



Barristers' Chambers Limited Rent Relief Response

1.0 Purpose

This document outlines BCL's response, at this time, for provision of rent relief to barristers having regard to the *COVID-19 Omnibus (Emergency Measures) Act 2020* (Vic) and its accompanying regulations (together, the **legislation**).

Under the legislation the landlord's offer of rent relief must be based on all the circumstances of the lease and relate to up to 100% of the rent taking into account a number of factors, including:

- the reduction in a tenant's turnover associated with the premises during the relevant period;
- whether a failure to offer sufficient rent relief would compromise the tenant's capacity to fulfil the tenant's ongoing obligations under the lease, including the payment of rent; and
- a landlord's financial ability to offer rent relief, including any relief provided to a landlord by any of its lenders as a response to the COVID-19 pandemic.

2.0 Rent Relief

- BCL made available to barristers a rent waiver for the month of April 2020 upon application by 1st April 2020 (**April Waiver**).
- Taking into consideration the April Waiver and the provisions of the legislation, BCL considers that, in its current financial position, it is possible to provide further rent relief to barristers to whom the legislation applies for the period from May 2020 to September 2020 (**Rent Relief Period**).
- A barrister may request rent relief from BCL for a given month during the Rent Relief Period by completing the BCL Rent Relief Application Form.
- On receipt of such a request, BCL will, subject to what appears below, consider offering monthly rent relief to the barrister after taking into account the reduction in the barrister's monthly turnover (calculated, at the barrister's option, on an accrual or cash basis), the impact on a barrister's ability to continue to pay rent and the level of rent relief BCL can provide whilst ensuring its continued viability.
- The rent relief will be up to a maximum of 50% of the reduction in each month during the Rent Relief Period and will be:
 - a) a waiver of up to 25% of the chamber rent for the relevant month; and
 - b) a deferral of up to 25% of the chamber rent for the relevant month (**deferred rent**), to be amortised over a period of up to 24 months commencing on 1st October 2020 unless otherwise agreed in writing by BCL.

For example: After taking into account the barristers' ability to pay and BCL's ability to provide rent relief to those barristers, given the need to ensure its continued financial



viability, if a barrister's turnover has fallen by 100% in a given month, BCL may offer to provide rent relief of 40% by waiving 20% of the barrister's monthly rent for the following month and to defer 20% of that rent for a period of 24 months starting 1st October 2020. The 60% balance of the monthly rent that has not been waived or deferred will be due and payable as invoiced.

3.0 Qualifying for Rent Relief

As provided in the legislation, to be eligible for BCL rent relief, a barrister must have applied and be eligible for, and be participating in, the Commonwealth Government [JobKeeper](#) scheme. Evidence of a barrister's eligibility for, and participation in the JobKeeper scheme must be provided to BCL with the accompanying BCL Rent Relief Application Form.

3.1 Reduction in turnover must be provided each month

A barrister requesting rent relief from BCL in respect of a given month's rent must provide evidence in respect of that month of the reduction in turnover in the preceding month by comparison with the corresponding month in 2019. The calculation of the reduction may be based on the billing of fees (accrual basis) or the cash collected (cash basis), in the preceding month, as verified and provided by the relevant barrister or their clerk. The calculation method and the basis upon which the barrister has determined turnover (accruals or cash) must be consistent throughout the Rent Relief Period.

For example: The rent relief provided in May 2020 will be based on the reduction in a barrister's turnover in April 2020 compared to their turnover in April 2019.

3.2 Barristers who have been at the Bar for less than 12 months

If a barrister is a reader or has been at the Bar for less than 12 months, they may satisfy the JobKeeper scheme requirements if they are able to show a fall in turnover using the alternate tests set out in the ATO guidance.

[Click here](#) for the ATO guidance and qualification tests. The Australia Taxation Office suggests that the calculation may be done on an accrual basis, rather than cash basis, but the method must be consistent throughout the Rent Relief Period.

3.3 Negotiating in good faith

The legislation requires BCL and barristers to negotiate in good faith with a view to agreeing on the rent relief to be provided to a barrister taking into account all the circumstances and the matters set out in Regulation 10(4)(d).



4.0 Application for BCL Rent Relief

Barristers requesting Chamber rent relief will be asked to submit an online request using the BCL Rent Relief Application Form, together with supporting documentation. A barrister may authorise their clerk to provide this information on their behalf. The form is accessible on the [BCL website](#).

5.0 Privacy Policy

BCL is committed to respecting barristers' privacy. For information about BCL's Privacy Policy, see attached link (www.bcl.net.au/privacy-policy/). All requests for rent relief are handled confidentially and assessed by the CEO of BCL and a delegate of the Board. The names of applicants are generally not disclosed to the Board when reports are made to it, unless the Board requests disclosure. In cases where the Board requests disclosure, only the name of the barrister and the quantum of assistance granted will be provided to the Board. The regulations also contain confidentiality obligations.

6.0 Changes to this document

BCL may change this document from time to time to comply with new laws or industry codes of practice which are developed, to improve its processes, and to adapt to changes in circumstances. It is a barrister's responsibility to refer to BCL policies from time to time to familiarise themselves with any changes. BCL encourages barristers to visit its website regularly for any updates to its policies.

7.0 BCL appeal to barristers

BCL urges barristers to continue to pay as much of their rent as possible in order to preserve BCL's financial viability for the ultimate good of the Bar now and in the future.

Effective: May 2020 - 29 September 2020