



New South Wales

Retail Leases Amendment (Review) Bill 2025

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to give effect to the first tranche of recommendations arising from the statutory review of the *Retail Leases Act 1994* (*the Act*).

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Retail Leases Act 1994 No 46

Schedule 1[1] sets out the objects of the Act.

Schedule 1[4] enables the regulations to exclude certain premises from the operation of the Act.
Schedule 1[21] makes a consequential amendment.

Schedule 1[5] provides that a prospective lessor of a retail shop must not offer the shop for lease unless a copy of the proposed lease is available for inspection. The prospective lessor must also ensure a copy of the proposed lease and copies of certain other documents are made available to a prospective lessee as soon as the prospective lessor enters negotiations with the prospective lessee. A failure to comply with either requirement is an offence with a maximum penalty of 50 penalty units.

Schedule 1[7] replaces sections 11 and 11A and inserts proposed section 11B.

Proposed section 11 requires disclosure statements to be given by a proposed lessor and a proposed lessee when the parties are proposing to enter into a lease for a retail shop. The disclosure statements must contain the information and documents required by the regulations. Failure to comply with these requirements is an offence with a maximum penalty of 50 penalty units. The proposed lessor's disclosure statement must be given to the proposed lessee at least 7 days before the lease is entered into. This period may be reduced or waived by agreement. **Schedule 1[2], [3], [6], [19] and [22]** make consequential amendments.

Proposed section 11A provides for the amendment of a disclosure statement.

Proposed section 11B enables a lessee, within the first 6 months after entering into a lease, to terminate the lease in circumstances where the lessor disclosure statement—

- (a) was not given to the lessee, or
- (b) was not complete, or
- (c) contained information that was materially false or misleading.

Schedule 1[8] provides an exception to the current requirement that a lessor must not seek to recover lease preparation expenses from a lessee. The lessor may recover reasonable expenses if an existing lease could have been assigned but the parties instead agreed to prepare a new lease. **Schedule 1[9]** makes a consequential amendment.

Schedule 1[10] provides an additional ground for extending the 3-month period in which the lessor must provide the lessee with an executed copy of a retail shop lease. The additional ground applies if the delay was caused by the lessee failing to provide the lessor with relevant documents relating to the lease.

Schedule 1[11] provides an additional ground for extending the 3-month period in which certain leases must be lodged for registration to also include delays caused by the lessee failing to provide the lessor with relevant documents relating to the lease.

Schedule 1[12] excludes profits or takings of a pharmacy business from the definition of *turnover*, which is used in the calculation of rent for certain retail shop leases.

Schedule 1[13] provides that, for a retail shop not located in a retail shopping centre, the report on the outgoings statement must be prepared by a certified practising accountant.

Schedule 1[15] provides that, if a retail shop lease enables the business of the lessee to be relocated by the lessor, commercial factors must be taken into account in the adjustment of the rent of the alternative shop. **Schedule 1[14]** makes a consequential amendment.

Schedule 1[17] defines *expiry of a lease* for the Act, section 44. **Schedule 1[16]** makes a consequential amendment.

Schedule 1[18] clarifies that the Act applies to a retail shop lease to the extent the lease applies to—

- (a) a retail shop, and
- (b) other premises if the use of premises is ancillary to the operation of the retail shop.

Schedule 1[20] repeals redundant provisions relating to the COVID-19 pandemic.

Schedule 1[23] inserts savings and transitional provisions.



New South Wales

Retail Leases Amendment (Review) Bill 2025

Contents

		Page
	1 Name of Act	2
	2 Commencement	2
Schedule 1	Amendment of Retail Leases Act 1994 No 46	3

This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Retail Leases Amendment (Review) Bill 2025

No , 2025

A Bill for

An Act to amend the *Retail Leases Act 1994* to give effect to certain recommendations arising from the statutory review of the Act; and for other purposes.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.

Legislative Council

Clerk of the Parliaments

Tabling copy

The Legislature of New South Wales enacts—	1
1 Name of Act	2
This Act is the <i>Retail Leases Amendment (Review) Act 2025</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5

Schedule 1 Amendment of Retail Leases Act 1994 No 46

[1] Section 2A

Insert after section 2—

2A Objects of Act

The objects of this Act are as follows—

- (a) to provide for minimum safeguards, mechanisms and processes to facilitate persons the negotiation and management of retail shop leases,
- (b) to require certain information relevant to retail shop leases to be disclosed before leases are entered into, including the financial obligations of parties under the lease and other important information,
- (c) to ensure processes for negotiating and entering retail shop leases are reasonably transparent,
- (d) to ensure processes for resolving disputes about retail shop leases are timely and cost-effective,
- (e) to impose requirements that are appropriate to enable persons to enter retail shop leases regardless of the size of the person's business,
- (f) to set out, in relation to retail shop leases, good leasing practices that are consistent with the other objects of this Act.

[2] Section 3 Definitions

Omit the definitions of *lessee's disclosure statement* and *lessor's disclosure statement* from section 3(1).

