

Landlord and Tenant Guidelines and Consent Form

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Introduction

Eligible business owners can access up to \$3,500 off the upfront cost of a solar panel (PV) system, reducing their energy costs and investing in a cleaner, renewable future or apply for an interest free loan to help fund installation.

Businesses who rent their premises are eligible to apply for a rebate or loan provided their landlord agrees to the installation, and both parties reach an agreement on the ownership, maintenance and related aspects of the solar system during and after the term of the lease.

Ultimately, whether or not the installation of a solar system can go ahead will depend upon the result of discussions between tenants and landlords.

Installing solar panels can increase the value of the property and its appeal to long-term tenants, while helping tenants save on their running costs.

At this stage, the program is open only to business applicants who are either renting premises or own their work premises. Solar Victoria will consider making the program open to landlord applications in the future.

This document contains both the [Landlord and Tenant Guidelines](#) and the [Landlord and Tenant Consent Form](#).

The Guidelines are designed to help both tenants and landlords understand the program and decide, in an informed way, whether to take part.

The Consent Form must be completed by both tenants and landlords. It is required that associated entities (who own or control the property under a different name to that of their business) and renters (who rent the property from an entity they're not associated with) upload this document when applying for a Solar for Business rebate or loan under the Solar for Business Loan Program.

Please review the Guidelines before completing the Consent Form.

You should obtain independent advice if you are unsure about any of the matters raised in the Guidelines.

Guidelines

Lease conditions

Every lease is different, but it is likely that under the terms of your lease, tenants are not permitted to install equipment within or on the premises or the building in which the premises are located, without the approval of the landlord.

The written lease will set out the process for seeking consent and how the work is to be carried out. In approving the work, the landlord may be permitted under the terms of the lease to impose additional conditions on any work that the tenant proposes. Under many leases, a landlord must not act unreasonably when considering whether to approve a request to do work. However, sometimes the landlord has absolute discretion whether to approve and it could be that permission is not granted.

The tenant will likely be in breach of their lease if they install equipment without the landlord's approval. It is therefore important that the lease terms for seeking approval be followed.

Specific information for tenants

You will likely be in breach of your lease if you install equipment without landlord approval. This means you are at risk of the landlord terminating the lease and having you removed from the premises. You may be liable to the landlord to pay damages associated with the termination of the lease and loss of future rent. It is therefore important that the lease terms for seeking approval be followed.

If you occupy the premises as a subtenant, it may be that the approval of both your immediate landlord and the head landlord needs to be obtained before you may install any equipment or allow any work to be carried out on the premises or the building.

You need to consider that the lease may specify that the tenant is to pay the landlord's costs associated with considering a tenant's request to do work.

You may need to provide evidence of the landlord's consent to the installer of the solar system.

Specific information for landlords

The tenant will likely be in breach of their lease if they install equipment without your approval. It is therefore important that the lease terms for seeking approval be followed.

A tenant may need to provide evidence of your consent to the installer of the solar system.

Return on investment

Specific information for tenants

You need to consider how much time is left on your lease and whether you have any options to renew. It may take some time to realise the cost savings of the installation of the solar system so if there is little time left in your lease term, or if your lease has expired and you are overholding on a month-to-month basis without a new agreement, you need to consider whether it is worthwhile going ahead.

Bear in mind that while you are making an investment in the installation of a solar system to help manage business costs, your lease, and therefore your right to occupy the premises, may end before its due expiry for a number of reasons. For example, if you do not observe the lease terms, the landlord may terminate the lease. Your lease might contain a clause allowing the landlord to terminate it early if they wish to relocate you or demolish the building. You need to be aware of this when deciding whether to go ahead with a new installation. It is also important that you work out with your landlord what happens to the solar system once you leave the premises.

If you are taking a loan to help fund the installation under the Solar for Business Loan Program, you need to be aware that your repayment obligations under the loan agreement will continue until the loan is re-paid even if you no longer occupy the premises and/or your lease has expired.

Specific information for landlords

Installation of a solar system can increase the value of your property and its appeal to long-term tenants. However if you contribute to the cost of the solar system, bear in mind that it may take some time to realise the cost savings of the installation of the solar system as the immediate benefits from the energy generated will pass directly to the tenant. Your return on investment will be impacted by any contribution that the tenant agrees to make towards the upfront cost of the installation.

The tenant may be taking a loan to help fund the installation under the Solar for Business Loan Program. This loan is not secured by the equipment or any other assets of the tenant. The landlord is not liable for any repayments under the loan.

Guidelines

Location

The position best suited to the installation of the solar system, that is, the roof of the building the business occupies, may not be part of the premises leased.

Specific information for tenants

If you lease a lot on a plan of subdivision, your landlord may not control the roof – it may be under the control of an Owners Corporation.

