

Community Tenancy Training

Under the COVID emergency laws



Acknowledgment of country

Tenants Victoria acknowledges the Traditional Owners of country throughout Australia and recognise their continuing connection to land, waters and culture

We pay our respects to their Elders past, present and emerging



Disclaimer

These slides are designed for the purposes of community legal education

This is not a substitute for legal advice



Training Agenda

- Tenancy Services and Support
- Which laws apply to support and protect tenants
- COVID 19 Emergency Measures
 - Can my rent be increased
 - Can I be evicted for falling behind in my rent
 - Wanting to leave a tenancy (moving out)
 - Entry to your rental property
 - Rent Reduction/Financial Help



Tenancy Services and Supports



Tenants Victoria

Provides **free information** and advice to residential tenants, rooming house and caravan park residents across Victoria

Researches into selected aspects of tenancy law and the rental sector

Promotes tenancy **law reform** and **social change**



Tenants Victoria Services

Tenants or residents can seek advice from us by calling our advice line on 9416 2577

10am – 2pm Monday to Friday

Email advice can also be sought on our website at :

<https://www.tenantsvic.org.au/email-advice-service-open/>



Tenants Victoria Services

Our website www.tenantsvic.org.au

Coronavirus (COVID-19) guide for renters

eviction, rent increases, rent reductions, rent relief grants, financial help, moving out, people coming into your rented home, protection from violence, restraining orders, tenants' responsibilities and "COVID-19 reasons", tenant databases or 'blacklists' restrictions, VCAT applications etc

www.tenantsvic.org.au/advice/coronavirus-covid-19/



Tenants Victoria Fact Sheets

They come in 12 different languages:

Amharic, Arabic,
Chinese, Croatian,
Persian, Polish, Russian,
Serbian, Somali,
Spanish, Turkish,
Vietnamese

Avoiding eviction for rent arrears

If you do not pay your rent on the day that it is due, you will be 'in arrears'. If you are 14 days in arrears, your landlord can give you a 14-day Notice to Vacate. However, they can only give you the notice for rent that is actually overdue. They cannot give you a Notice to Vacate for not paying your rent in advance.

If you are in arrears, and you are unable to make a payment, contact your landlord or real estate agent as soon as possible and tell them when you will be paying. If you can't pay the arrears in one payment, you should offer to pay them off over time (eg an extra \$20 per week). Don't offer to pay more than you can afford. Make the offer in writing and keep a copy—even if the landlord or agent don't accept your offer, you can use your letter as evidence that you tried to resolve the problem.

It is illegal for your landlord or agent to personally attempt to evict you. Only the police can evict you and even then, they must have a valid Possession Order and a Warrant of Possession from the Victorian Civil and Administrative Tribunal. (See the *Eviction and Complaints about landlords and real estate agents* fact sheets for more information.)

If you need help to make a payment plan you can either talk to a financial counsellor over the phone by calling Money Help on 1800 149 689, or if you want a face-to-face appointment you can phone Consumer Affairs Victoria on 1300 55 81 81 for the number of the nearest financial counsellor.

If the landlord or agent rejects your offer or you are unable to make any payments, the landlord must follow one of the legal procedures below if they want to evict you: the standard procedure below or the alternative procedure overleaf.

Standard eviction procedure

Step 1. 14-day Notice to Vacate

As mentioned, if you are 14 days or more in rent arrears, the landlord can give you a 14-day Notice to Vacate. This notice must be hand delivered or sent to you by registered mail.

If you are not 14 days in rent arrears at the time of receiving the notice, it is invalid.

If you receive a Notice to Vacate, you do not have to move out of the property if you don't want to. The notice is just the first step in taking the matter to the Victorian Civil and Administrative Tribunal. It is not too late to try and negotiate a payment plan with the landlord or agent.

If you want the Tenants Union to help you prepare for a Tribunal hearing, seek our advice as soon as you receive the Notice to Vacate.

Step 2. Application & Notice of Hearing

The landlord must give you a Notice to Vacate **before** they apply to the Victorian Civil and Administrative Tribunal for a Possession Order. Otherwise their application is invalid and should be dismissed. You should receive a copy of the landlord's application to the Tribunal.

