



New South Wales

Retail Leases (Sydney Airport) Regulation 1999

under the

Retail Leases Act 1994

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Retail Leases Act 1994*

MICHAEL EGAN, M.L.C.,
Minister for State Development

Explanatory note

The object of this Regulation is to create various exemptions from the *Retail Leases Act 1994* in respect of shops at Sydney's Kingsford Smith Airport.

The Regulation:

- (a) exempts from the operation of the Act premises at the Airport that are not used for retail businesses (and so would not be covered by the Act were they not within a retail shopping centre complex), and
- (b) exempts from the operation of the Act premises within a "master concession" that has a total lettable area greater than 1,000 square metres, and
- (c) confers exemptions from various provisions of the Act in their application to shops at the Airport.

The Regulation ceases to operate at the end of 31 December 2000.

This Regulation is made under the *Retail Leases Act 1994*, including sections 5 (e), 6 (e), 82 and 85

1999 No 19

Retail Leases (Sydney Airport) Regulation 1999

Contents

	Page
1 Name of Regulation	3
2 Commencement	3
3 Definitions	3
4 Notes	3
5 Non-retail premises exempted	3
6 Master concessions over 1,000 square metres exempted	3
7 Minimum term of lease—conditional exemption	4
8 Notice to lessee of lessor's intentions at end of lease—conditional exemption	4
9 Other lessor exemptions	4
10 Other lease exemptions	4
11 Sunset	5

Retail Leases (Sydney Airport) Regulation 1999

1 Name of Regulation

This Regulation is the *Retail Leases (Sydney Airport) Regulation 1999*.

2 Commencement

This Regulation commences on 22 January 1999.

3 Definitions

In this Regulation:

Airport means Sydney (Kingsford-Smith) Airport as described in the *Airports Regulation* under the *Airports Act 1996* of the Commonwealth.

the Act means the *Retail Leases Act 1994*.

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

5 Non-retail premises exempted

The Act does not apply to any of the following premises at the Airport:

- (a) premises used wholly or predominantly for the carrying on of a business that is not a business specified in Schedule 1 to the Act,
- (b) premises that are used wholly or predominantly for, or as the site for, commercial offices, check-in counters, airline lounges, medical centres, government offices (such as for customs and quarantine or police), advertising, telephone booths, luggage lockers, baggage trolley operations, vending units, airline sales desks or mobile cart operations.

6 Master concessions over 1,000 square metres exempted

Premises at the Airport that are the subject of a master concession are exempt from the operation of the Act if the aggregate lettable area of the premises within the master

concession is greater than 1,000 square metres. A *master concession* consists of a number of separate premises at the Airport that are all leased to the same lessee.

7 Minimum term of lease—conditional exemption

A lease of premises at the Airport is exempt from the operation of section 16 (Minimum 5 year term) of the Act if the term for which the lease is entered into, together with any further term or terms provided for by any agreement or option for the acquisition by the lessee of a further term as an extension or renewal of the lease, is not less than 3 years.

8 Notice to lessee of lessor's intentions at end of lease—conditional exemption

A lessor under a lease of premises at the Airport is exempt from the operation of section 44 of the Act but only if not less than 2 months and not more than 12 months before the expiry of the lease the lessor by written notification to the lessee either:

- (a) offers the lessee a renewal or extension of the lease on terms specified in the notification (including terms as to rent) and does not revoke that offer for at least 1 month after it is made, or
- (b) informs the lessee that the lessor does not propose to offer the lessee a renewal or extension of the lease.

9 Other lessor exemptions

A lessor under a lease of premises at the Airport is exempt from the operation of the following provisions of the Act:

- section 39 (Grounds on which consent to assignment can be withheld)
- section 50 (Confidentiality of turnover information).

10 Other lease exemptions

A lease of premises at the Airport is exempt from the operation of the following provisions of the Act:

- section 11 (Lessee to be given disclosure statement)
- section 17 (Payment of rent when lessor's fitout not completed)

-
- section 18 (Restrictions on adjustment of base rent)
 - section 19 (Reviews to current market rent)
 - section 27 (Estimates and expenditure statement of outgoings to be provided by lessor)
 - section 31 (Determination of current market rent under options to renew)
 - section 32 (Opportunity for lessee to have current market rent determined early)
 - section 33 (Lessee to be given notice of alterations and refurbishment)
 - section 34 (Lessee to be compensated for disturbance)
 - section 35 (Demolition)
 - section 41 (Procedure for obtaining consent to assignment)
 - Part 7 (Additional requirements for retail shopping centres), except sections 57 (f) (relating to payment of the lessee's reasonable costs of relocation) and 58 (Termination for inadequate sales prohibited).

11 Sunset

This Regulation ceases to have effect at the end of 31 December 2000.