing with you all.

To know more about claiming a tax deduction for any of your expenses, or for help filling out the paperwork, please get in contact with us at

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