

Retail Leases Amendment Act 2004 No 84

[2004-84]



New South Wales

Status Information

Currency of version

Repealed version for 3 November 2004 to 23 November 2005 (accessed 12 July 2024 at 2:17)

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Repeal**

The Act was repealed by Sch 4 to the *Statute Law (Miscellaneous Provisions) Act (No 2) 2005 No 98* with effect from 24.11.2005.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Retail Leases Amendment Act 2004 No 84



New South Wales

An Act to amend the *Retail Leases Act 1994* with respect to lease preparation expenses and statements of expenditure on outgoings; and for other purposes.

1 Name of Act

This Act is the *Retail Leases Amendment Act 2004*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of *Retail Leases Act 1994 No 46*

The *Retail Leases Act 1994* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order:

lease preparation expenses means legal or other expenses incurred by the lessor in connection with the preparation or entering into of a retail shop lease, except for registration fees under the *Real Property Act 1900*.

[2] Section 13 Lease preparation costs

Omit the section.

[3] Section 14 Key-money and lease preparation expenses prohibited

Omit section 14 (1). Insert instead:

(1) A person must not, as lessor or on behalf of the lessor, seek or accept the payment of key-money or lease preparation expenses in connection with the granting of a retail shop lease and any provision of a retail shop lease is void to the extent that it

requires or has the effect of requiring the payment of key-money or lease preparation expenses in connection with the granting of the lease.

[4] Section 14 (3) (a)

Omit the paragraph.

[5] Section 14 (4) and (5)

Insert after section 14 (3):

- (4) This section does not prevent a person, as lessor or on behalf of the lessor, from requiring payment by a prospective lessee or the lessee of a reasonable sum in respect of lease preparation expenses incurred in connection with making an amendment to a proposed lease that was requested by or on behalf of the prospective lessee or the lessee, other than:
 - (a) an amendment to insert or vary the particulars of the lessee, the rent or the term, or
 - (b) an amendment to remedy a failure by or on behalf of the lessor to include or omit a term of the proposed lease that was, at the time of the failure to include or omit, agreed between the lessor and the proposed lessee or lessee to be included in or omitted from the proposed lease, or
 - (c) an amendment requested before the lessor is given a lessee's disclosure statement under section 11A.
- (5) If a prospective lessee or the lessee is liable to pay a reasonable sum referred to in subsection (4), the lessor must provide the prospective lessee or lessee with a copy of any account presented to the lessor in respect of those expenses. The prospective lessee or lessee is not required to make any such payment until the lessor has complied with this requirement.

[6] Section 27 Estimates of outgoings to be provided by lessor

Omit section 27 (c) and (d).

[7] Section 45 Key-money and lease preparation expenses for renewal or extension prohibited

Omit section 45 (1). Insert instead:

- (1) A person must not, as lessor or on behalf of the lessor, seek or accept the payment of key-money or lease preparation expenses in connection with the renewal or extension of a retail shop lease and any provision of a retail shop lease is void to the extent that it requires or has the effect of requiring the payment of key-money

or lease preparation expenses in connection with the renewal or extension of the lease.

[8] Section 45 (3) (a)

Omit the paragraph.

[9] Section 45 (4) and (5)

Insert after section 45 (3):

- (4) This section does not prevent a person, as lessor or on behalf of the lessor, from requiring payment by the prospective lessee or the lessee of a reasonable sum in respect of lease preparation expenses incurred in connection with making an amendment to a proposed lease, or to a lease as is proposed to be extended, that was requested by or on behalf of the prospective lessee or the lessee, other than:
- (a) an amendment to insert or vary the particulars of the lessee, the rent or the term, or
 - (b) an amendment to remedy a failure by or on behalf of the lessor to include or omit a term of the proposed lease, or the lease as proposed to be extended, that was, at the time of the failure to include or omit, agreed between the lessor and the proposed lessee or lessee to be included in or omitted from the proposed lease, or the lease as proposed to be extended, or
 - (c) if the amendment is in connection with the renewal of a retail shop lease, an amendment requested before the lessor is given a lessee's disclosure update under section 11A.
- (5) If a prospective lessee or the lessee is liable to pay a reasonable sum referred to in subsection (4), the lessor must provide the prospective lessee or lessee with a copy of any account presented to the lessor in respect of those expenses. The prospective lessee or lessee is not required to make any such payment until the lessor has complied with this requirement.

[10] Schedule 3 Savings and transitional provisions

Insert at the end of clause 1 (1):

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[11] Schedule 3, Part 5

Insert after Part 4:

Part 5 Retail Leases Amendment Act 2004

15 Key-money and lease preparation expenses

Each of sections 13, 14 and 45, as in force before the amendment of the section by the *Retail Leases Amendment Act 2004*, continues to apply to a grant, renewal or extension that took effect before that amendment.