Insert in alphabetical order—

disclosure statement means—

- (a) a lessor disclosure statement, or
- (b) a lessee disclosure statement.

lessee disclosure statement has the same meaning as in section 11.

lessor disclosure statement has the same meaning as in section 11.

[3] Sections 3B(2)(a) and (b), 10(2), 12A(1)–(3), 13A(1)(a), 22(1), note, 27(a), 41(c)–(e), 41A(2)(a) and (3), 70, definition of “retail tenancy claim”, paragraph (a)(vii), 72(1)(e) and 72AB and Schedule 2A

Omit “lessor's disclosure statement” wherever occurring.

Insert instead “lessor disclosure statement”.

[4] Section 5 Certain retail shops excluded from the operation of this Act

Omit section 5(d). Insert instead—

- (d) premises used only for purposes prescribed by the regulations as excluded uses, unless the premises—
 - (i) are premises the use of which is ancillary to the operation of the retail shop that is the subject of a retail shop lease, and
 - (ii) the retail shop lease applies to the premises,

[5] Section 9

Omit the section. Insert instead—

9 Documents to be provided at negotiation stage	1
(1) A prospective lessor of a retail shop must not do the following in relation to a lease of the shop unless the prospective lessor has a copy of the proposed lease available for inspection by a prospective lessee—	2
(a) offer to enter into a lease of the shop,	3
(b) invite an offer to enter into a lease of the shop,	4
(c) indicate by written or broadcast advertisement that the shop is for lease.	5
Maximum penalty—50 penalty units.	6
(2) A prospective lessor of a retail shop must make the following available to a prospective lessee of the shop as soon as the prospective lessor enters into negotiations with the prospective lessee concerning the lease—	7
(a) a copy of the proposed lease,	8
(b) a copy of each document prescribed by the regulations.	9
Maximum penalty—50 penalty units.	10
(3) A proposed lease is not required to include the following particulars—	11
(a) details of the lessee,	12
(b) the term of the lease,	13
(c) the rent payable under the lease.	14
(4) This section applies to a person acting on behalf of a prospective lessor in the same way as it applies to the prospective lessor.	15
[6] Sections 10(2A) and 14(4)(c)	16
Omit “lessee’s disclosure statement” wherever occurring.	17
Insert instead “lessee disclosure statement”.	18
[7] Sections 11–11B	19
Omit sections 11 and 11A. Insert instead—	20
11 Giving disclosure statements	21
(1) A person who proposes to enter into a retail shop lease as a lessor must ensure a written statement (a <i>lessor disclosure statement</i>) is given to the proposed lessee in accordance with this section.	22
Maximum penalty—50 penalty units.	23
(2) The lessor disclosure statement must be given to the proposed lessee at least 7 days before the lease is entered into.	24
(3) The proposed parties may agree in writing that the period of 7 days be reduced or waived if each party has—	25
(a) engaged an Australian legal practitioner, and	26
(b) sought the advice of the Australian legal practitioner about the reduction or waiver.	27
(4) The proposed lessee must, after receiving the lessor disclosure statement, ensure a written statement (a <i>lessee disclosure statement</i>) is given to the proposed lessor in accordance with this section.	28
Maximum penalty—50 penalty units.	29
(5) The lessee disclosure statement must be given to the proposed lessor no later than 7 days after the lessor disclosure statement is given to the lessee.	30

(6)	The proposed parties may agree in writing that the period of 7 days be extended.	1 2
(7)	A disclosure statement must—	3
(a)	be in an adopted form, and	4
(b)	contain the information prescribed by the regulations, and	5
(c)	be accompanied by the documents prescribed by the regulations.	6
(8)	For a renewal of a lease, a disclosure statement may be given as a written update of the previous disclosure statement along with a copy of the previous disclosure statement.	7 8 9
(9)	In this section—	10
	<i>adopted form</i> means a form—	11
(a)	published in the Gazette, and	12
(b)	adopted by the regulations.	13
11A	Amending disclosure statements	14
(1)	A disclosure statement may be amended with the written agreement of the parties before or after the lease is entered into.	15 16
	Note— The Tribunal also has power to order the rectification of a lessor disclosure statement—see section 72AB.	17 18
(2)	The amendment has effect from the date specified in the agreement, which may be a date before the agreement is made.	19 20
11B	Termination if lessor disclosure statement not given, incomplete or incorrect	21
(1)	A lessee may terminate a lease if—	22
(a)	the lessor disclosure statement—	23
(i)	was not given to the lessee in accordance with section 11, or	24
(ii)	was incomplete, or	25
(iii)	contained information that, at the time the information was given, was materially false or misleading, and	26 27
(b)	the termination occurs no more than 6 months after the lease was entered into.	28 29
(2)	The lessee cannot terminate a lease under subsection (1)(a)(ii) or (iii) if—	30
(a)	the lessor has acted honestly and reasonably and ought reasonably to be excused for the failure concerned, and	31 32
(b)	the lessee is in substantially as good a position as the lessee would have been if the failure had not occurred.	33 34
(3)	The termination occurs when the lessee gives written notice of the termination to the lessor.	35 36
(4)	The lessee is, on termination under this section, entitled to recover compensation from the lessor for costs reasonably incurred by the lessee in connection with entering into the lease, including costs connected with the fit-out of the retail shop.	37 38 39 40
(5)	The termination does not affect a right, privilege, obligation or liability acquired, accrued or incurred under the lease in relation to a period before the termination.	41 42 43