The landlord may retain control over the roof of the building and this may mean there is no obligation for them to agree to your request for the installation nor even act reasonably when considering it.

Talk to your landlord about the proposed location of the solar system when seeking approval

Specific information for landlords

The position best suited to the installation of the solar system, that is, the roof of the building you occupy, may not be part of the premises included in the lease with the tenant. If you lease a lot on a plan of subdivision, you may not control the roof– it may be under the control of an Owners Corporation.

Consider the proposed location of the solar system, and ensure you have the authority to make decisions about the roof, when offering approval to your tenant.

Responsibility for the solar PV system

The lease is unlikely to deal specifically with the situation where the tenant elects to install a solar pv system at the tenant's cost, so it is best that both parties reach a specific agreement as to what happens to the system after it is installed and when the tenant vacates.

Ownership of the system

Before the installation, the tenant and the landlord need to decide who will own the solar PV system during the term of the lease. Who owns the equipment will determine repair and maintenance responsibilities.

If there is no agreement up front, it may impact on what happens at the end of the lease term.

Repair of the system

The tenant and the landlord need to decide who is responsible for repairing the equipment during the term of the lease. If the landlord carries out the repairs, the lease may allow the landlord to pass on some of the costs to the tenant.

If the *Retail Leases Act* applies to the lease, this may affect the landlord's responsibilities. The cost of capital work such as replacement cannot be passed on where either the lease prohibits such recovery or the *Retail Leases Act* applies.

If the tenant will own the equipment for the term of the lease, it would be usual for them to maintain it.

Insuring the system

The party who owns the equipment will be responsible for insuring it for replacement value. The tenant may pay for the landlord's insurance through the outgoings paid under the lease.

Make good

An objective of the Solar for Business Program is to minimise waste by encouraging the tenant and the landlord to agree that the solar system not be removed and discarded at the end of the lease.

While the panels are designed for long term use at a site and are not readily portable, the tenant may be entitled to remove the solar system at the end of the lease term if not agreed otherwise in advance.

The tenant and the landlord may decide that ownership of the solar system will pass from the tenant to the landlord at the time the lease ends (if this has not happened at the time of installation). If the tenant contributed to the upfront cost of the installation, there should be an agreement by the landlord to pay the tenant the residual installation cost if the lease ends before the tenant has recouped the cost in energy savings. This can be an amount calculated by reference to the time that has passed since installation and the initial value of the system.

Ownership of electricity

For the term of the Lease, risk and title to the electricity generated by the solar system should pass to the tenant at the time the electricity is created.

Further, the tenant should be able to retain any amount the tenant receives from its retailer of electricity for electricity generated by the solar system which is not consumed at the premises and which flows to the local distribution system.

The agreement between the tenant and landlord should acknowledge this.

Form of agreement

Once the tenant and the landlord have reached an agreement on all relevant matters, there should be a record of that agreement in writing. This can be by email or a letter or some other form of document that both parties sign or acknowledge. You do not need to provide this agreement to Solar Victoria.

Specific information for Tenants

If you are unable to reach an agreement with the landlord or the landlord will not respond to your requests, you will need to consider what rights under the lease you have to escalate the issue, eg. dispute resolution. If your lease is under the *Retail Leases Act*, you may be able to apply to the Small Business Commissioner for a mediation to resolve the matter.

Specific information for Landlords

Whilst a landlord isn't obliged to agree to the installation of a solar system on their premises, a tenant may seek to escalate if they are unable to reach an agreement with their landlord. If your lease is under the *Retail Leases Act* 2003 a tenant may be able to apply to the Small Business Commissioner for a mediation to resolve the matter.

Before you apply – checklist

As part of the application process under the Solar for Business Program, the tenant and the landlord will need to sign a Landlord and Tenant Consent Form, to confirm that the landlord has consented to the installation of the solar system and that you have both reached agreement on the considerations as set out in these Guidelines.

Checklist for tenants

To summarise, the applicant should consider the following matters and reach agreement about them with the landlord:

Is there enough time left on your lease term to realise the cost benefits of the installation of a solar system?

Have you provided the landlord with a copy of the *Solar for Business Landlord Fact Sheet*?

Have you asked for and obtained the landlord's consent to the installation of the solar PV system?

Have you reached agreement with the landlord on the following matters:

Who will pay for the upfront installation costs of the solar system?

The proposed location of the solar system

Who will repair and maintain the solar system?

Who will insure the solar system?

What happens to the solar system at the end of the term of the lease?

What happens to the solar system at the end of the term of the lease?

Ownership of electricity generated

Have you and the landlord documented your agreement?

Have you and the landlord signed the Landlord and Tenant Consent Form?

