



Queensland

Retail Shop Leases Act 1994

Retail Shop Leases Regulation 2006

Current as at 13 July 2012

Information about this reprint

This regulation is reprinted as at 13 July 2012. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

Replacement reprint date If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



Queensland

Retail Shop Leases Regulation 2006

Contents

	Page
Part 1	Preliminary
1	Short title 3
2	Commencement 3
Part 2	Disclosure statements
3	Prescribed particulars for lessor's disclosure statement 3
4	Prescribed particulars for prospective lessee's disclosure statement 6
5	Prescribed particulars for assignor's disclosure statement 7
6	Prescribed particulars for prospective assignee's disclosure statement 8
Part 3	Financial and legal advice reports
7	Prescribed particulars for financial advice report 10
8	Prescribed particulars for legal advice report 11
Part 4	Miscellaneous
9	Retail business 13
10	Prescribed types of premises 13
11	Fee for lodging dispute notice—Act, s 55(2) 13
Part 5	Repeal
12	Repeal 14
Schedule	Businesses, goods or services 15
Endnotes	
1	Index to endnotes 27
2	Date to which amendments incorporated 27
3	Key 28
4	Table of reprints 28
5	Tables in earlier reprints 29

Contents

6	List of legislation.	29
7	List of annotations	30

Retail Shop Leases Regulation 2006

[as amended by all amendments that commenced on or before 13 July 2012]

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Retail Shop Leases Regulation 2006*.

2 Commencement

This regulation commences on 3 April 2006.

Part 2 Disclosure statements

3 Prescribed particulars for lessor's disclosure statement

The prescribed particulars for a disclosure statement given by a lessor of a retail shop under section 22 or 22C(1) of the Act are the following—

- (a) the names of the lessor and lessee;
- (b) the address of the leased shop;
- (c) the term of the lease;
- (d) the date or estimated date the lease starts;
- (e) the date the lessee is entitled to occupy the leased shop, if different to the date or estimated date the lease starts;
- (f) details of any option to renew the lease, including—

[s 3]

- (i) the date by which the lessee must exercise the option; and
 - (ii) the option period;
- (g) the following details about the rent—
 - (i) the starting annual base rent;
 - (ii) the method of payment;
 - (iii) any rent free period;
 - (iv) for any rent adjustment, the method for calculation and when it is calculated;
- (h) if turnover rent is payable, the method for calculating the turnover rent;
- (i) if turnover rent is not payable, whether or not the lessee is required to give information to the lessor about turnover of the lessee's business;
- (j) details of any payments to be made by the lessee under the lease for the lessor's outgoings, including the date the payments commence;
- (k) details of the lessee's liability to pay costs arising under the lease, including—
 - (i) promotion amounts; and
 - (ii) amounts under section 48(2) of the Act;
- (l) the core trading hours for the leased shop;
- (m) identification of any provision in the lease about—
 - (i) demolishing the leased shop, leased building or the retail shopping centre in which the leased shop is or is to be situated; or
 - (ii) relocating the lessee's business to different premises;
- (n) the lessee's permitted use of the leased shop and whether or not the use is exclusive to the lessee;

- (o) if the leased shop is, or is to be, situated in a retail shopping centre, each of the following details—
 - (i) the name and address of the centre;
 - (ii) the number of retail shops in the centre when the disclosure statement is given;
 - (iii) the centre's lettable area or estimated lettable area;
 - (iv) whether or not the lessor gives any assurance to the lessee about the nature of other businesses operating in the retail shopping centre;
- (p) the leased shop's area or estimated area;
- (q) whether or not a survey of the leased shop's area will be undertaken;
- (r) details of any available parking bays, including the number of bays reserved for the lessee's use;
- (s) details of any services or facilities to be provided by the lessor for the benefit of the leased shop;
- (t) details of any structures, fixtures, plant or equipment to be provided by the lessor;
- (u) details of any works to be carried out by the lessor before the lease starts;
- (v) an estimate of any contribution to be made by the lessee to the cost of the lessor's works;
- (w) details of any fit out works to be carried out by the lessee;
- (x) any contribution to be made by the lessor to the cost of the lessee's fit out;
- (y) any requirements the lessee must comply with relating to the quality or standard of the shopfront or fit out;
- (z) any alteration works the lessor knows are to be carried out by or for the lessor to any of the following—
 - (i) the leased shop;
 - (ii) the leased building;

[s 4]

- (iii) the retail shopping centre in which the leased shop is or is to be situated;
- (iv) the roads surrounding the leased shop, leased building or the retail shopping centre;
- (za) the lessee's entitlement, if any, to access the leased shop outside core trading hours, including any cost payable by the lessee;
- (zb) details of any current legal proceeding in relation to the lawful use of the leased shop, leased building or the retail shopping centre in which the leased shop is or is to be situated.