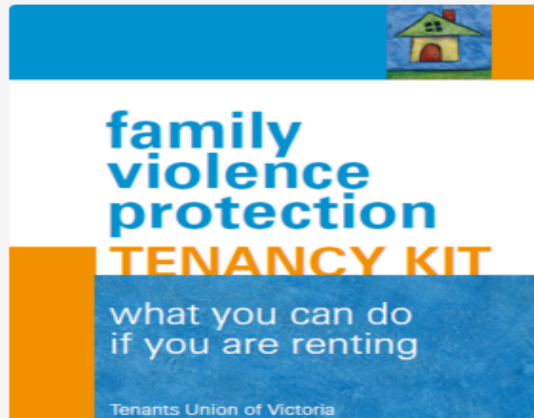
Once they have received the landlord's application, the Tribunal will set a hearing date. They will send you a Notice of Hearing, which tells you the time, date and place of the hearing. **If you want to avoid being evicted, you must go to the hearing**, even if you have paid the rent arrears or entered into a payment agreement with your landlord or agent. If you don't go to the hearing, the Tribunal may grant the landlord a Possession Order.

If your landlord or agent tell you that you do not need to go to the hearing because you have paid off the rent arrears or for any other reason, **it is very important that you phone the Tribunal on 1800 9628 9800 to ask if the application has been withdrawn**. If it hasn't, then you must go to the hearing if you want to avoid eviction.

If you cannot go to the hearing, you will need to apply for an adjournment at least 2 days before the hearing date. See the *Victorian Civil and Administrative Tribunal* fact sheet or contact the Tenants Union for advice.

continued overleaf...



**About this kit****The checklist****Changing the locks****Getting an intervention order****Staying in the rental property****Leaving the rental property****> Applying to VCAT****> Public housing tenants****Download as PDF**

About this kit



This kit is designed for support workers and advocates who assist people affected by family violence. The purpose of the kit is to help people in rental housing to know their rights, have a secure home and limit any financial loss.

The law

- **Residential Tenancies Act 1997** [AustLII website] is the main legislation for rental housing in Victoria.
- **Family Violence Protection Act 2008** [AustLII website] is legislation for family violence in Victoria.
- **Personal Safety Intervention Order Act 2010** [AustLII website] is legislation for intervention orders when the perpetrator is not a family member.

The jargon

- **affected person:** the person who has been affected by family violence
- **protected person:** how the person who has been affected by family violence is referred to in the intervention order
- **perpetrator:** the person who has committed family violence
- **respondent:** how the person who has committed family violence is referred to in the intervention order
- **excluded tenant:** how the person who has committed family violence is referred to in VCAT applications if they are excluded from the rental property in an intervention order
- **intervention order:** a court order to protect the affected person from the perpetrator
- **exclusion clause:** part of an intervention order to stop the perpetrator going to a specific place (e.g. the rented home)



Other tenancy support services (private rental)

The **Tenancy Assistance and Advocacy Program (TAAP)** provides assistance to tenants in private rental housing including privately operated rooming houses and caravan parks eligible private tenants. Anyone can receive up to one hour's free advice depending on the capacity of the service

To be eligible for ongoing assistance from a **TAAP** local service you must be:

- **reliant on a Centrelink income or**
- **experiencing other significant financial hardship or**
- **a victim of family violence**

<https://www.consumer.vic.gov.au/clubs-and-fundraising/funded-services-and-grants/tenancy-and-consumer-program-2017-21/tenancy-assistance-and-advocacy-program/tenancy-assistance-and-advocacy-program-providers-2018-19>



Which laws apply to support and protect tenants



Tenancy Laws

Residential Tenancies Act 1997



Residential Tenancies Amendments 2018

(Was to be introduced on the **1st July 2020** but due to COVID 19 is delayed to **29th September 2020** but who knows in the current state. Please continue to observe our website for more details)



Omnibus Emergency Act

(Known as the COVID 19 Emergency Measures, commenced on the **29th March 2020** initially until the **29th September 2020** but who knows in the current state. Please continue to observe our website for more details)



Can my rent be increased ?



