



## HOW VIRUS-RESISTANT IS YOUR LEASE?

**Availability:** During and outside normal office hours.  
**Meetings:** Video conferencing and teleconferencing available.  
**Payment:** Tailored fee-payment solutions. We acknowledge the current commercial reality.

### *Help might be on its way*

New laws to address coronavirus will enact a 6-month prohibition against residential or commercial tenants being evicted in WA.

Beware the devil in the detail.

However, landlords and tenants should await the new legislation and check its detail before relying upon the proposed prohibition.

For instance, the prohibition might not stop rent arrears accruing, or being enforced by other means, or an eviction after 6 months.

### *What you can do now?*

In the meantime, landlords should move quickly to enforce existing breaches and to register any security bonds under the Personal Property Securities Register (**PPSR**).

Tenants should check insurance policies, which often require physical damage, but might this be a virus on a physical surface?

Impending lease reviews of market rent in industries whose markets are badly impacted may result in significant rent reductions.



## ***Check for scope to terminate***

A tenant might not be able to terminate their lease, unless expressly provided for, such as a 'force majeure' clause for disease.

A lease can be terminated if its purpose is "frustrated", but does the pandemic prevent the lease or its terms being performed?

For leases that do not provide for a tenant to terminate for pandemic, this may mean the tenant accepted it as a business risk.

## ***Take no shortcuts, document negotiations***

Landlords and tenants may choose to negotiate temporary changes, such as reduced rent, or temporarily being turnover rent.

However, any changes to the lease must be in writing and signed, and not be so extensive to be seen as creating a new lease.

An accidental new lease for a retail shop could entitle the tenant to not pay, or to terminate, or to a new statutory 5-year term.

## ***Don't overstep your entitlements***

Landlords should get legal advice on current enforcement. For instance, lease terms cannot make retail shops remain open.

Tenants should not wrongfully purport to terminate, as it might not only be ineffective, it may make them liable for damages.

Now more than ever, be guided by trusted legal advice.

For further information or assistance contact Murfett Legal on [+61 8 9388 3100](tel:+61893883100).

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