



Queensland

Retail Shop Leases Act 1994

Retail Shop Leases Regulation 2016

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Retail Shop Leases Regulation 2016

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Retail Shop Leases Regulation 2016

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Retail Shop Leases Regulation 2016*.

Part 2 Disclosure statements

2 Prescribed particulars for lessor's disclosure statement

The prescribed particulars for a disclosure statement given by a lessor of a retail shop under section 21B or 22C(1) of the Act are the following—

- (a) the names of the lessor and lessee;
- (b) the address of the retail shop;
- (c) the plan of premises (if any);
- (d) the term of the lease;
- (e) the date the lessee is entitled to occupy the retail shop, if different to the date or estimated date the lease starts;
- (f) if the lease is a sublease, details of the head lease;
- (g) details of any option to renew the lease, including—
 - (i) the date by which the lessee must exercise the option; and
 - (ii) the option period;
- (h) the following details about the rent—
 - (i) the starting annual base rent;
 - (ii) the method of payment;
 - (iii) the date from which rent is payable under the lease;

- (iv) any rent free period;
- (v) for any rent adjustment, the method for calculation and when it is calculated;
- (i) if turnover rent is payable, the method for calculating the turnover rent;
- (j) if turnover rent is not payable, whether or not the lessee is required to give information to the lessor about turnover of the lessee's business;
- (k) details of any payments to be made by the lessee under the lease for the lessor's outgoings during the first year of the lease or, if the term of the lease is less than 1 year, that period, including details of—
 - (i) the date the payments start; and
 - (ii) how the lessee's payments are calculated; and
 - (iii) any period when the lessee is not required to make a payment;
- (l) details of the lessee's liability to pay costs arising under the lease, including—
 - (i) promotion amounts; and
 - (ii) amounts under section 48(2) of the Act;
- (m) the core trading hours for the retail shop;
- (n) the lessee's entitlement, if any, to access the retail shop outside core trading hours, including any cost payable by the lessee;
- (o) identification of any provision in the lease about—
 - (i) demolishing the retail shop, leased building or the retail shopping centre in which the retail shop is or is to be located; or
 - (ii) relocating the lessee's business to different premises;
- (p) the lessee's permitted use of the retail shop and whether or not the use is exclusive to the lessee;

- (q) if the retail shop is, or is to be, located in a retail shopping centre, each of the following details—
 - (i) the name and address of the centre;
 - (ii) the number of retail shops in the centre when the disclosure statement is given;
 - (iii) the centre's lettable area or estimated lettable area;
 - (iv) details of the annual estimated turnover of the centre (if collected);
 - (v) details, including tenancy expiry details, of any anchor tenants in the centre;
 - (vi) a floor plan of the centre that includes the location of the anchor tenants for the centre (if any);
 - (vii) information about customer numbers (if any) for the centre;
 - (viii) details of any industry codes of conduct adhered to by the lessor;
 - (ix) whether or not the lessor gives any assurance to the lessee about the nature of other businesses operating in the centre;
- (r) the retail shop's area or estimated area;
- (s) whether or not a survey of the retail shop's area will be undertaken;
- (t) details of any available parking bays, including the number of bays reserved for the lessee's use;
- (u) details of any services or facilities to be provided by the lessor for the benefit of the retail shop;
- (v) details of any structures, fixtures, plant or equipment to be provided by the lessor;
- (w) details of any works to be carried out by the lessor before the lease starts;
- (x) an estimate of any contribution to be made by the lessee to the cost of the lessor's works;

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- (y) details of any fit-out works to be carried out by the lessee;
- (z) any contribution to be made by the lessor to the cost of the lessee's fit-out;
- (za) any requirements the lessee must comply with relating to the quality or standard of the shopfront or fit-out;
- (zb) any alteration works the lessor knows are to be carried out by or for the lessor to any of the following—
 - (i) the retail shop;
 - (ii) the leased building;
 - (iii) the retail shopping centre in which the retail shop is or is to be located;
 - (iv) the roads surrounding the retail shop, leased building or the retail shopping centre;
- (zc) details of any current legal proceeding in relation to the lawful use of the retail shop, leased building or the retail shopping centre in which the retail shop is or is to be located;
- (zd) details of any other statements or representations made by or for the lessor in connection with the lease during the negotiations for the lease.

