



Queensland

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

Subordinate Legislation 2020 No. 234

made under the

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

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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 2020*.

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—

insert—

(3A) Also, a lease of premises is an *affected lease* during the extension period only if the lessee under the lease, or an entity mentioned in subsection (1)(d), is eligible for the jobkeeper scheme for the period starting on 28 September 2020 and ending on 4 January 2021.

4 Amendment of s 10 (Part applies subject to agreement)

(1) Section 10, heading, after ‘to’—

insert—

lease variation or

(2) Section 10(1)(a), from ‘entering into an agreement’—

omit, insert—

from entering into a variation of an affected lease, or an agreement relating to an affected lease, that is inconsistent with this part as in force on the commencement or as amended; or

(3) Section 10(1)(b)—

omit, insert—

(b) affects the validity of a variation of an affected lease, or an agreement relating to an affected lease, that is inconsistent with this part, whether entered into before or after the commencement or amendment of this part.

(4) Section 10(2)—

omit, insert—

(2) However, section 13(2) applies despite anything in an affected lease or in a variation or agreement mentioned in subsection (1).

(3) Also, despite anything in an affected lease or in a variation or agreement mentioned in subsection (1), a party to an affected lease is not prevented from seeking to negotiate a condition of the lease under this part or part 3.

5 Amendment of s 12 (Lessor under affected lease must not take prescribed action during response period)

(1) Section 12, heading, ‘during response period’—

omit, insert—

on particular grounds

(2) Section 12(1)(a), (b) and (c), after ‘response period’—

insert—

or extension period

6 Amendment of s 13 (Lessor must not increase rent)

(1) Section 13(1), after ‘response period’—

insert—

or extension period

(2) Section 13(2), from ‘period,’—

omit, insert—

period or extension period, the lessor may review

[s 7]

the rent under the lease but must not give effect to an increase in rent until the extension period ends.

- (3) Section 13(2), example, ‘response period’—

omit, insert—

extension period

- (4) Section 13(4)—

omit, insert—

- (4) The lessor must not, during or after the response period or extension period, take a prescribed action against the lessee on the ground of a failure to pay an amount equal to or representing the amount of the increase prohibited under this section.

7 Amendment of s 15 (Negotiating rent payable and other conditions)

- (1) Section 15(2)(a), ‘lease during the response period; and’—

omit, insert—

lease—

- (i) to the extent the request relates to the response period—during the response period; or
- (ii) to the extent the request relates to the extension period—during the extension period; and

- (2) Section 15(2)(b), ‘provide’—

omit, insert—

to the extent the request relates to the response period—provide

- (3) Section 15(2)(c)(i), after ‘response period’—

insert—

or extension period

(4) Section 15—

insert—

(2A) Also, to the extent the request relates to the extension period, the offer may include or consist of any rent reduction already offered or given in relation to that period before the commencement of the extension amendment.

(5) Section 15(3), after ‘response period’—

insert—

or extension period

(6) Section 15—

insert—

(5) To remove any doubt, it is declared that nothing in this section requires any portion of an offer of rent reduction in relation to the extension period to be in the form of a waiver of rent.

8 Amendment of s 16 (Further rent negotiations)

(1) Section 16(2), after ‘response period’—

insert—

or extension period

(2) Section 16(2), note, ‘rent.’—

omit, insert—

rent, but an increase resulting from a review of rent during the response period or extension period must not take effect until the extension period ends. See section 13.

(3) Section 16(4), after ‘However,’—

insert—

to the extent the reduction in rent relates to the response period,

(4) Section 16—

insert—

- (5) Also, to the extent the request relates to the extension period, the lessor’s offer may include or consist of any rent reduction already offered or given in relation to that period before the commencement of the extension amendment.

9 Amendment of s 17 (Requirements relating to deferred rent)

- (1) Section 17(2)(a), from ‘until’—

omit, insert—

until—

- (i) to the extent the deferred rent relates to the response period—the day after the end of the response period; or
- (ii) to the extent the deferred rent relates to the extension period—the day after the end of the extension period; and

- (2) Section 17(2)(b), after ‘3 years’—

insert—

, starting on the day mentioned in paragraph (a) in relation to the rent

10 Amendment of s 19 (Lessor may reduce services for leased premises)

Section 19, after ‘response period’—

insert—

or extension period

11 Amendment of s 44 (QCAT orders)

Section 44(3)(c), after ‘response period’—

insert—

or extension period

12 Amendment of s 48 (Suspension of prescribed action by lessor started during pre-commencement period)

- (1) Section 48(2), ‘response period’—

omit, insert—

extension period

- (2) Section 48(3), definition *lease dispute*, paragraph (b), after ‘response period’—

insert—

or extension period

- (3) Section 48(3), definition *pre-commencement period*, paragraph (b), after ‘commencement’—

insert—

of this section

13 Amendment of sch 1 (Dictionary)

- (1) Schedule 1—

insert—

extension amendment means the amendment of this regulation by the *Retail Shop Leases and Other Commercial Leases (COVID-19 Emergency Response) Amendment Regulation 2020*.

extension period means the period—

- (a) starting at the beginning of the day on 1 October 2020; and
(b) ending at the end of the day on 31 December 2020.

- (2) Schedule 1, definition *affected lease dispute*, after ‘response period’—

[s 13]

insert—

or extension period

ENDNOTES

- 1 Made by the Governor in Council on 29 September 2020.
- 2 Notified on the Queensland legislation website on 29 September 2020.
- 3 The administering agency is the Department of Justice and Attorney-General.

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