

VICTORIA – LANDLORD AND TENANT ACT 1958

Unlike the [Agricultural Tenancies Act 1990](#) in New South Wales, Victoria does not currently have legislation specifically regulating the rights of agricultural landowners and their tenants.

However, Parts I-IV of the [Landlord and Tenant Act 1958 \(Vic\)](#) contains provisions to regulate those leases not covered by specific legislation relating to retail or residential tenancies. To varying extents, these provisions may apply to agricultural leases. Importantly, the wording of Parts I-IV (amongst other things) makes specific reference to farms, turnips, crops and farm houses.

Noteworthy provisions include:

- Section 12 prohibits the common law remedy of ‘distress for rent’, which allows a landlord to take possession of tenant’s possessions if the tenant is in arrears in their rent
- Section 28 provides for a tenant to remove or be compensated for fixtures that they erect or improvements they make to the property.

Apart from these provisions, however, the original intentions of this statute appear to have limited application to agricultural leases in the current farming climate. Indeed, at the time the Act was introduced, small-scale farming arrangements were common throughout Victoria. However, over the past 40-50 years, the number of commercial farms has substantially reduced by about half, whilst the average area of these farms has increased by a similar margin, from 2800 hectares to 4100 hectares.¹ Consequently, farm leasing options that are governed by private contract have changed dramatically to reflect these trends. In this regard, some farm lease agreements may fall outside the ambit of the provisions contained in Part I-IV (with the exception of ss 12 and s 28). This conclusion seems to be reflected in the nature and volume of reported cases in Victoria over the past decade.²

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¹ R.G. Ashby, ‘Successful Land Leasing in Australia: A Guide for Farmers and their Advisers’ (2003) Rural Industries Research and Development Corporation: Kingston, ACT.

² A search on Australia’s legal databases reveals that over the past decade, approximately 30 cases have been brought before VCAT and the Supreme Court of Victoria, the majority of which relate to ss 28 and s 12.