



Queensland

Retail Shop Leases Act 1994

Retail Shop Leases Regulation 1994

Reprinted as in force on 12 July 2000

Reprint No. 1B *

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Information about this reprint

This regulation is reprinted as at 12 July 2000. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

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

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have also been made to use aspects of format and printing style consistent with current drafting practice (s 35).

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.**

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic 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 a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

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Queensland

Retail Shop Leases Regulation 1994

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Retail Shop Leases Regulation 1994

[as amended by all amendments that commenced on or before 12 July 2000]

1 Short title

This regulation may be cited as the *Retail Shop Leases Regulation 1994*.

2 Businesses prescribed as retail businesses

- (1) A business whose whole or predominant activity is, or is a combination of, the sale, hire or supply of goods or services mentioned in the Schedule is a retail business.
- (2) The wholesale sale of goods is not a retail business.

2A Prescribed premises

For paragraph (e) of the definition *retail shop lease* in section 5 of the Act, premises with a floor area of more than 10000 m² are a prescribed type of premises.¹

3 Lessor's disclosure statement—Act, ss 22 and 22C(1)

The following are the particulars for a disclosure statement given by a lessor under sections 22 and 22C(1) of the Act—

- (a) names of the lessor and lessee;
- (b) address and description of the leased shop;
- (c) term of the lease;
- (d) date the lease starts;
- (e) details of any option to renew the lease;

¹ Under the definition, a lease of a prescribed type of premises is not a retail shop lease.

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- (f) amount of the initial rent calculated yearly (other than rent based on turnover) or the method of calculating the initial rent;
- (g) details of any rent free or reduced rent period;
- (h) details of any rent review (whether during the term of the lease or a period covered by an option to renew the lease);
- (i) mention of any provisions of the lease relating to—
 - (i) the giving of information to the lessor about turnover of the lessee's business; and
 - (ii) the payment of turnover rent;
- (j) details of payments to be made by the lessee under the lease for the lessor's outgoings;
- (k) details of the lessee's liability to make payments under section 48(2) (Lessee's liability for costs associated with preparation etc. of lease) of the Act;
- (l) details of the lessee's liability to pay promotion amounts;
- (m) date or estimated date when the leased shop will be available for fit out by the lessee;
- (n) details of the lessee's liability for fit out costs of the leased shop;
- (o) details of the fit out costs of the leased shop to be paid by the lessor;
- (p) details of the trading hours for the leased shop;
- (q) details of any provision in the lease for relocation of the lessee to different premises;
- (r) lessee's permitted use of the leased shop and whether or not the use is exclusive to the lessee;
- (s) mention of the agreements to be entered into by the lessor and lessee in relation to the lease;
- (t) if the leased shop is, or is to be, situated in a retail shopping centre—
 - (i) the name and address of the centre; and

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- (ii) the total number of shops in the centre when the disclosure statement is given; and
- (iii) the leased shop's area or estimated area; and
- (iv) the centre's lettable area or estimated lettable area; and
- (v) the number of parking bays available for customers of the shop; and
- (vi) the number of parking bays available for the lessee or the lessee's employees; and
- (vii) details of facilities provided by the lessor; and
- (viii) details of the lessee's entitlement to use part of the centre's common areas for trading; and
- (ix) details of the types of businesses carried on by the centre's tenants when the disclosure statement is given; and
- (x) whether the types of businesses carried on by the centre's tenants is to change during the term of the lease and details of any proposed changes; and
- (xi) if there is a tenants' association for the centre—information about the association including contributions payable by members and members' voting rights; and
- (xii) details of any intended changes to the centre approved by the local government for the area in which the centre is situated;
- (u) 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;
- (v) whether, under section 22A of the Act, the lessor requires the prospective lessee to give the lessor a disclosure statement;
- (w) if, under section 22C(1) of the Act, the lessor is giving the statement to a prospective assignee—
 - (i) details of any unresolved retail tenancy dispute that may affect the assignee; and

- (ii) whether, under section 22C(2) of the Act, the lessor requires the prospective assignee to give the lessor a disclosure statement.