4 Prescribed particulars for prospective lessee's disclosure statement

The prescribed particulars for a disclosure statement given by a prospective lessee of a retail shop under section 22A of the Act are the following—

- (a) the names of the lessor and prospective lessee;
- (b) the prospective lessee's address;
- (c) if the prospective lessee is a corporation—sufficient information to identify the corporation;
- (d) the number of retail business premises leased by the prospective lessee when the disclosure statement is given;
- (e) sufficient details of the prospective lessee's experience in retail business to demonstrate the lessee's ability to meet the financial and other obligations of the lease;
- (f) details of anything known to the prospective lessee that may affect the prospective lessee's ability to meet the financial and other obligations of the lease;
- (g) details of statements or representations made by or for the lessor during the lease negotiations and being relied on by the prospective lessee;

- (h) a declaration that no other promises, representations, warranties or undertakings have been made by or for the lessor to the prospective lessee about the premises or the business to be carried on in the premises;
- (i) confirmation that, under section 22 of the Act, the lessor has given the prospective lessee a draft of the lease and a disclosure statement.

5 Prescribed particulars for assignor's disclosure statement

The prescribed particulars for a disclosure statement given by an assignor of a retail shop lease under section 22B(1) of the Act are the following—

- (a) the names of the assignor and prospective assignee;
- (b) the address and description of the leased shop;
- (c) the area of the leased shop;
- (d) the date the lease ends;
- (e) details of any options to renew the lease and the next date for exercising an option;
- (f) details of rent, outgoings, promotion amounts and other charges payable to the lessor under the lease;
- (g) the basis for a rent review under the lease and the date for the next review;
- (h) if the assignment involves the prospective assignee continuing the business carried on by the assignor—details of the sales figures and trading performance of the business for—
 - (i) the last 5 years; or
 - (ii) if the assignor has carried on the business for a period of less than 5 years—the period;
- (i) details of any outstanding notices from—
 - (i) the lessor under the lease; or

[s 6]

- (ii) any government entity in relation to the retail shop;
- (j) details of any encumbrance on—
 - (i) the lease; or
 - (ii) any of the shop's fixtures or fittings;
- (k) details of the ownership of any of the shop's fixtures or fittings not owned by the assignor;
- (l) details of any rent concessions or other benefits applicable to the balance of the term of the lease;
- (m) whether the lease contains a provision releasing the assignor from liability under the lease on its assignment;
- (n) a declaration that the assignor has given the assignee—
 - (i) a copy of the disclosure statement given by the lessor to the assignor before the assignor entered into the lease; and
 - (ii) details of any changes in the information contained in the statement that have happened since the statement was given.

6 Prescribed particulars for prospective assignee's disclosure statement

The prescribed particulars for a disclosure statement given by a prospective assignee under section 22B(2) or 22C(3) of the Act are the following—

- (a) the names of the assignor and prospective assignee;
- (b) the prospective assignee's address;
- (c) if the prospective assignee is a corporation—sufficient information to identify the corporation;
- (d) the number of retail business premises leased by the prospective assignee when the disclosure statement is given;
- (e) sufficient details of the prospective assignee's experience in retail business to demonstrate the

- assignee's ability to meet the financial and other obligations of the lease;
- (f) details of anything known to the prospective assignee that may affect the prospective assignee's ability to meet the financial and other obligations of the lease;
 - (g) details of statements or representations made by the assignor during lease negotiations and being relied on by the prospective assignee;
 - (h) a declaration that no other promises, representations, warranties or undertakings have been made by the assignor to the prospective assignee about the premises or the business to be carried on in the premises;
 - (i) confirmation that, under section 22B(1) of the Act, the assignor has given the prospective assignee a disclosure statement;
 - (j) if, under section 22C(3) of the Act, the prospective assignee is giving the statement to the lessor—
 - (i) the name of the lessor; and
 - (ii) details of statements or representations made by or for the lessor during lease negotiations and being relied on by the prospective assignee; and
 - (iii) a declaration that no other promises, representations, warranties or undertakings have been made by or for the lessor to the prospective assignee about the premises or the business to be carried on in the premises; and
 - (iv) confirmation that, under section 22C(1) of the Act, the lessor has given the prospective assignee a disclosure statement and a copy of the lease.

