



Queensland

Retail Shop Leases Regulation 2006

Subordinate Legislation 2006 No. 39

made under the

Retail Shop Leases Act 1994

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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

- (1) 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 and description of the leased shop;
 - (c) the term of the lease;
 - (d) the date the lease starts;
 - (e) details of any options to renew the lease;
 - (f) the following details about the rent—
 - (i) the amount of the initial rent (other than rent based on turnover) calculated yearly or the method of calculating the initial rent;
 - (ii) any rent free or reduced rent period;
 - (iii) any rent review, whether during the term of the lease or a period covered by an option to renew the lease;
 - (g) identification of any provisions of the lease about—

- (i) the giving of information to the lessor about turnover of the lessee's business; and
- (ii) the payment of turnover rent;
- (h) details of payments to be made by the lessee under the lease for the lessor's outgoings;
- (i) details of the lessee's liability to pay—
 - (i) amounts under section 48(2) of the Act;¹ and
 - (ii) promotion amounts;
- (j) the date or estimated date when the leased shop will be available for fit out by the lessee;
- (k) details of each of the lessee's and lessor's liability for fit out costs of the leased shop;
- (l) details of the trading hours for the leased shop;
- (m) identification of any provision in the lease about demolishing the leased shop or 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) mention of the agreements to be entered into by the lessor and lessee in relation to the lease;
- (p) 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 total number of shops in the centre when the disclosure statement is given;
 - (iii) the name of the current anchor tenant for the centre and the date the current term of the anchor tenant's lease ends;
 - (iv) the leased shop's area or estimated area;
 - (v) the centre's lettable area or estimated lettable area;

¹ Section 48 of the Act, (Lessee's liability for costs associated with preparation etc. of lease)

- (vi) the number of parking bays available for the following—
 - (A) customers of the shop;
 - (B) the lessee or the lessee's employees;
 - (vii) the facilities provided by the lessor;
 - (viii) the lessee's entitlement to use part of the centre's common areas for trading;
 - (ix) the types of business carried on by the centre's tenants when the disclosure statement is given;
 - (x) whether the types of business carried on by the centre's tenants is to change during the term of the lease and details of any proposed changes;
 - (xi) any intended changes to the centre approved by the local government for the area in which the centre is situated;
 - (xii) if there is a tenants' association for the centre—information about the association, including contributions payable by members and members' voting rights;
 - (q) each of the following details, if the leased shop is, or is to be, situated in a retail shopping centre, and the lessor obtains the details—
 - (i) the centre's moving annual turnover for its previous financial year;
 - (ii) pedestrian traffic estimates for the centre during the previous financial year;
 - (r) details of any intended conduct by the lessor that may affect the lessee's or assignee's business during the term of the lease or assignment;
 - (s) if the lessor is giving the statement to a prospective assignee under section 22C(1) of the Act—details of any unresolved retail tenancy dispute that may affect the assignee.
- (2) In this section—

moving annual turnover, for a retail shopping centre, means the value of the centre's total sales for a 12 month period.

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
 - (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.

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;
 - (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 \$100.

Part 5 Repeal**12 Repeal**

The *Retail Shop Leases Regulation 1994* is repealed.

Schedule Businesses, goods or services

section 8(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

clothing

Schedule (continued)

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

Schedule (continued)

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
chinaware
cooking utensils

Schedule (continued)

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

Schedule (continued)

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

Schedule (continued)**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

Schedule (continued)**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

mobility aids

motor vehicle accessories, other than from a tyre shop

office equipment

party supplies

Schedule (continued)

pets, pet supplies and pet grooming
prams
service station²
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

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

Schedule (continued)

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
perfumes
pharmacy
tattoos
toiletries
wigs

Schedule (continued)**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

Schedule (continued)**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

take away food

Toy and game retailing

dolls

games

hobby equipment

hobby supplies

toy and game repairs

toys

Watch and jewellery retailing

clocks

jewellery

Schedule (continued)

precious stones

watches

ENDNOTES

- 1 Made by the Governor in Council on 16 March 2006.
- 2 Notified in the gazette on 17 March 2006.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of State Development, Trade and Innovation.