4 Prospective lessee's disclosure statement—Act, s 22A

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

- (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) 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;
- (f) details of statements or representations made by the lessor or the lessor's agent during lease negotiations and being relied on by the prospective lessee;
- (g) a declaration that no other promises, representations, warranties or undertakings have been made by the lessor or lessor's agent to the prospective lessee about the premises or the business to be carried on in the premises;
- (h) 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 Assignor's disclosure statement—Act, s 22B(1)

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

- (a) the names of the assignor and prospective assignee;
- (b) the address and description of the leased shop;

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- (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 assignment of the lease involves the continuation by the prospective assignee of the business carried on by the assignor—details of the sales figures and trading performance of the business for the last 5 years or, if the assignor has carried on the business for a period of less than 5 years, for the period;
- (i) details of any outstanding notices from the lessor under the lease;
- (j) details of any outstanding notices from any government body or authority in relation to the retail shop;
- (k) details of any encumbrance on the lease;
- (l) details of any encumbrance on any of the fixtures or fittings in the shop;
- (m) details of the ownership of any fixtures or fittings in the shop not owned by the assignor;
- (n) details of any rent concessions or other benefits applicable to the balance of the term of the lease;
- (o) whether the lease contains a provision releasing the assignor from liability under the lease on assignment of the lease;
- (p) a declaration that the assignor has given the assignee a copy of the disclosure statement given by the lessor to the assignor before the assignor entered the lease, with details of any changes in the information contained in the statement that have happened since the statement was given;

- (q) whether, under section 22B(2) of the Act, the assignor requires the prospective assignee to give the assignor a disclosure statement.

6 Prospective assignee's disclosure statement—Act, ss 22B(2) and 22C(2)

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

- (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) 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;
- (f) details of statements or representations made by the assignor during lease negotiations and being relied on by the prospective assignee;
- (g) 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;
- (h) confirmation that, under section 22B(1) of the Act, the assignor has given the prospective assignee a disclosure statement;
- (i) if, under section 22C(2) 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 the lessor or the lessor's agent 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 the lessor or lessor's agent 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.

7 Financial advice certificate—Act, s 22D

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

- (a) the name of the person signing the certificate (the *accountant*);
- (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;

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- (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 certificate.

8 Legal advice certificate—Act, s 22D

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

- (a) the name of the barrister or solicitor signing the certificate;
- (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 barrister or solicitor 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;

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- (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) uses permitted for the retail shop premises under the lease;
 - (xii) the consequences of a breach of a term or condition of the lease;
- (f) a statement that the barrister or solicitor 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 barrister or solicitor 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 the lease;
- (h) a declaration by the barrister or solicitor about any relationship, whether professional or personal, that the barrister or solicitor has with the lessor;
- (i) a statement by the prospective lessee or prospective assignee about receiving and understanding the advice mentioned in the certificate.

9 Fee for dispute notice

The fee under section 55(2) (Lodgment of retail tenancy disputes) of the Act is \$100.00.

Schedule Goods or services

section 2

Antique and used goods retailing

Antiques

Coins

Disposals stores

Pawnbroking

Second hand books

Second hand clothes

Second hand furniture

Second hand goods

Second hand jewellery

Stamp dealing

Bread and cake retailing

Bakeries selling directly to consumers

Biscuits

Bread

Cakes

Cheesecakes

Pastries

Pies

Quiches

Clothing retailing

Bridal wear sale or hire

Clothing

Clothing accessories

Schedule (continued)

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

Carveries

Coffee lounges

Fast food

Restaurants

Snack bars

Domestic appliance retailing

Air conditioners

Barbecue equipment

Computers

Schedule (continued)

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

Crockery

Cutlery

Schedule (continued)

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

Schedule (continued)

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

Butchers

Delicatessens

Schedule (continued)

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 parlours

Schedule (continued)

