

# GUIDELINES

## Commercial Landlord Hardship Fund 3

### Program summary

The Commercial Landlord Hardship Fund 3 provides grants to eligible small landlords who experience hardship as a result of waiving rent for their tenant(s) under the [Commercial Tenancy Relief Scheme](#).

Small landlords can apply for a grant of up to \$6,000 per eligible tenancy in proportion to their ownership share. In cases where landlords are experiencing acute hardship because of the rent waiver agreed with their tenant(s), the grant may be increased to a maximum of \$10,000 per eligible tenancy.

Applications to the Commercial Landlord Hardship Fund 3 will open on 13 September 2021 and close at 11:59pm on 15 January 2022, or until funds are exhausted.

### Commercial Tenancy Relief Scheme

The Victorian Government introduced the Commercial Tenancy Relief Scheme to provide relief to commercial tenants affected by COVID-19 through legislation and regulation. The Scheme helps tenants and landlords negotiate reduced rents.

The [Commercial Tenancy Relief Scheme](#) provides:

- a) proportionate rent relief and a freeze on rental increases for businesses that have experienced a reduction in turnover due to coronavirus
- b) a moratorium on evictions for eligible tenants who can't pay their rent without first undertaking mediation through the Victorian Small Business Commission
- c) free dispute resolution services through the Victorian Small Business Commission to help tenants and landlords renegotiate lease agreements (including rent relief) through waivers and deferrals.

### Other support to landlords

Landlords who reduce rent for tenants impacted by coronavirus may also be eligible for Land Tax relief. The State Revenue Office website has information on [Land Tax Relief for landlords](#).

## Before applying to this program

A rent waiver or non-payment of rent between 28 July 2021 and 15 January 2022 must be agreed by the landlord and the tenant. Eligible small landlords must complete the following process under the [Commercial Tenancy Relief Scheme](#):

- Step 1 – Receive a [written request for rent relief](#) made by a commercial tenant(s)
- Step 2 – Respond to the tenant(s) in writing within 14 days, or the agreed timeframe
- Step 3 – Agree to reduce rent in proportion to their tenant’s downturn in turnover
- Step 4 – At least 50 per cent of the agreed rent relief must be a rent waiver
- Step 5 – Provide the tenant(s) with a [landlord acceptance letter](#) detailing the agreement.

### 1. Eligibility criteria

1.1. To be eligible for a grant under the Commercial Landlord Hardship Fund 3, landlords must:

- a) be a small landlord with total taxable landholdings of less than \$3 million, including part holdings but excluding principal place of residence, or where a property is held on trust, the total taxable landholdings of the trust must be less than \$3 million
- b) be an owner and landlord of the property for which an application is made
- c) be a landlord that has made a rent relief agreement with their tenant(s) under the [Commercial Tenancy Relief Scheme](#) in operation between 28 July 2021 and 15 January 2022
- d) be an Australian citizen, resident or Australian incorporated entity
- e) not occupy the eligible tenancy.

1.2. To be eligible for acute hardship consideration, small landlords must meet the eligibility criteria shown at 1.1 (above) and provide the application evidence shown at 5.5 (following).

1.3. Landlords will be required to attest that:

- a) the information provided in the application is true and correct
- b) they hold the written consent of the tenant(s) to provide business and contact details
- c) commercial rent represents more than 50 per cent of their total annual income<sup>i</sup> for the the 2019–20 financial year or any financial year thereafter.

### 2. Other application considerations

2.1. Small landlords who meet the program eligibility criteria can apply if the property that is subject to a [Commercial Tenancy Relief Scheme](#) agreement is a residential property subject to a commercial lease.

2.2. Small landlords that received a grant under the Commercial Landlord Hardship Funds 1 and 2 can apply for a grant under round 3, if they meet the eligibility criteria.

### 3. How to apply

3.1. Each part-owner in a property must complete a separate application for the grant.

3.2. Landlords with multiple properties covered by the [Commercial Tenancy Relief Scheme](#) must make a separate application for each property.

3.3. Applications must be made online via the Business Victoria website ([business.vic.gov.au](https://business.vic.gov.au)). All questions in the [application form](#) must be answered to enable timely assessment and grant payment.

3.4. The Commercial Landlord Hardship Fund 3 will be open for applications from 10 September 2021 until 11.59pm on 15 January 2022, or until funds are exhausted.

### 4. Grant amount

4.1. The grant will be equal to the dollar amount of the rent waiver provided to the tenant(s) between 28 July 2021 and 15 January 2022, to a maximum of \$6,000 per eligible tenancy.

4.2. The grant will be increased to a maximum of \$10,000 per eligible tenancy for landlords that demonstrate acute financial hardship (see section 5.5).

4.3. Landlords can only receive one grant per tenancy under the Commercial Landlord Hardship Fund 3.

4.4. Grants will be allocated according to ownership share in the property if there are multiple landlords.

**Example:** Three part-owners hold equal shares in a property. Each part-owner is entitled to one third of the grant.

### 5. Application evidence required

#### 5.1. Property location and land value

Landlords must attach a full copy including all pages of one of the following documents to confirm the property location and land value:

- a) a 2021 State Revenue Office issued Land Tax Assessment Notice for landholdings of \$250,000–\$3 million, or
- b) a 2021-22 Municipal Rates Notice for landholdings up to \$250,000, or
- c) a 2021-22 Municipal Rates Notice for property purchased during 2021.

## 5.2. Usual lease agreement

Landlords must attach a copy of the lease agreement in place before the [tenant\(s\)'s request for rent relief](#), showing:

- a) the total dollar amount of monthly rent (excl. GST)
- b) tenant(s) contact details
- c) tenant(s) Australian Business Number(s).