Can my rent be increased?

No

The landlord is not allowed to increase the rent for **six months** from **29th March 2020** until the **29th September 2020**



Can I be evicted for falling behind in my rent



Can I be evicted for falling behind in my rent because of COVID-19?

No

You cannot be evicted between **29th March 2020 and 29th September 2020** for rent arrears caused by the impacts of **COVID-19**



Can I be evicted if I fail to pay my rent between 29th March 2020 and 27th September 2020 if my income hasn't been affected by COVID 19 ?

Simple answer is **YES**

It is important to know that **if you could pay rent without it causing you hardship**, the Victorian Civil Administrative Tribunal (VCAT) may make you pay the rent, and if you refuse you could still be evicted



What if I get a notice to vacate?

If you get a Notice to Vacate on or after **29th March 2020**, and before **29th September 2020**, the notice is of no effect

This means you do not have to leave



Can I still be made to move out ?

Under the new laws, if the landlord wants you to leave they will have to apply to **VCAT** for a **Termination Order**

As part of the new **Dispute Resolution Scheme**, all disputes must go to **Consumer Affairs Victoria** before they can go to **VCAT**

Consumer Affairs Victoria decides if the dispute goes to **alternative dispute resolution** or to **VCAT** for a decision. Either way, you should have the chance to give your side of the story

If you receive a Notice to Vacate we suggest that you review all relevant tenancy resources or contact a tenancy support service



Wanting to leave a tenancy (moving out)



Can I move house during Stay at Home orders?

Yes

See: Stay at home: Metropolitan Melbourne and Mitchell Shire (moving) <https://www.dhhs.vic.gov.au/stay-home-metropolitan-melbourne-and-mitchell-shire-covid-19#i-had-arranged-to-move-to-a-new-house--can-i-still-go-ahead>



Can I move out ?

The new laws, which will apply for six months from **29th March 2020**, previously contained an error preventing many tenants from giving a notice of intention to vacate to move out of their homes

This error has now been fixed with the introduction of the Regulations, on **12 May 2020**, which reinstates the usual rights tenants have under the **Residential Tenancies Act 1997** to give a notice of intention to vacate

This means you have the right give a notice of intention to vacate with no less than **28 days' notice**, if the vacate date in your notice is on or after the end date in your lease (end of the fixed-term)



Can I move out ?

It also means you have the right to give a notice of intention to vacate with a reduced notice period of no less than **14 days** to end your lease for these reasons:

- you need special care
- you have received and accepted an offer of public housing or housing from a registered housing agency
- you need to move into temporary crisis accommodation
- you live in special disability accommodation and the landlord's registration to provide this accommodation has been revoked
- you are suffering severe hardship for example: **severe hardship due to family violence/personal violence, severe financial hardship**
- the landlord has made an application to VCAT to terminate the tenancy



What is a notice of intention to vacate?

A **notice of intention to vacate** is simply a letter or email to the landlord that states the date you will be leaving. The notice must be in writing and must include the date you'll be moving out

While the COVID-19 Emergency laws are in place if you are leaving for any of the six reasons with a reduced notice period (14 days) it's a good idea to use this form

<https://www.consumer.vic.gov.au/library/forms/housing-and-accommodation/renting/notice-to-landlord-of-rented-premises.docx>



Entry to your rental property



Updated Restrictions

Updated restrictions – 11.59pm Wednesday 22 July 2020

<https://www.dhhs.vic.gov.au/updates/coronavirus-covid-19/updated-restrictions-1159pm-wednesday-22-july-2020>

New Directions, issued by the Victorian Government, continue to limit the number of people who can enter your home at any one time depending on where you live in Victoria. Victoria's restriction levels DHHS website

<https://www.dhhs.vic.gov.au/victorias-restriction-levels-covid-19>

Example : Face coverings – From 11:59pm on 22 July 2020 if you live in metropolitan Melbourne and the Mitchell Shire you must wear a face covering.

