

Alert

PROPERTY

COVID-19: Retail and Commercial Leasing Emergency Relief Extension

By William Esau & Marianna Danby

Tenants who have been affected by the COVID-19 pandemic and associated restrictions have been able to receive legislative relief through the [COVID-19 Emergency Response Act 2020](#)¹ ('Act') as well as the [COVID-19 Emergency Response \(Commercial Leases No 2\) Regulations 2020](#)² ('Regulations'). The Act and Regulations relating to commercial leasing are due to expire on 30 September 2020, but the State government is now considering extending the regulations from 1 October 2020 through to 3 January 2021 due to the ongoing impacts of COVID-19.

Dispute resolution assistance extended in South Australia

On 8 September 2020, the Small Business Commissioner announced that the State Parliament will consider amendments to extend the Regulations in relation to commercial leasing disputes until 3 January 2021 with an option to extend it further if necessary.

The amendments (if passed) will allow the following key leasing principles to continue:

1. Negotiating in good faith;

¹ <https://www.legislation.sa.gov.au/LZ/C/A/COVID-19%20EMERGENCY%20RESPONSE%20ACT%202020.aspx>

² [https://www.legislation.sa.gov.au/LZ/C/R/COVID-19%20EMERGENCY%20RESPONSE%20\(COMMERCIAL%20LEASES%20NO%202\)%20REGULATIONS%202020.aspx](https://www.legislation.sa.gov.au/LZ/C/R/COVID-19%20EMERGENCY%20RESPONSE%20(COMMERCIAL%20LEASES%20NO%202)%20REGULATIONS%202020.aspx)

2. Mediating through CBS (if necessary); and
3. Determining a dispute through the Magistrates Court (if negotiation / mediation fails).

Regulations and leasing principles

If you would like more information about the regulations and the leasing principles that were agreed to by the National Cabinet, please refer to our previous articles '[Coronavirus: Commercial Landlords and Tenants](#)'³, '[COVID-19: Mandatory Code for Commercial Tenancies](#)'⁴ and '[COVID-19 Regulations for Commercial Tenancies](#)'⁵.

Future relief

We will provide you with further updates about extensions to the Act and Regulations as and when new information becomes available. In the meantime, if you would like to discuss any aspect of commercial property leasing with one of our property experts, please contact us via the details provided below.

³ <https://www.dwfoxtucker.com.au/2020/03/coronavirus-commercial-landlords-and-tenants/>

⁴ <https://www.dwfoxtucker.com.au/2020/04/covid-19-mandatory-code-for-commercial-tenancies/>

⁵ <https://www.dwfoxtucker.com.au/2020/05/covid-19-regulations-for-commercial-tenancies/>



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