[8] Section 14 Key-money and lease preparation expenses prohibited	1
Insert after section 14(4)—	2
(4A) This section does not prevent a person from requiring payment of a reasonable sum for lease preparation expenses incurred where an existing lease could have been assigned but the parties instead agreed to enter into a new lease.	3 4 5
[9] Section 14(5)	6
Insert “or (4A)” after “(4)”.	7
[10] Section 15 Lessee to be provided with executed copy of lease	8
Omit section 15(2). Insert instead—	9
(2) The 3-month period must be extended for delays caused by the following—	10
(a) the need to obtain any consent from a head lessor or mortgagee, but not delay caused by the lessor failing to make reasonable efforts to obtain the consent,	11 12 13
(b) the lessee failing to provide the lessor with relevant documents, including proof of insurance or bank guarantees.	14 15
[11] Section 16 Certain leases must be registered	16
Omit section 16(2). Insert instead—	17
(2) The 3-month period must be extended for delays caused by the following—	18
(a) the need to obtain any consent from a head lessor or mortgagee, but not delay caused by the lessor failing to make reasonable efforts to obtain the consent,	19 20 21
(b) the lessee failing to provide the lessor with relevant documents, including proof of insurance or bank guarantees,	22 23
(c) requirements arising under the <i>Real Property Act 1900</i> that are beyond the control of the lessor.	24 25
[12] Section 20 Turnover rent	26
Insert after section 20(1)(k)—	27
(k1) the profits or takings of a pharmacy business within the meaning of the <i>Health Practitioner Regulation National Law (NSW)</i> , Schedule 5F,	28 29
Note— The <i>Health Practitioner Regulation National Law (NSW)</i> , Schedule 5F, clause 10(1)(d) makes void a provision that provides that a lessor may receive consideration that varies according to the profits or takings of a pharmacy business.	30 31 32 33
[13] Section 28 Outgoings statements	34
Omit section 28(1)(e). Insert instead—	35
(e) The outgoing statement must be accompanied by a report (an <i>auditor’s report</i>) on the statement prepared—	36 37
(i) for a shop in a retail shopping centre—by a registered company auditor within the meaning of the <i>Corporations Act 2001</i> of the Commonwealth,	38 39 40
(ii) otherwise—by a certified practising accountant.	41

[14] Section 34A Relocation	1
Omit “The rent for the alternative shop is to be the same as the rent for the existing retail shop, adjusted to take into account the difference in the commercial values of the existing retail shop and the alternative shop at the time of relocation.” from section 34A(c).	2 3 4
[15] Section 34A(c1)	5
Insert after section 34A(c)—	6
(c1) The rent for the alternative shop is to be the same as the rent for the existing retail shop, adjusted to take into account—	7 8
(i) the difference in the commercial values of the existing retail shop and the alternative shop at the time of relocation, and	9 10
(ii) other commercial factors, including—	11
(A) the exposure of each shop to foot traffic, and	12
(B) the retail mix that surrounds each shop, and	13
(C) the road frontage of each shop, and	14
(D) the shape, nature and internal configuration of each shop.	15
[16] Section 44 Notice to lessee of lessor’s intentions at end of lease	16
Omit section 44(5).	17
[17] Section 44(7)	18
Insert after section 44(6)—	19
(7) In this section—	20
<i>expiry of a lease</i> means—	21
(a) for a lease containing an option to renew or extend the lease or that is the subject of an agreement for the renewal or extension of the lease—the end of the renewed or extended lease, or	22 23 24
(b) otherwise—at the end of the lease.	25
[18] Section 79	26
Omit the section. Insert instead—	27
79 Leases partly for retail shops and partly for other premises	28
This Act applies to a retail shop lease only to the extent the lease applies to—	29
(a) a retail shop, and	30
(b) premises the use of which is ancillary to the operation of the retail shop.	31
Example— car parking, signage or storage areas	32
[19] Section 85 Regulations	33
Omit section 85(4).	34
[20] Part 11 Response to COVID-19 pandemic	35
Omit the part.	36
[21] Schedule 1A Excluded uses	37
Omit the schedule.	38

[22] Schedule 2 Lessor and lessee disclosure statements	1
Omit the schedule.	2
[23] Schedule 3 Savings and transitional provisions	3
Insert at the end of the schedule, with appropriate part and clause numbering—	4
Part Retail Leases Amendment (Review) Act 2025	5
Definition	6
In this part—	7
<i>amending Act</i> means the <i>Retail Leases Amendment (Review) Act 2025</i> .	8
General operation of amendments	9
An amendment made by the amending Act does not apply to a lease entered into, or a disclosure statement given, before the commencement of the amendment and the amended provision as in force immediately before the amendment continues to apply.	10 11 12 13