# Fact Sheet 3: New process for repeated late or non-payment of rent

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| This fact sheet is about changes to Victoria’s renting laws that have not happened yet. They will be in place from 29 March 2021.  For information on current laws, visit the [Renting section - Consumer Affairs Victoria website](https://www.consumer.vic.gov.au/renting) <consumer.vic.gov.au/renting>. |

New renting laws will mean that when a renter pays back overdue rent within 14 days any notice to vacate issued by the rental provider (landlord) for that overdue rent is invalidated (the first four times this happens in a year).

A rental provider can give a renter a 14-day notice to vacate for unpaid rent when the renter owes 14 days rent or more. But if the renter pays the overdue rent owed within the 14-day notice period, the notice to vacate has no effect.

This applies to the first four times in a 12-month period that a renter is given a notice to vacate.

When the notice to vacate has no effect, this means that the eviction process does not continue (the rental provider cannot apply to VCAT for a possession order), and the renter continues to live in the property.

## What is a 12-month period and why is this important?

It is the first 12 months of a rental agreement, and every 12 months following that.

In each 12-month period, a renter can receive up to four notices to vacate for late payment of rent, if they pay back the overdue rent owed within the 14-day notice period. The notices act as ‘strikes’ against the renter but are otherwise of no effect.

If a renter does not receive any more notices to vacate for unpaid rent in the current 12-month period, the strikes will be cleared at the start of the next 12-month period.

For example, a renter receives four strikes in the first year of their rental agreement, paying back the overdue rent within the 14-day notice period each time. The next year they receive a fifth notice to vacate for unpaid rent, but because this is a new 12-month period, it is regarded as the first strike of the new year and the rental provider cannot seek a possession order.

## What happens if the renter is late with their rent for the fifth time in a 12-month period?

If the renter receives a fifth strike (notice to vacate for unpaid rent) in a 12-month period, the notice to vacate is valid regardless of whether the renter pays back the rent owed within the 14-day notice period. If the renter does not vacate within the 14-day notice period, the rental provider can apply to the VCAT for a possession order, meaning the renter can be evicted. VCAT cannot dismiss the application on grounds that the renter can pay off the rent on a payment plan.

## What happens if the renter receives a notice to vacate for unpaid rent but doesn’t pay back the overdue rent during the 14-day notice period?

If the renter has been issued a notice to vacate for unpaid rent and has not paid back the full amount of rent owed within the 14-day notice period, the rental provider can apply to VCAT for a possession order (eviction) if the renter has not already vacated.

When deciding whether to make a possession order, VCAT will assess whether to place the renter on a payment plan to repay the overdue rent. If a renter is placed on a payment plan and makes the payments, VCAT will not make the possession order. VCAT can make the possession order if a payment plan is not feasible, or if the renter is placed on a payment plan but doesn’t make the payments.

## Can rental providers get compensation for unpaid rent?

Yes. A rental provider can apply to VCAT for a compensation order for unpaid rent if it is at least 14 days overdue, even if the renter has made partial payment.

If the renter has been at least 14 days late on their rent on two previous occasions and is late with rent a third time, on the third time the rental provider can apply for a compensation order immediately, rather than waiting until it is 14 days overdue.

### Example:

Jackie is five days late with her rent and she receives notice of a VCAT hearing saying that her rental provider has applied for a compensation order. Jackie is not sure why she has received this as she knows that rental providers cannot apply for compensation unless the rent is at least 14 days late.

This is usually correct, but it is the third time that Jackie has been late with her rent. The previous two times she was at least 14 days late. This means that her rental provider can apply for a compensation order even though this time she is less than 14 days late with rent.

If she wants to dispute the compensation order, Jackie must now attend the hearing at VCAT.