Checklist for landlords

Before you sign the Landlord and Tenant Consent Form, you should reach agreement on the following matters:

Who will pay for the upfront installation costs of the solar system?

The proposed location of the solar system

Who will repair and maintain the solar system?

Who will insure the solar system?

What happens to the solar system at the end of the term of the lease?

Ownership of electricity generated

Have you and the tenant documented your agreement?



Landlord and Tenant Consent Form

This *Landlord and Tenant Consent Form* is to be completed and signed by the applicant for a Solar for Business rebate or Solar for Business Loan who leases the business premises from the owner (landlord).

Applicants who are not Owner-Occupiers are required to upload a completed and signed *Landlord and Tenant Consent Form* as part of the application process.

The parties to this *Landlord and Tenant Consent Form* are required to confirm that they have reached an agreement regarding the treatment of the Solar System to be installed at the business premises.

- Please refer to the [Guidelines for Tenants and Landlords](#) and the [Landlord Fact Sheet](#) for further information.

Tenant details

Tenant name (legal entity name of business/tenant)

ABN (ABN associated with the business/tenant)

Email address

Installation property address

Street name

Suburb

State

Postcode

Landlord details

Landlord full name (insert legal entity name of landlord)

Landlord email address

Definitions

Consent

means this Landlord and Tenant Consent Form.

Lease

means the lease between the Landlord and the Tenant in respect of the Premises.

Owner-Occupier

means the property is in the same name as your business.

Premises

means the installation property address where the Solar System is to be installed as set out in the Details.

Solar for Business Program

means the discretionary financial benefit program administered by Solar Victoria for the purpose of supporting the uptake and accessibility of solar energy products by businesses.

Solar System

means the solar photovoltaic system and ancillary equipment that is to be installed at the Premises.

Solar Victoria

means the State of Victoria through Solar Victoria within the Department of Environment, Land, Water and Planning.

Confirmation by Landlord and Tenant

The Landlord and the Tenant (the parties) confirm and agree that:

- The parties have read, understood and considered the matters raised in the Guidelines for Tenants and Landlords.
- The parties have reached an agreement regarding the treatment of the Solar System to be installed at the Premises under the terms of the Lease including, without limitation:
 - the terms on which the work to install the Solar System will be carried out
 - whether it is the Landlord or the Tenant who will own the Solar System during the term of the Lease once it is installed
 - allocation of responsibility for the repair and maintenance of the Solar System and who bears the cost of that repair and maintenance
 - whether the Landlord or the Tenant will insure the Solar System
 - what will happen to the Solar System when the term of the Lease ends and the Tenant vacates and the terms, if any, on which the Landlord will reimburse the Tenant for the cost of the initial installation of the Solar System.
- The Premises are served by a separate electricity meter, or that one will be installed as part of the installation of the Solar System.
- For the term of the Lease, risk and title to the electricity generated by the Solar System will pass to the Tenant at the time of its creation.
- For the term of the Lease, the Tenant may retain any amount or credit the Tenant receives from its retailer of electricity for any electricity generated by the Solar System which is not consumed at the Premises and which flows to the local distribution system.

Landlord consent

By signing this Consent, the Landlord consents to the installation of the Solar System at the Premises.

Landlord and Tenant acknowledgments

The Landlord and the Tenant acknowledge and agree that:

- Solar Victoria is not responsible for monitoring compliance by the Landlord and the Tenant with the agreement the parties have reached with respect to the installation of the Solar System at the Premises or for enforcing any terms of that agreement or the Lease.
- Solar Victoria is not responsible if for any reason the Solar System is not installed at the Premises.
- Solar Victoria (or any other State of Victoria entity which administers the Solar for Business Program) may collect information (including on an on-line basis) regarding past and future electricity use at the Premises including from the Tenant's electricity retailer, the electricity distributor to which the Premises is connected and the Australian Energy Market Operator. Solar Victoria may also request additional information regarding the Premises when required.
- Personal information Solar Victoria collects, including this Consent and the data referred to in clause 3(b), is handled in accordance with the Privacy and Data Protection Act 2014 for the purposes of administering the Solar for Business Program and assessing the Tenant's eligibility to participate in that program. Solar Victoria's privacy policy describes the way personal information will be handled by Solar Victoria's and is available at Solar Victoria's website www.solar.vic.gov.au/privacy

Signing section

SIGNED by AUTHORISED REPRESENTATIVE on behalf of TENANT

Date

Name of Authorised Representative

Signature of Authorised Representative

By executing this document the signatory states that he or she is authorised to sign this Consent on behalf of the Tenant.

SIGNED by AUTHORISED REPRESENTATIVE on behalf of LANDLORD

Date

Name of Authorised Representative

Signature of Authorised Representative

By executing this document the signatory states that he or she is authorised to sign this Consent on behalf of the Landlord.

