Queensland

RETAIL SHOP LEASES AMENDMENT BILL 1998

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1998

A BILL

FOR

An Act to amend the *Retail Shop Leases Act 1994*

The Parliament of Queensland enacts—

Short title

Clause **1.** This Act may be cited as the *Retail Shop Leases Amendment Act 1998*.

Act amended

Clause **2.** This Act amends the *Retail Shop Leases Act 1994*.

Amendment of s 27 (Rent may be reviewed on only 1 basis)

Clause **3.(1)** Section 27, heading—

omit, insert—

'**Timing and bases of rent reviews**'.

(2) Section 27(1), 'the reviews are'—

omit, insert—

'each review is'.

(3) Section 27(2)—

omit, insert—

'**(1A)** The rent may not be reviewed more than once in each year of the lease.

'**(1B)** Subsection (1A) does not apply to the first year of the lease.

'**(2)** The rent may be reviewed using different bases during the term of the lease, but each review must be made using only 1 basis.'.

(4) Section 27(5), 'using more than 1 basis for a rent review'—

omit.

(5) Section 27(5), 'the review is'—

omit, insert—

'an invalid review is'.

(6) Section 27—

insert—

‘**(6)** In this section—

“invalid review”, of rent under a lease, means—

(a) a review in a year of the lease, other than the first year, in which the rent is to be reviewed under the lease more than once; or

(b) a review made under the lease using more than 1 basis.

“year”, of a lease, means a period of 12 months starting on—

(a) the day the lease is entered into; or

(b) an anniversary of the day the lease was entered into; or

(c) if, for a particular 12 month period, there is not an anniversary of the day the lease was entered into—the last day of the month corresponding to the month the lease was entered into.[1]’.

Replacement of s 91 (Parties to pay own costs)

Clause **4.** Section 91—

omit, insert—

‘**Costs**

‘**91.(1)** This section applies to the costs of the tribunal’s hearing of a retail tenancy dispute.

‘**(2)** Unless the tribunal makes an order for costs under subsection (3), each party to the dispute must bear the party’s own costs.

‘**(3)** On application by a party, the tribunal may make an order for costs if it is satisfied—

(a) the dispute is frivolous or vexatious; or

(b) the party has incurred costs because another party—

(i) sought an adjournment of the hearing without giving

[1] Paragraph (c) deals with a lease entered into on the last day of February in a leap year.

reasonable notice; or

(ii) contravened a procedural requirement.

‘**(4)** If a party files, in a registry of the District Court, a document certified by the chief executive to be a true copy of an order for costs, the document may be enforced as an order of the District Court.

‘**(5)** If the tribunal makes an order for costs that does not state the amount of the costs, the amount must be decided under the *District Courts Rules 1968* as if the order were an order of the District Court and the hearing were conducted in the District Court.’.

Insertion of new s 124

Clause **5.** After section 123—

insert—

‘**Non-application of certain amendments of s 27 in certain cases**

‘**124.** Section 27, as in force immediately before the commencement of the *Retail Shop Leases Amendment Act 1998*, continues to apply to a retail shop lease entered into before the commencement, and any extension or renewal of the lease, as if that Act had not commenced.[2]’.

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[2] Section 27 (Timing and bases of rent reviews)