[s 7]

Part 3 Financial and legal advice reports

7 Prescribed particulars for financial advice report

The prescribed particulars for a financial advice report given by a prospective lessee or prospective assignee under section 22D of the Act are the following—

- (a) the name of the qualified accountant signing the report;
- (b) the name of the prospective lessee or prospective assignee;
- (c) the name of the lessor;
- (d) the address of the retail shop;
- (e) a statement that the accountant has given advice about the prospective lessee or prospective assignee's financial rights and obligations under the lease including—
 - (i) the rent, outgoings and other payments; and
 - (ii) the potential financial impact of the rent review; and
 - (iii) the fact that the operation of the business is restricted by the term of the lease;
- (f) a statement that the accountant has advised the prospective lessee or prospective assignee to obtain further professional advice including advice about the following—
 - (i) the volume of sales required to meet all costs of carrying on the business including capital costs, loan repayments and salary for the business operator;
 - (ii) appropriate accounting and financial reporting systems;
 - (iii) cash flow forecasting;
 - (iv) sales budget forecasting;

- (v) taxation requirements;
- (g) a declaration by the accountant about any relationship, whether professional or personal, that the accountant has with the lessor;
- (h) a statement by the prospective lessee or prospective assignee about receiving and understanding the advice mentioned in the report.

8 Prescribed particulars for legal advice report

The prescribed particulars for a legal advice report given by a prospective lessee or prospective assignee under section 22D of the Act are the following—

- (a) the name of the lawyer signing the report;
- (b) the name of the prospective lessee or prospective assignee;
- (c) the name of the lessor;
- (d) the address of the retail shop;
- (e) a statement that the lawyer has given advice about the following matters in relation to the lease—
 - (i) the rent, outgoings and other payments and how they are calculated;
 - (ii) the rent review;
 - (iii) the liability to contribute to outgoings;
 - (iv) the term of the lease;
 - (v) any special or unusual terms or conditions of the lease;
 - (vi) whether a repayable bond or guarantee is required under the lease;
 - (vii) whether the lease contains an option to renew;
 - (viii) if the lease does not contain an option to renew—any rights the lessee or assignee may have to extend the lease;

[s 8]

- (ix) the obligations on all parties at the end of the lease;
 - (x) any terms or conditions of the lease that allow the proposed lessee or proposed assignee's business to be relocated to other premises;
 - (xi) the uses permitted for the retail shop premises under the lease;
 - (xii) the lessee's right, under section 45 of the Act or the lease, to deal with the lease and assets of the business intended to be carried on in the retail shop;
 - (xiii) the consequences of a breach of a term or condition of the lease;
- (f) a statement that the lawyer has advised the prospective lessee or prospective assignee to obtain further professional advice including advice about the following—
- (i) town planning matters, including the licences or permits required to carry on the business intended in the retail shop;
 - (ii) building laws, including the appropriate classification under the *Building Act 1975* to carry on the business intended in the retail shop;
 - (iii) the statutory approvals required to carry on a retail business of the type intended;
 - (iv) financial advice about the operation of the retail business intended to be carried on;
- (g) a statement that the lawyer is not providing advice about, or making comment on, the following—
- (i) the financial viability of the business intended to be carried on;
 - (ii) the ability of the prospective lessee or prospective assignee to meet the financial commitments under the lease;

- (iii) accounting requirements or taxation implications of entering into the lease;
- (h) a declaration by the lawyer about any relationship, whether professional or personal, that the lawyer has with the lessor;
- (i) a statement by the prospective lessee or prospective assignee about receiving and understanding the advice mentioned in the report.

Part 4 Miscellaneous

9 Retail business

- (1) A business is a retail business if—
 - (a) it is a business mentioned in the schedule; or
 - (b) its whole or predominant activity is, or is a combination of, the sale, hire or supply of goods or services mentioned in the schedule.
- (2) The wholesale sale of goods is not a retail business.

10 Prescribed types of premises

For the Act, definition *retail shop lease*, paragraph (g), premises with a floor area of more than 10000m² are prescribed.

