



Queensland

Small Business Commissioner Regulation 2022

Subordinate Legislation 2022 No. 46

made under the

COVID-19 Emergency Response Act 2020

Retail Shop Leases Act 1994

Small Business Commissioner Act 2022

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Small Business Commissioner Regulation 2022*.

2 Commencement

This regulation commences on 3 May 2022.

Part 2 Mediation

3 Change to time and date of mediation conference

- (1) This section applies if a party receives a notice stating the time, date and place of a mediation conference under the Act, section 23(5)(b)(ii).
- (2) The party may ask the mediator in writing, within 2 days after receiving the notice in subsection (1), to change the mediation conference date to a day that is no later than 7 days after the date stated in the notice.
- (3) If the mediator receives a request under subsection (2), the mediator may—
 - (a) change the mediation conference date to a day that is no later than 7 days after the date stated in the notice; and
 - (b) give each party to the dispute a notice stating the details, including the new time and date, of the mediation conference.

4 Mediation of related disputes

- (1) A party may, within 2 days after the notice under section 3(1) is received, ask the mediator in writing to mediate related disputes together at the mediation conference.

[s 5]

Example of related disputes—

a small business dispute between a person who subleases premises and the person who is the sublessor, and a small business dispute between the sublessor who leases the premises occupied by the sublessee and the lessor from whom the sublessor leases the premises

- (2) If the mediator receives a request under subsection (1) and all other parties to the related disputes agree, the mediator may give each party to the related disputes a further notice stating the details of the mediation conference, including the time and date and the parties to the related disputes that are to participate in the conference.

5 Use of technology to conduct mediation

If the parties to the dispute and the mediator agree, the mediation may be held using any technology allowing reasonably contemporaneous and continuous communication between the parties.

Examples—

teleconferencing, videoconferencing

Part 3 Fees

6 Fee for application—Act, s 22

- (1) For section 22(c) of the Act, the fee prescribed is 350 fee units, payable by the parties to the dispute in equal shares.
- (2) The commissioner may waive all or part of the fee payable by a party under subsection (1) if the commissioner is satisfied the payment of the fee would cause, or would be likely to cause, the party financial hardship.
- (3) Also, the commissioner may waive all or part of the fee payable under subsection (1) for a class of parties for a particular period if the commissioner is satisfied the waiver will promote access to mediation by the parties during the period.

Example—

An industry sector or geographical region is affected by a natural disaster or other emergency. The commissioner may waive the fee for parties within the sector or region for a particular period to promote access to mediation by the parties during the period.

Part 4 Amendment of regulations

Division 1 Amendment of Retail Shop Leases and Other Commercial Leases (COVID-19 Emergency Response) Regulation 2020

7 Regulation amended

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

8 Amendment of s 21 (Application of part)

Section 21—

insert—

- (2) However, subject to the *Small Business Commissioner Act 2021*, sections 43 and 44, this part does not apply to the following on and from the commencement of that Act—
 - (a) a small business dispute for which an application may be made under the *Small Business Commissioner Act 2021*, part 3;
 - (b) a retail tenancy dispute under the *Retail Shop Leases Act 1994*.

[s 9]

9 Omission of s 24 (Relationship with Retail Shop Leases Act 1994)

Section 24—

omit.

10 Amendment of sch 1 (Dictionary)

Schedule 1—

insert—

small business commissioner means the small business commissioner appointed under the *Small Business Commissioner Act 2021*, part 2.

Division 2 Amendment of Retail Shop Leases Regulation 2016

11 Regulation amended

This division amends the *Retail Shop Leases Regulation 2016*.

12 Replacement of s 9 (Fee for lodging dispute notice—Act, s 55)

Section 9—

omit, insert—

9 Fee for lodging dispute notice—Act, s 55

- (1) For section 55(2) of the Act, the fee for lodging a dispute notice is 350 fee units payable by the parties to the dispute in equal shares.
- (2) The commissioner may waive all or part of the fee payable by a party under subsection (1) if the commissioner is satisfied the payment of the fee would cause, or would be likely to cause, the party financial hardship.

- (3) Also, the commissioner may waive all or part of the fee payable under subsection (1) for a class of parties for a particular period if the commissioner is satisfied the waiver will promote access to mediation by the parties during the period.

Example—

An industry sector or geographical region is affected by a natural disaster or other emergency. The commissioner may waive the fee for parties within the sector or region for a particular period to promote access to mediation by the parties during the period.

13 Insertion of new ss 9A-9C

After section 9—

insert—

9A Change to time and date of mediation conference

- (1) This section applies if a party receives a notice stating the time, date and place of a mediation conference under the Act, section 56(1)(b)(ii).
- (2) The party may ask the mediator in writing, within 2 days after receiving the notice in subsection (1), to change the mediation conference date to a day that is no later than 7 days after the date stated in the notice.
- (3) If the mediator receives a request under subsection (2), the mediator may—
- (a) change the mediation conference date to a day that is no later than 7 days after the date stated in the notice; and
 - (b) give each party to the dispute a notice stating the details, including the new time and date, of the mediation conference.

9B Mediation of related disputes

- (1) A party may, within 2 days after the notice under section 9A(1) is received, ask the mediator in writing to mediate related disputes together at the mediation conference.

Example of related disputes—

a retail tenancy dispute between a person who subleases premises and the person who is the sublessor, and a retail tenancy dispute between the sublessor who leases the premises occupied by the sublessee and the lessor from whom the sublessor leases the premises

- (2) If the mediator receives a request under subsection (1) and all other parties to the related disputes agree, the mediator may give each party to the related disputes a further notice stating the details of the mediation conference, including the time and date and the parties to the related disputes that are to participate in the conference.

9C Use of technology to conduct mediation

If the parties to the dispute and the mediator agree, the mediation may be held using any technology allowing reasonably contemporaneous and continuous communication between the parties.

Examples—

teleconferencing, videoconferencing

ENDNOTES

- 1 Made by the Governor in Council on 28 April 2022.
- 2 Notified on the Queensland legislation website on 29 April 2022.
- 3 The administering agency is the Department of Employment, Small Business and Training.

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