You can ask anyone entering your home for repairs, inspections or any other reason, to wear a face mask to help stop the spread of the virus – even if they are from outside the Restricted Area



Updated Restrictions

Restriction examples:

You can ask anyone entering your home for repairs, open-house inspections or any other reason, to wear a face mask to help stop the spread of the virus – even if they are from outside the Restricted Area

Can people from metropolitan Melbourne and Mitchell Shire travel outside these areas for house inspections or auctions? Your restrictions travel with you. Auctions in metropolitan Melbourne and Mitchell Shire can only be held remotely. Inspections for prospective tenants or buyers in these areas can also occur by private appointment.

I had arranged to move to a new house – can I still go ahead? Yes, you may leave home for the purposes of relocation

Can friends and family help me to move? Members of your household or one other friend or family member can help you move. You must stay 1.5 metres apart from each other, wash your hands regularly and not share food or drink

Landlords and agents must comply with requirements in the Directions including: face coverings, limits on number of people (i.e. 2 people being you and one other person in metropolitan Melbourne and the Mitchell Shire or 20 people in non restricted areas), physical distancing and records requirement



Entry to your rented property

Generally, the landlord **does have a right to bring a prospective buyer or tenant through the premises and for inspections** under the law but tenants **can refuse entry based on health reasons during COVID 19**. Refer details on our website or contact a tenancy service for more information

If you need repairs done, its still the **landlords responsibility** to get repairs done but you can also get quotes. There are rules for entry and work by trades people relative to COVID 19. Refer details on our website or contact a tenancy service for more information

If you don't want repairs done, there is **no right to renovate** during a tenancy. If the landlord wants to do work that is **not essential** – such as renovations – you can apply to VCAT for a restraining order. Refer details on our website or contact a tenancy service for more information



Rent Reduction / Financial Help



How do I get a rent reduction?

This is formal process from **Consumer Affairs Victoria**:

1. **Work out how much rent you can afford to pay**
2. [Negotiate a rent reduction](#)
3. [Register your agreement or seek our help](#)
4. [Dispute resolution services](#)
5. [Binding dispute resolution orders](#)

<https://www.consumer.vic.gov.au/resources-and-tools/advice-in-a-disaster/coronavirus-covid19-and-your-rights/landlords/negotiate-a-rent-reduction>

- If rent **reduction is granted** and **lodged** with Consumer Affairs Victoria you may be eligible for the **rent relief grant**
- If you get an agreement for a rent reduction, **you only need to pay the reduced amount for the time of the agreement**
- If you make an agreement to delay or defer rent payments, you may pay a reduced amount or no rent for the time of the agreement. **Then you will need to pay the deferred amount back when the agreement is over**



Rent relief grant

To be able to access the grant you will first need to follow the steps of the **rent reduction process**, and have your **agreement registered** with **Consumer Affairs Victoria**. Other key points:

- up to \$2,000 available over 6 months
- only for rent
- paid directly to the landlord/agent as a rent payment/credit
- intended to reduce rent to 30% of income only, not anything further
- is in addition to any rent reduction agreement between Tenant & Landlord

<https://www.housing.vic.gov.au/help-renting/rentrelief>



Cant reach agreement

Eligible disputes may be able to be resolved through the **Residential Tenancies Dispute Resolution Scheme**

Eligible disputes - matters arising in relation rent reduction requests

Mandatory assessment & referral of eligible disputes

CAV **must** assess each eligible dispute and **must** decide if the dispute should go to:

- **alternative dispute resolution (ADR)**
- Or VCAT if not resolved by **ADR**



Financial help

You can talk to a financial counsellor by calling the **National Debt Helpline on 1800 007 007**

Private Rental Brokerage Program (PRAP) provides financial and practical assistance to establish and maintain private rental tenancies for people who are homeless or those who are at risk of homelessness, who are able to maintain private rental, or who are in private rental and need targeted time limited assistance to maintain their private rental

Housing Establishment Funds (HEF) helps individuals and families who are homeless or at imminent risk of homelessness to access emergency or alternative housing options, such as registered rooming houses, hotels/motels and caravan parks



**Thank you for your
time today**

Questions ?

