

Review of the NSW Retail Leases Act 1994

Terms of Reference

The Retail Leases Act 1994 (the Act) was introduced in 1994 to foster good leasing practices in the retail industry.

The review is to consider any matter or aspect of the Act that relates to the review's objectives. This may include, but is not limited to:

- Opportunities to improve outcomes by:
 - » Reducing red tape and compliance costs for retail tenants and landlords, while leaving appropriate matters to commercial negotiation or education rather than a reliance on legislative interpretation.
 - » Ensuring the Act is efficient and effective at meeting policy objectives, and to assess whether original policy objectives remain appropriate.
 - » Enhancing operational efficiency and legal certainty for stakeholders operating across jurisdictions.
 - » Clarifying and simplifying the Act to eliminate ambiguity and provide greater clarity on obligations and requirements.
 - » Reviewing the definition of "retail" and the scope of the jurisdiction.
 - » Aligning of key definitions and common terms and provisions to assist in simplifying standard retail lease agreements.
 - » Reviewing and considering disclosure requirements and lease registration requirements and timeframes.
 - » Identification of measures to promote the adoption of energy efficiency upgrades in retail and general commercial leases, noting capital costs and consumption charges over the life of a lease.
 - » Assessing the suitability of existing requirements such as those relating to outgoings, the appointment of specialist retail valuers, land tax recovery limits, and the administration and operation of bond payment and recovery processes.
 - » Bond processing and recovery arrangements.
- The interaction of the Act with other legislation such as the Conveyancing Act 1919 (and regulations) and the Strata Schemes Management Act 2015 (and regulations) and any amendments that may contribute to the efficiency, certainty, and clarity of commercial leasing transactions.
- The availability and accuracy of market information and consider measures that would improve transparency and availability of information.
- Other measures and concepts that may reduce potential disputes between landlords or tenants or allow for a better understanding of rights and obligations under the Act or under future lease agreements.

The review may make findings and recommendations to the NSW Government to improve the efficiency and effectiveness of the Act for all stakeholders.

The review will not consider:

- Valuation or commercial sums aligned with market rent settings.
- Operation of Retail and Other Commercial Leases (COVID-19) Regulation applied during the COVID-19 pandemic.
- Operation of NSW Civil and Administrative Tribunal.
- Business and property insurance markets.
- Operational aspects related to the delivery of mediation services by the Registrar of the Act.

Dated

October 2022