11 Fee for lodging dispute notice—Act, s 55(2)

The fee for lodging a dispute notice is \$275.

[s 12]

Part 5 Repeal

12 Repeal

The *Retail Shop Leases Regulation 1994* is repealed.

Schedule Businesses, goods or services

section 9(1)

Antique and used goods retailing

antiques

coins

disposal store

pawnbroking

second hand books

second hand clothes

second hand furniture

second hand goods

second hand jewellery

stamp dealing

Bread and cake retailing

bakery selling directly to consumers

biscuits

bread

cakes

cheesecakes

pastries

pies

quiches

Clothing retailing

bridal wear sale or hire

Schedule

clothing
clothing accessories
clothing alterations and repairs
clothing hire
costume wear sale or hire
embroidery
equestrian wear
formal wear sale or hire
fur clothing
gloves
handbags
hosiery
leather clothing
lingerie
millinery
screen-printing
sunglasses
work clothing

Dine in retailing

café
carvery
coffee lounge
fast food
restaurant
snack bar

Domestic appliance retailing

air conditioners
barbecue equipment
computers
electronic appliance hire
electronic equipment or supplies
fans
floor polishers
gas heating appliances
heating equipment
hot water systems
household appliances
kerosene heaters
mobile phones
oil heaters
pocket calculators, electronic
radio receiving sets
refrigerators
shavers, electric
sound reproducing equipment
stoves
television antennae
television sets
vacuum cleaners
washing machines

Domestic hardware and household goods retailing

brushware

Schedule

chinaware
cooking utensils
crockery
cutlery
dinnerware
enamelware
fixtures and fittings
garden tools
glassware
hardware, domestic
household goods
kitchenware
lawn mowers
lighting products
paint
picnicware
plastic containers
plumbing
silverware
tools
wall decorations
wallpaper

Fabrics and other soft goods retailing

beads
blankets
curtains
drapery

dressmaking supplies

fabrics, textiles

haberdashery

household textiles

interior decorations

linen, household

piece-goods

soft furnishings

yarns

Floor covering retailing

carpets

floor coverings

floor rugs

floor tiles

parquetry

Flower retailing

cut flowers

display foliage

dried flowers

floral accessories

florist

hydroponics

plant pots

Footwear and footwear repair retailing

footwear

footwear repair

Fresh meat, fish and poultry retailing

butcher

delicatessen

meat retailing

poultry, fresh

seafood, fresh

Fruit and vegetable retailing

fruit, fresh

greengroceries

vegetables, fresh

Furniture retailing

antique reproduction furniture

awnings

bedding

blinds

furniture, household

furniture, office

mattresses

Household appliance installation and repair services—electrical

household appliance installations

household appliance repairs

Liquor retailing, for off-premises consumption

alcoholic beverages

beer-making and soft drink-making supplies

Miscellaneous retailing

adult merchandise

amusement parlour

aquariums

art

bar accessories

batteries, other than motor vehicle batteries

boat chandlery

briefcases

children's amusements

condoms

craft

crystals

department store

dry cleaning and laundry

duty free

engraving

exercise equipment

fairy

flags

glamour photography or makeover studio

irrigation and pumps

key cutting or duplicating

leather goods

Schedule

mobility aids

motor vehicle accessories, other than from a tyre shop

office equipment

party supplies

pets, pet supplies and pet grooming

prams

service station

Editor's note—

See section 17 (Application of Act to leases of service stations) of the Act.

small job printers

souvenirs

swimming pool and spa accessories

tobacco, cigarettes and accessories

travel agency and booking

travel goods

trophies

umbrellas

Music and video hire and retailing

audio cassettes

compact discs

digital video discs

musical instruments

music equipment

phonograph records

video cassettes

Newspaper, book, stationery, arts and crafts retailing

artist supplies
books
casket and gaming tickets
gifts
gift wrapping
greeting cards
magazines
newsagency
novelties
periodicals
picture framing
postcards
prints and posters
religious goods
rubber stamps
stationery
writing materials

Pharmaceutical, cosmetic and toiletry retailing

barber
beauty products
beauty salon
body piercing
cosmetics
hairdressing
hearing aids
optical goods