3 Prescribed particulars for prospective lessee's disclosure statement

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

- (a) the names of the lessor and prospective lessee;
- (b) the address of the retail shop;
- (c) the address of the prospective lessee;
- (d) if the prospective lessee is a corporation—sufficient information to identify the corporation;

- (e) the number of retail business premises leased by the prospective lessee when the disclosure statement is given;
- (f) sufficient details about the experience of the prospective lessee in retail business to demonstrate the ability of the lessee to meet the financial and other obligations of the lease;
- (g) details of anything known to the prospective lessee that may affect the ability of the lessee to meet the financial and other obligations of the lease;
- (h) details of statements or representations made by or for the lessor during the negotiations for the lease that are being relied on by the prospective lessee in entering into the lease;
- (i) an acknowledgement that no other material statements or representations have been made by or for the lessor to the prospective lessee about the lease or the business to be carried on in, or from, the retail shop.

4 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 leased shop's area or estimated area;
- (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 any other amounts payable to the lessor under the lease for—
 - (i) the last 1 year; or

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- (ii) if the assignor has carried on the business for a period of less than 1 year—the period;
- (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 in, or from, the leased shop by the assignor—details of the sales figures and trading performance of the business for—
 - (i) the last 3 years; or
 - (ii) if the assignor has carried on the business for a period of less than 3 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 leased shop;
- (j) details of any arrears of rent or other breaches of a term of the lease by the assignor for which the lessor has not issued a notice to the assignor;
- (k) details of any rent concessions or other benefits given or made available to the assignor by the lessor in relation to the lease;
- (l) details of any rent concessions or other benefits applicable to the balance of the term of the lease that would benefit, or transfer to, the assignee;
- (m) details of any encumbrance on—
 - (i) the lease; or
 - (ii) any of the fixtures or fittings in the leased shop;
- (n) details of the ownership of any of the leased shop's fixtures or fittings not owned by the assignor;
- (o) details of any alteration or demolition works the assignor knows are to be carried out by or for the lessor for any of the following—

- (i) the leased shop;
 - (ii) the building or retail shopping centre in which the leased shop is located;
 - (iii) the roads surrounding the leased shop, leased building or retail shopping centre;
- (p) an acknowledgement 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 material changes in the information contained in the statement that have happened since the statement was given; and
 - (iii) a copy of the current lease.

5 Prescribed particulars for prospective assignee's disclosure statement

- (1) The prescribed particulars for a disclosure statement given by a prospective assignee, in entering into the assignment, under section 22B(2) of the Act are the following—
- (a) the names of the assignor and prospective assignee;
 - (b) the address of the leased shop;
 - (c) the address of the prospective assignee;
 - (d) if the prospective assignee is a corporation—sufficient information to identify the corporation;
 - (e) the number of retail business premises leased by the prospective assignee when the disclosure statement is given;
 - (f) sufficient details about the experience of the prospective assignee in retail business to demonstrate the ability of the assignee to meet the financial and other obligations of the lease;

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- (g) details of anything known to the prospective assignee that may affect the ability of the assignee to meet the financial and other obligations of the lease;
 - (h) details of statements or representations made by or for the assignor during the negotiations for the assignment of the lease that are being relied on by the prospective assignee in entering into the assignment;
 - (i) an acknowledgement that no other material statements or representations have been made by or for the assignor to the prospective assignee about the lease or the business to be carried on in, or from, the leased shop.
- (2) The prescribed particulars for a disclosure statement given by a prospective assignee, in entering into the assignment, under section 22C(3) of the Act are the following—
- (a) the name of the lessor;
 - (b) the particulars mentioned in subsection (1)(a) to (h);
 - (c) details of statements or representations made by or for the lessor during negotiations for the assignment of the lease that are being relied on by the prospective assignee in entering into the assignment;
 - (d) an acknowledgement that no other material statements or representations have been made by or for the lessor to the prospective assignee about the lease or the business to be carried on in, or from, the leased shop.

