

# EDUCATION, TOURISM AND SMALL BUSINESS COMMITTEE

## Report No. 9

### Retail Shop Leases Amendment Bill 2015

#### QUEENSLAND GOVERNMENT RESPONSE

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#### INTRODUCTION

On 13 October 2015, the Retail Shop Leases Amendment Bill 2015 (the Bill) was introduced into the Queensland Parliament.

Parliament referred the Bill to the Education Tourism and Small Business Committee (the Committee) and requested the Committee table its report on its consideration of the Bill by 5 February 2016.

On 4 February 2016, the Committee tabled Report No. 9 in the Queensland Parliament in relation to the Bill (the Report).

On 8 February 2016, the Committee tabled in the Parliament an erratum to the Report which omitted recommendation 3.

The Queensland Government response to the recommendations contained in the Report on matters raised by the Committee is provided below.

#### RESPONSE TO RECOMMENDATIONS:

##### Recommendation 1

The Committee recommends that the Retail Shop Leases Amendment Bill 2015 be passed.

##### *Queensland Government response:*

The Queensland Government thanks the Committee for its consideration of the Bill and supports the Committee's recommendation that the Bill be passed.

##### Recommendation 2

That, during the second reading debate, the Attorney-General inform the House of the likely commencement date for the Bill and how business and stakeholders will be informed of their obligations.

***Queensland Government response:***

The Queensland Government has consulted the key industry and legal stakeholders (who were members of the review reference group) on the commencement date for the amendments contained in the Bill. Based on this consultation, commencement is proposed six months after assent.

Businesses and stakeholders will be informed of the changes to the *Retail Shop Leases Act 1994*, through the publication of updated Retail Leasing Guidelines, together with a fact sheet outlining key changes to the Act, on the Queensland Government business and industry portal.

Given the extensive consultation process underpinning the Bill, the key retailer landlord and legal stakeholder bodies represented on the review reference group are well apprised of the proposed changes and will have an important and ongoing role in informing and educating their respective members and associates about relevant changes to existing rights and obligations under the Act, including implications for related documentation, business practice and procedures. These Queensland retail sector stakeholders include the Queensland Law Society, the National Retail Association, Lease 1, the Shopping Centre Council of Australia, the Property Council of Australia, the Australian Retailers Association and the Australian Property Institute.

**Recommendation 4**

That, during the second reading debate, the Attorney-General inform the House whether further consideration has been given to the Queensland Law Society's proposal for amendment to new section 11A and, if so, the outcome.

***Queensland Government response:***

The Queensland Government has consulted the Queensland Law Society and other key reference group members on the Society's proposal for amendment to new section 11A.

Based on the Society's concern and the further consultation, the Government proposes to move an amendment during consideration in detail to omit section 11A so that the status quo under the Act is retained.

**Recommendation 5**

That, during the second reading debate, the Attorney-General inform the House of the outcome of the further consideration of a potential amendment to clauses 21C and 21D.

***Queensland Government response:***

The Queensland Government notes this recommendation and that it applies to clause 15 of the Bill, which inserts new section 21C and new section 21D.

Other than minor technical amendments of a clarificatory nature, the Government is not persuaded at this time that sections 21C or 21D (which give effect to the

recommendations of the reference group for the review) should be amended based on the issues raised by the Queensland Law Society.

The minor technical amendments that the Government proposes to move during consideration in detail will clarify that section 21C will apply where a franchisor proposes to grant a sublease to a franchisee; and that section 21D applies to all licences to occupy granted by franchisors to franchisees for leased premises that are a *retail shop* within the meaning of the Act.

### **Recommendation 6**

That, during the second reading debate, the Attorney-General inform the House if further consideration has been given to the Queensland Law Society's concerns about proposed section 21F, and, if so, the outcome of that consideration.

#### ***Queensland Government response:***

The Queensland Government notes this recommendation and that the Queensland Law Society's concerns relate to the new lessor objection procedure and disputed terminations provisions contained in proposed sections 21F(5) to (9).

In response to the Queensland Law Society's concerns, the Government proposes to move an amendment during consideration in detail to omit proposed sections 21F(5) to (9) so that the status quo under the Act is retained.

### **Recommendation 7**

That, during the second reading debate, the Attorney-General inform the House what consideration is being given to the North Queensland Airports concerns about potential limits on the hours of operation of retail businesses and the potential to erode existing lease provisions.

#### ***Queensland Government response:***

The Queensland Government has considered this recommendation and consulted with North Queensland Airports to clarify its submission to the Committee in the context of the Bill and the *Retail Shop Leases Act 1994* (NQA submission).

Based on this consultation and the information provided by North Queensland Airports at this time, the Government is not persuaded that the Cairns and Mackay airport holdings should be excluded from the operation of the *Retail Shop Leases Act 1994*; or that the amendments contained in the Bill would unduly restrict the retail growth potential of North Queensland Airports or its ability to compete with other significant airports nationally.

It should be noted that the aspects of the NQA submission relating to allowable trading hours are outside the scope of the Bill.