## 5.3. Rent relief agreement

Landlords must submit a [landlord acceptance letter](#) for which a form is available at the Business Victoria website ([business.vic.gov.au](http://business.vic.gov.au)) showing details of the agreed rent relief, including:

- a) rent relief start and end dates
- b) total dollar amount of monthly rent (excl. GST) and per cent of rent waived
- c) dollar amount (excl. GST) and per cent of rent deferred (if any).

A waiver is non-payment of rent. A deferral is a delayed rent payment.

## 5.4. Proof of Identity

The applicant(s) must submit details of one of the following as confirmation of identity:

- a) Driver Licence
- b) Medicare Card
- c) Australian Visa
- d) Australian Passport.

## 5.5. Acute Hardship Consideration

Landlords requesting acute hardship consideration must submit a letter from a qualified agent<sup>ii</sup> using the [Commercial Landlord Hardship 3 template](#) available at the Business Victoria website ([business.vic.gov.au](http://business.vic.gov.au)) that includes confirmation:

- a) commercial rent represents at least 70 per cent of their total gross annual income for the 2019–20 financial year
- b) the landlord is neither an owner occupier nor a related party of the tenant<sup>iii</sup>.

## 6. Terms and use of funds

6.1. Grant funds must be used by the landlord to offset rent waiver to their tenant(s).

6.2. Grants funds will only be paid to Australian bank accounts.

6.3. Grants are awarded to landlords under the Commercial Landlord Hardship Fund 3 at the sole discretion of the state.

## **7. Compliance and audit**

7.1. Applicants will acknowledge and agree that information and evidence submitted as part of the application will be verified by government agencies such as the Department of Jobs, Precincts and Regions, the State Revenue Office and others, including by requesting further evidence from the applicant.

7.2. Any of the following circumstances may be considered when deciding to approve an application:

- a) any adverse findings by a Government agency regarding a landlord
- b) a landlord or joint landlord being declared bankrupt
- c) an incorporated entity is placed under receivership or external administration
- d) there is a petition to liquidate, wind up or deregister an incorporated entity.

7.3. Applicants may be subject to audit by the Victorian Government or its representatives for a period of seven years after the grant has been approved. Under audit, applicants will be required to show evidence of hardship, such as income tax assessments.

7.4. The grant will be repayable on demand if any application information is found to be false or misleading, or the grant is not used in accordance with the terms of funding set out in these guidelines.

## **8. Other information**

8.1. The Department of Jobs, Precincts and Regions reserves the right to amend these guidelines and application terms at any time as it deems appropriate at its sole discretion.

8.2. Any personal information provided by the applicant or a third party in an application will be collected by the Department of Jobs, Precincts and Regions (the Department) for the purposes of assessing the application, program administration and program review. In making an application, the applicant consents to the provision of their information to State and Commonwealth Government departments and agencies for the purpose of assessing applications. If there is an intention to include personal information about third parties in the application, please ensure they are aware of and consent to the contents of this privacy statement. The Department is committed to protecting the privacy of personal information. Enquiries about access to personal information, or for other concerns regarding the privacy of personal information, can be emailed to the Department's Privacy Unit at [privacy@ecodev.vic.gov.au](mailto:privacy@ecodev.vic.gov.au). The Department's privacy policy is also available by emailing the Department's Privacy Unit.

- 8.3. The Department of Jobs, Precincts and Regions will endeavour to notify all applicants on the outcome of their submitted application within 30 business days.
- 8.4. Further information may be obtained at [business.vic.gov.au](https://business.vic.gov.au) or by contacting the Business Victoria Hotline on 13 22 15.
- 8.5. Applicants can make a complaint or dispute their application outcome [by lodging a complaints form](#) at the Department of Jobs, Precincts and Regions website. The Department of Jobs, Precincts and Regions will endeavour to resolve disputes or complaints within 28 days.

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<sup>i</sup> Total annual income means:

- If the landlord is an incorporated entity or a business, this is all ordinary income you earned in the ordinary course of running a business for the income year, which is required to be declared to the Australian Tax Office as income.
- If the landlord is not a business, this is all the income you receive from your employment (job), pensions, annuities, government payments, investments, business and foreign income, which is required to be declared to the Australian Tax Office as income.

<sup>ii</sup> A Qualified Agent is any of the following:

- Qualified accountant who belongs to one of the following professional bodies at the declared membership classification i) CPA Australia (i.e. CPA and FCPA), ii) Chartered Accountants Australia and New Zealand (i.e. CA, ACA and FCA) and iii) Institute of Public Accountants (i.e. AIPA, MIPA and FIPA) and comply with the body's continuing professional education requirements, or
- A registered BAS Agent who belongs to one of the following associations at the declared membership classification, including i) the Institute of Certified Bookkeepers (FICB, MICB, AICB), and ii) the Australian Bookkeepers Association (Member), and iii) Association of Accounting Technicians (Australia) Limited and comply with the body's continuing professional education requirements, or
- A registered Tax Agent who belongs to one of the following professional bodies, including i) The Tax Institute, ii) National Tax Agents' Association (NTAA PLUS) and iii) Tax & Super Australia and comply with the body's continuing professional education requirements.

<sup>iii</sup> A related party, in relation to the landlord, is:

- a relative (spouse/domestic partner, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the landlord or their spouse/domestic partner)
- a company of which the landlord or their spouse/domestic partner is a director or shareholder
- an individual who is a director or shareholder of the landlord or their spouse/domestic partner
- a holding company, subsidiary or member of a group of companies
- a beneficiary under a trust of which the landlord or their spouse/domestic partner is the trustee
- a trustee of a trust under which the landlord or their spouse/domestic partner is the beneficiary.