



Queensland

# Retail Shop Leases and Other Commercial Leases (COVID-19 Emergency Response) Amendment Regulation 2021

## Subordinate Legislation 2021 No. 7

made under the

*COVID-19 Emergency Response Act 2020*  
*Retail Shop Leases Act 1994*

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[s 1]

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**1 Short title**

This regulation may be cited as the *Retail Shop Leases and Other Commercial Leases (COVID-19 Emergency Response) Amendment Regulation 2021*.

**2 Regulation amended**

This regulation amends the *Retail Shop Leases and Other Commercial Leases (COVID-19 Emergency Response) Regulation 2020*.

**3 Amendment of s 5 (Meaning of *affected lease*)**

Section 5(5), definition *SME entity*, after ‘section 5’—  
*insert—*

as in force on the commencement of this  
regulation

**4 Amendment of pt 5, hdg**

Part 5, heading, ‘provision’—  
*omit, insert—*

**provisions**

**5 Insertion of new pt 5, div 1, hdg**

Before section 49—  
*insert—*

**Division 1**

**Transitional provision for  
SL No. 79 of 2020**

**6 Insertion of new pt 5, div 2**

Part 5—  
*insert—*

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## Division 2      Transitional provisions for Retail Shop Leases and Other Commercial Leases (COVID-19 Emergency Response) Amendment Regulation 2021

### 50 Definitions for part

In this part—

*amending regulation* means the *Retail Shop Leases and Other Commercial Leases (COVID-19 Emergency Response) Amendment Regulation 2021*.

*ineligible lease* means a lease of premises that, other than for the commencement of the amending regulation, would have been an affected lease.

*Note—*

On the commencement, an entity was an SME entity only if its annual turnover for the previous financial year, or its likely turnover for the current financial year, was less than \$50m. See, however, the *Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Amendment Rules 2020* (Cwlth).

### 51 Application of s 5 for ineligible leases

- (1) This section is subject to sections 52 and 53.
- (2) Section 5(5), definition *SME entity* applies, and is taken to have always applied, for working out whether or not a lease of premises is an affected lease.
- (3) For subsection (2), the following apply in relation to an ineligible lease—

- (a) if, before the commencement, the lessor had refrained from taking a prescribed action during the extension period under section 12—from the commencement the lessor may take a prescribed action under the lease as if section 12 had never applied for the lease;
- (b) if, before the commencement, the lessee had applied to QCAT or a court for an order mentioned in section 12(3)—on the commencement the application lapses;
- (c) if, before the commencement, the lessor had refrained from increasing the rent payable or taking a prescribed action under section 13—from the commencement the lessor may, under the lease, increase the rent payable, or take the prescribed action against the lessee, as if section 13 had never applied for the lease;
- (d) if, before the commencement, the lessor had made an offer under section 15 and the offer had not been accepted in writing—on the commencement the offer is taken to have been withdrawn;
- (e) if, before the commencement, a dispute notice was given to the small business commissioner under section 26 in relation to the lease—on the commencement the notice is taken to have been withdrawn under section 35.

## **52 Matters resolved before commencement**

- (1) This section applies in relation to an ineligible lease if, before the commencement of the amending regulation, a dispute or other matter relating to the ineligible lease had been resolved.
- (2) Nothing in the amending regulation affects the

matter as resolved.

- (3) To remove any doubt, it is declared that nothing in the amending regulation affects the validity of an agreement or order relating to an ineligible lease entered into or made before the commencement of the amending regulation.
- (4) For this section, a matter relating to an ineligible lease has been *resolved* if—
  - (a) a settlement agreement or other binding agreement has been entered into by the parties to the ineligible lease in relation to the matter; or
  - (b) an order has been made about the matter by a court or tribunal; or
  - (c) a dispute about the matter has been withdrawn.

### **53 Application of s 20**

Despite the amending regulation, section 20 continues to apply to a party to an ineligible lease in relation to protected information obtained by the party under this regulation before the commencement of the amending regulation.

ENDNOTES

- 1 Made by the Governor in Council on 4 February 2021.
- 2 Notified on the Queensland legislation website on 5 February 2021.
- 3 The administering agency is the Department of Justice and Attorney-General.

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