Schedule

perfumes

pharmacy

tattoos

toiletries

wigs

Photographic equipment retailing

cameras

fast photo processing

photographic equipment

photographic film or paper

projectors

video cameras

Specialised food retailing

confectionery

fruit juices

health and vitamin products

non-alcoholic drinks

nuts

smallgoods

specialised foods

Sport and camping equipment retailing

ammunition

bait and fishing tackle

bicycles

camping equipment

firearms
martial arts equipment
snow skis
sporting equipment
surf boards and accessories

Supermarket and grocery stores

convenience or mixed business
groceries
grocery supermarket

Takeaway food (ready for immediate consumption) retailing

chicken, cooked
cut lunches
fish and chips
hamburgers
ice-cream
milk drinks
pizza
soft drinks
takeaway food

Toy and game retailing

dolls
games
hobby equipment
hobby supplies

Schedule

toy and game repairs

toys

Watch and jewellery retailing

clocks

jewellery

precious stones

watches

Endnotes

1 Index to endnotes

	Page
2 Date to which amendments incorporated	27
3 Key	28
4 Table of reprints	28
5 Tables in earlier reprints	29
6 List of legislation	29
7 List of annotations	30

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 13 July 2012. Future amendments of the Retail Shop Leases Regulation 2006 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	3 April 2006	
1A	2008 SL No. 266	1 September 2008	
1B	2009 SL No. 181	1 September 2009	
1C	2009 SL No. 240	1 December 2009	
1D	2010 SL No. 155	1 July 2010	
1E	2010 SL No. 230	1 January 2011	
1F	2011 SL No. 115	1 July 2011	
1G	2012 SL No. 102	13 July 2012	

5 Tables in earlier reprints

Name of table	Reprint No.
Corrected minor errors	1

6 List of legislation

Regulatory impact statements

For subordinate legislation that has a regulatory impact statement, specific reference to the statement is included in this list.

Explanatory notes

All subordinate legislation made on or after 1 January 2011 has an explanatory note. For subordinate legislation made before 1 January 2011 that has an explanatory note, specific reference to the note is included in this list.

Retail Shop Leases Regulation 2006 SL No. 39

made by the Governor in Council on 16 March 2006

notfd gaz 17 March 2006 pp 1090–1

ss 1–2 commenced on date of notification

remaining provisions commenced 3 April 2006 (see s 2)

exp 1 September 2016 (see SIA s 54)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

amending legislation—

Justice and Other Legislation (Fees) Amendment Regulation (No. 1) 2008 SL No. 266

notfd gaz 22 August 2008 pp 2651–6

ss 1–2 commenced on date of notification

remaining provisions commenced 1 September 2008 (see s 2)

Justice Legislation (Fees) Amendment Regulation (No. 1) 2009 SL No. 181

notfd gaz 28 August 2009 pp 1491–6

ss 1–2 commenced on date of notification

remaining provisions commenced 1 September 2009 (see s 2)

Queensland Civil and Administrative Tribunal and Other Legislation Amendment Regulation (No. 1) 2009 SL No. 240 pts 1, 3

notfd gaz 30 October 2009 pp 657–8

ss 1–2 commenced on date of notification

remaining provisions commenced 1 December 2009 (see s 2)

Justice Legislation (Fees) Amendment Regulation (No. 1) 2010 SL No. 155

notfd gaz 25 June 2010 pp 823–30

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2010 (see s 2)

Retail Shop Leases and Another Regulation Amendment Regulation (No. 1) 2010 SL No. 230 pts 1–2

notfd gaz 27 August 2010 pp 1520–4

ss 1–2 commenced on date of notification

remaining provisions commenced 1 January 2011 (see s 2)

Justice (Fees) Amendment Regulation (No. 1) 2011 SL No. 115

notfd gaz 1 July 2011 pp 589–96

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2011 (see s 2)

Justice Legislation (Fees) Amendment Regulation (No. 1) 2012 SL No. 102

notfd gaz 13 July 2012 pp 820–5

ss 1–2 commenced on date of notification

remaining provisions commenced 13 July 2012 (see s 2)

7 List of annotations

Prescribed particulars for lessor’s disclosure statement

s 3 sub 2010 SL No. 230 s 4

Fee for lodging dispute notice—Act, s 55(2)

s 11 amd 2008 SL No. 266 s 3 sch; 2009 SL No. 181 s 3 sch; 2009 SL No. 240 s 8;
2010 SL No. 155 s 3 sch; 2011 SL No. 115 s 3 sch; 2012 SL No. 102 s 3
sch

© State of Queensland 2013

Authorised by the Parliamentary Counsel