Aquariums
Art
Bar accessories
Batteries, other than motor vehicle batteries
Boat chandlery
Briefcases
Children's amusements
Condoms
Craft
Crystals
Department stores
Dry cleaning and laundry
Duty free
Engraving
Fairy
Flags
Glamour photography or makeover studios
Irrigation and pumps
Key cutting or duplicating
Leather goods
Motor vehicle accessories, other than tyre shops
Office equipment
Party supplies
Pets and pet supplies
Prams
Service stations²

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

Schedule (continued)

Small job printers

Souvenirs

Swimming pool and spa accessories

Tobacco, cigarettes and accessories

Travel agencies and booking

Travel goods

Trophies

Umbrellas

Music and video hire and retailing

Audio cassettes

Compact discs

Digital video discs

Music equipment

Musical instruments

Phonograph records

Video cassettes

Newspaper, book, stationery, arts and crafts retailing

Artists' supplies

Books

Casket and gaming tickets

Gifts

Gift wrapping

Greeting cards

Magazines

Newsagencies

Novelties

Periodicals

Schedule (continued)

Picture framing
Postcards
Prints and posters
Religious goods
Rubber stamps
Stationery
Writing materials

Pharmaceutical, cosmetic and toiletry retailing

Barbers
Beauty products
Beauty salons
Body piercing
Cosmetics
Hairdressing
Hearing aids
Optical goods
Perfumes
Pharmacies
Tattoos
Toiletries
Wigs

Photographic equipment retailing

Cameras
Fast photo processing
Photographic equipment
Photographic film or paper

Schedule (continued)

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 businesses

Groceries

Grocery supermarkets

Schedule (continued)**Takeaway food (ready for immediate consumption) retailing**

Chicken, cooked

Cut lunches

Fish and chips

Hamburgers

Ice cream

Milk drinks

Pizza

Soft drinks

Take away foods

Toy and game retailing

Dolls

Games

Hobby equipment

Hobby supplies

Toy and game repairs

Toys

Watch and jewellery retailing

Clocks

Jewellery

Precious stones

Watches

Endnotes

1 Index to endnotes

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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 12 July 2000. Future amendments of the Retail Shop Leases Regulation 1994 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
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

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 to	Effective	Reprint date
1	none		10 November 1994
1A	SL No. 72 of 1997		9 April 1997

Reprint No.	Amendments included	Effective	Notes
1B	SL No. 172 of 2000		

5 List of legislation

Retail Shop Leases Regulation 1994 SL No. 387

made by the Governor in Council on 27 October 1994

notfd gaz 28 October 1994 pp 813–5

commenced on date of notification

exp 1 September 2005 (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—

Retail Shop Leases Amendment Regulation (No. 1) 1997 SL No. 72

notfd gaz 27 March 1997 pp 1333–6

commenced on date of notification

Retail Shop Leases Amendment Regulation (No. 1) 2000 SL No. 172

notfd gaz 30 June 2000 pp 736–48

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2000 (see s 2)

6 List of annotations

Businesses prescribed as retail businesses

s 2 amd 2000 SL No. 172 s 4

Prescribed premises

s 2A ins 1997 SL No. 72 s 3

Lessor's disclosure statement—Act, ss 22 and 22C(1)

prov hdg sub 2000 SL No. 172 s 5(1)

s 3 amd 2000 SL No. 172 s 5(2)–(3)

Prospective lessee's disclosure statement—Act, s 22A

s 4 ins 2000 SL No. 172 s 7

Assignor's disclosure statement—Act, s 22B(1)

s 5 ins 2000 SL No. 172 s 7

Prospective assignee's disclosure statement—Act, ss 22B(2) and 22C(2)

s 6 ins 2000 SL No. 172 s 7

Financial advice certificate—Act, s 22D

s 7 ins 2000 SL No. 172 s 7

Legal advice certificate—Act, s 22D

s 8 ins 2000 SL No. 172 s 7

Fee for dispute notice

s 9 (prev s 4) renum 2000 SL No. 172 s 6

SCHEDULE—GOODS OR SERVICES

sub 2000 SL No. 172 s 8