Part 3 Financial and legal advice reports

6 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.

7 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) if the prospective lessee or prospective assignee has given, or intends to give, a waiver notice under section 21B or 22C of the Act, a statement about whether the lawyer has given advice about the waiver;
- (f) 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 provision in the lease that allows the business of the prospective lessee or prospective assignee to

- be relocated to other premises and how sections 46C to 46G of the Act may apply;
- (xi) any provision in the lease that allows the lessor to terminate the lease if the building in which the retail shop is located is to be demolished and how sections 46H to 46K of the Act may apply;
 - (xii) the uses permitted for the retail shop premises under the lease;
 - (xiii) 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, or from, the retail shop;
 - (xiv) the consequences of a breach of a term or condition of the lease;
- (g) any insurance or indemnity provisions in the lease and the liability or obligations of the prospective lessee or prospective assignee under those provisions;
 - (h) whether the premises are a lot within a community titles scheme under the *Body Corporate and Community Management Act 1997*;
 - (i) 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;

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- (v) the insurance required to meet the obligations of the prospective lessee or prospective assignee under the lease;
- (j) 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;
- (k) a declaration by the lawyer about any relationship, whether professional or personal, that the lawyer has with the lessor;
- (l) a statement by the prospective lessee or prospective assignee about receiving and understanding the advice mentioned in the report.

Part 4 **Miscellaneous**

8 **Retail business—Act, s 5C**

- (1) For section 5C of the Act, a business is a retail business if—
 - (a) it is a business mentioned in schedule 1; or
 - (b) its whole or predominant activity is, or is a combination of, the sale, hire or supply of goods or services mentioned in schedule 1.
- (2) The wholesale sale of goods is not a retail business.

9 **Fee for lodging dispute notice—Act, s 55**

For section 55(2) of the Act, the fee for lodging a dispute notice is \$345.80.

Part 5 **Repeal**

10 **Repeal**

The Retail Shop Leases Regulation 2006, SL No. 39 is repealed.

Schedule 1 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 retailing

clothing
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
audio equipment
audio visual equipment
barbecue equipment
computers
computer accessories
dishwashers
electronic appliance hire
electronic equipment or supplies
fans
floor polishers
gas heating appliances
heating equipment
hot water systems
household appliances
kerosene heaters
mobile phones
mobile phone accessories
oil heaters
pocket calculators, electronic
radio receiving sets
refrigerators
shavers, electric
stoves
television antennae
vacuum cleaners

Domestic appliance retailing

washing machines

Domestic hardware and household goods retailing

brushware

chinaware

cooking utensils

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
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

Flower retailing

hydroponics

plant pots

Footwear and footwear repair retailing

footwear

footwear repair

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

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

Miscellaneous retailing

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
nursery plants
office equipment
party supplies
pets, pet supplies and pet grooming
prams
service station

Editor's note—

Particular retail shop leases are subject to
section 20C(2) of the Act.

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
audio equipment and accessories
compact discs

Music and video hire and retailing

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
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

Pharmaceutical, cosmetic and toiletry retailing

beauty salon

body piercing

cosmetics

hairdressing

hearing aids

optical goods

perfumes

pharmacy

tattoos

toiletries

wigs

Photographic equipment retailing

cameras

fast photo processing or printing

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
canoes
firearms
kayaks
snow skis
sporting equipment
surf boards and accessories
surf skis

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
takeaway food

Toy and game retailing

dolls

games

hobby equipment

hobby supplies

toy and game repairs

toys

Watch and jewellery retailing

clocks

jewellery

jewellery, clock and watch repairs

precious stones

watches