



Speech By  
**Hon. Yvette D'Ath**


**MEMBER FOR REDCLIFFE**

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Record of Proceedings, 13 October 2015

## **RETAIL SHOP LEASES AMENDMENT BILL**

### **Introduction**

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (12.29 pm): I present a bill for an act to amend the Retail Shop Leases Act 1994 for particular purposes. I table the bill and the explanatory notes. I nominate the Legal Affairs and Community Safety Committee to consider the bill.

*Tabled paper:* Retail Shop Leases Amendment Bill 2015 [[1368](#)].

*Tabled paper:* Retail Shop Leases Amendment Bill 2015, explanatory notes [[1369](#)].

I am pleased to introduce the Retail Shop Leases Amendment Bill 2015. The Retail Shop Leases Act 1994 governs retail leasing in Queensland and its object is to promote efficiency and equity in the conduct of certain retail businesses in our state. The act sets out mandatory minimum standards for retail shop leases and provides a low-cost dispute resolution process for the retail sector. The statutory framework under the act encourages good leasing practice and promotes fairness during the negotiation and term of the lease. It addresses imbalance in negotiating power and access to information between major shopping centre landlords and small retail tenants.

The purpose of the bill is to give effect to the consultation outcomes from the statutory review of the Retail Shop Leases Act 1994. The review commenced in 2011 and included public consultation on a discussion paper and an options paper. There were 58 submissions to the review and submitters included key retail sector and professional stakeholders, individual tenants and landlords, as well as legal and valuation professionals.

The review consultation also included a stakeholder reference group process. The reference group comprised 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, the Queensland Law Society, the Large Law Firm Group and the Chamber of Commerce & Industry Queensland.

The reference group considered 127 options for changes to the act raised through the public consultation process and provided its report and recommendations to the former government in December 2013. The reference group report was tabled in the parliament in November 2014 by the former government on introduction of the Retail Shop Leases Amendment Bill 2014. The amendments contained in the bill are based on the findings and recommendations in the reference group report. This bill represents the government's respect for the long consultation process and the hard work of those stakeholders over many years.

The reference group has also been consulted in the drafting of this bill, and I thank them for all their work. In particular, the reference group provided input into an amendment that will exclude a certain class of non-retail leases from the operation of the act. This exclusion will apply to non-retail

leases on a level of a shopping centre or in a building that is part of a centre where, on the date the lease is entered into, 25 per cent or less of the total leased floor area of the level or building is used for retail business purposes. This prospective amendment will reduce red tape and compliance costs for non-retail tenants and their landlords by removing certain lease preparation and disclosure costs and allowing the parties the commercial flexibility to negotiate key lease terms. The amendment will also give effect to the reference group's in-principle recommendation that the act should not apply to non-retail leases in an area of a shopping centre generally regarded or identified as commercial or for non-retail service providers.

The bill contains various measures to enhance protection for retail tenants. For example, it will require disclosure to incoming retail franchisees and also by landlords to sitting tenants who are looking to renew their lease under an option. The bill will also safeguard prospective buyers of a retail business by requiring the seller to give them disclosure about the lease for the business premises before the business contract is entered into. The bill will improve transparency for tenants in relation to centre management fees and marketing expenditures and provide for release of an assignor's guarantors from their liabilities under the lease.

Other amendments in the bill directed to reducing red tape for the Queensland retail sector include: narrowing the act's coverage by excluding leases with a floor area greater than 1,000 square metres in recognition that these tenants are generally sophisticated business operators who do not require special protection; and exempting shopping centre landlords from liability to compensate tenants for trading losses where the centre is closed in an emergency situation, for example, during flooding. The bill also includes various amendments to clarify and improve the operational efficiency and effectiveness of the act, including providing flexibility for tenant waiver of the landlord disclosure period and streamlining current market rent determination processes.

Given differing interests and priorities of landlords and tenants, there were issues on which the reference group was divided and for which no change is provided in the bill. One such matter is the requirement for statutory review of the act every seven years to determine whether its provisions remain appropriate.

On balance, this government will retain the mandatory review provision to ensure that the red-tape reduction and other changes in this bill, and the act generally, operate effectively and appropriately for individual retail businesses and the retail sector as a whole. Future reviews could be conducted on a targeted basis and would be expected to be forward focussed having regard to new or emerging industry or legal issues and future developments in other jurisdictions.

This bill seeks to continue the good work of stakeholders and industry over many years. I hope this bill can achieve practical benefits for those in this industry. It has widespread support amongst stakeholders. I hope it can progress with bipartisan support. I commend this bill to the House.

### **First Reading**

**Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (12.35 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**

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