




Speech By
Hon. Jarrod Bleijie

MEMBER FOR KAWANA

Record of Proceedings, 25 November 2014

RETAIL SHOP LEASES AMENDMENT BILL

Introduction

 **Hon. JP BLEIJIE** (Kawana—LNP) (Attorney-General and Minister for Justice) (3.25 pm): I present a bill for an act to amend the Retail Shop Leases Act 1994 for particular purposes. I table the bill and explanatory notes. I nominate the Legal Affairs and Community Safety Committee to consider the bill.

Tabled paper: Retail Shop Leases Amendment Bill 2014 [\[6568\]](#).

Tabled paper: Retail Shop Leases Amendment Bill 2014, explanatory notes [\[6569\]](#).

It is with pleasure that I introduce the Retail Shop Leases Amendment Bill 2014. The bill amends the Retail Shop Leases Act 1994 which provides a framework for addressing imbalance in negotiating power and access to information between major shopping centre landlords and small retail tenants. The act provides for mandatory minimum standards for retail shop leases and a low-cost dispute resolution process for retail tenancy disputes. The main purpose of the bill is to give effect to the results of the statutory review of the act. It also fits in well with the government's agenda to reduce red tape and get out of the way of business and industry in this state. Contrary to previous assertions that governments and politicians create jobs, we know that it is our role to create an economic environment to which industry can create jobs and opportunities for all Queenslanders whilst maintaining some core consumer protections and balance.

The review has indicated considerable stakeholder consultation through the release of a discussion paper in late 2011 and a comprehensive options paper that I released in May 2013 setting out 127 options based on responses to the discussion paper. Over 33 submissions were received in response to the discussion paper and 25 for the options paper. Submissions were received from key retail sector and professional stakeholders and from individual landlords, tenants and legal and valuation professionals. I take this opportunity to thank all those who took the time to make submissions to the review. I also want to thank Jane Flower in my department who was responsible for overseeing the review during that time. A reference group of key retail sector and professional stakeholders was formed to review the outcomes of consultation on the options paper and make recommendations to government. The reference group included representatives from the National Retail Association, the Australian Retailers Association, the Australian Property Institute, Lease 1, the Property Council of Australia Queensland, the Shopping Centre Council of Australia, the Queensland Newsagents Federation, the Pharmacy Guild of Australia Queensland division, the Queensland Law Society, the Large Law Firm Group and the Chamber of Commerce and Industry Queensland.

Under its terms of reference, the reference group was tasked with identifying areas of stakeholder consensus, difference and compromise. The reference group also provided industry and technical input, including from the perspective of retail businesses operating in Queensland and nationally. Formal submissions from stakeholders on the options paper, to the extent that they were within the scope of the review, were considered as part of the reference group process. Key guiding considerations for the reference group were the need for balance between safeguarding retail tenant interests and ensuring government regulation does not unnecessarily interfere with commercial dealings/relationships and opportunities for reducing the regulatory and compliance burden on the Queensland retail sector. The reference group also had regard to key findings and recommendations of the Productivity Commission in its 2008 report, *The market for retail tenancy leases in Australia*. These recommendations included that states and territories should introduce greater self-regulation in the retail tenancies market, remove unnecessarily prescriptive elements of retail tenancy legislation that unduly restrict commercial negotiations and move towards a more consistent national framework for regulation of retail tenancies.

The reference group delivered its final report detailing the recommendations and outcomes from the reference group process in December 2013. The reference group concluded that the act was generally working well. However, there was a relatively high level of reference group consensus as to the legislative amendments which would be appropriate and also on matters where legislative amendment was considered not necessary or appropriate. The government has now considered the reference group report and has generally been guided by its findings in deciding the outcomes of the statutory review of the act. On the government's behalf, I thank members of the reference group for their valuable contribution to this review. For the benefit of the members of the House, I table a copy of the statutory review as required by section 122 of the act.

Tabled paper: Queensland Government, Department of Justice and Attorney-General, *Report on statutory review of the Retail Shop Leases Act 1994* [6570].

This report attaches the reference group report. Submissions to the review will be published on the Department of Justice and Attorney-General website following the introduction of the bill.

I will mention some specifics of the bill very quickly. A number of amendments are directed to reducing red tape for the Queensland retail sector. The bill excludes from the operation of the act non-retail leases in certain non-retail precincts of a retail shopping centre, such as commercial or professional offices in an office tower located above a retail shopping centre. The bill excludes retail shop leases with a floor area greater than 1,000 square metres because tenants of such areas are generally sophisticated business entities not requiring protection under the legislation.

The bill exempts landlords from liability to compensate tenants for trading losses in the event of emergency shopping centre closure, for example, due to flooding. There are also measures to enhance the protection for small to medium enterprise retail tenants, for instance, requiring landlords to give disclosure on lease renewal when a retail business is being sold; requiring the seller or assignor to give disclosure to the incoming tenant; ensuring that appropriate disclosure is given to franchisees and sublessees; and additional disclosure to tenants in relation to landlords' centre management fees, refurbishment requirements and shopping centre marketing expenditures.

The bill also includes amendments to clarify and improve the operational efficiency and effectiveness of the act. The bill removes the requirement for statutory review every seven years. This will facilitate a more flexible and effective policy and legislative response to emerging issues impacting the Queensland retail sector.

Given the opposing interests of landlord and tenants, there were issues on which the reference group was divided and for which no change is provided in the bill. The statutory report acknowledges that, for some of these issues, a watching brief will be kept, including for developments in other key eastern seaboard jurisdictions and the outcome of a current Senate committee inquiry into the need for a national approach to retail shop leasing legislation.

I will, of course, be open to receiving further submissions from stakeholders following the introduction of the bill and stakeholders will also be able to make submissions to the relevant parliamentary committee during its consideration of the bill. I thank the reference group for the great work that they have done in continuing the government's agenda with a strong plan, a strong team, building a stronger Queensland. As I said, we want Queensland to be stronger. The best way we can do that is to make sure that people have jobs, particularly in the retail sector. We can support the retail sector by reducing regulation and red tape. It is my pleasure that a lot of the bills that I have introduced into this House in the last 2½ years—which, I think, add up to about 50—deal with regulation and red tape, particularly in the retail industry. I am very pleased to commend this bill to the House.

First Reading

Hon. JP BLEIJIE (Kawana—LNP) (Attorney-General and Minister for Justice) (3.32 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to the Legal Affairs and Community Safety Committee

Madam DEPUTY SPEAKER (Mrs Cunningham): Order! In accordance with standing order 131, the bill is now referred to the Legal Affairs and Community Safety Committee.