

RETAIL LEASES AMENDMENT (REVIEW) BILL 2025

STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

In July 2023, the Small Business Commission (SBC) completed a review (**the SBC Review**) on the *Retail Leases Act 1994* (NSW) (**the Act**). A report on the SBC Review made 32 recommendations to improve the outcomes and make sure the Act continues to be helpful in setting minimal standards for good leasing practices. Of these 32 recommendations, 23 propose legislative amendments, five propose non-legislative reforms, and four propose monitoring and assessment actions be taken.

The SBC Review received 18 written submissions and 98 *Have Your Say* survey responses. It also included 22 stakeholder meetings.

The SBC also formed an Industry Reference Group (**IRG**) consisting of the Real Estate Institute of NSW, Australian Retailers Association, Shopping Centre Council of Australia, The Law Society of NSW, Pharmacy Guild of Australia (NSW), and the Australian Lotteries and Newsagents Association. Over December 2024 and January 2025, the Department of Customer Service (**DCS**) facilitated discussions with each of the peak bodies on the IRG to discuss the recommendations and proposed amendments.

The *Retail Leases Amendment (Review) Bill 2025* (**the Bill**) intends to implement a first stage of reform. The Bill reflects 13 of the SBC Review's 23 legislative recommendations. One legislative recommendation will also be progressed by changes to the *Retail Leases Regulation 2022* (NSW) (**the Regulation**) rather than as an amendment to the Act.

A staged approach allows the Government to prioritise more straightforward reforms first. The remaining recommendations from the SBC require further consideration and consultation with stakeholders before decisions can be made. This work is necessary to explore potential unintended impacts, risks and benefits of progressing the recommendations.

Stakeholders have supported this phased approach, with agreement that the remaining recommendations from the SBC Review require further consideration due to their complexity and potential impacts on lessors and lessees.

Implementing the recommendations of the SBC Review in consultation with stakeholders is crucial to improve outcomes and ensure that the Act remains effective and efficient in fostering good leasing practices between lessors, lessees and their advisors.

Objectives: What is the policy's objective couched in terms of the public interest?

The Bill serves the public interest by improving the operation of the Act for lessors and lessees, including processes for entering into a lease and safeguards under the Act.

The reforms are expected to reduce the time and costs of entering into a lease and prevent disputes. This will enable retail lessees (who are more likely to be small businesses) to focus on running and growing their business, rather than dealing with disputes or unnecessary administration.

Options: What alternative policies and mechanisms were considered in advance of the bill?

The recommendations resulting from the statutory review of the Act through the SBC Review were specific in advocating for legislative changes to be made to the Act. No alternative policies or mechanisms have been considered.

The alternative option considered by Government was undisrupted continuation of current legislation. This option would require no response to the report produced from the SBC Review and allow current issues with the Act to continue which is undesirable.

Analysis: What were the pros/cons and benefits/costs of each option considered?

These reforms aim to improve the application of the Act and reduce the administrative burden on lessors and lessees. The Bill does not place any new requirements on NSW Departments and Agencies.

The Government cannot deliver on the SBC Review's key recommendations without changes to the Act. Accordingly, it is necessary to amend the Act to implement the recommendations of the Review.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

The Bill is proposed to be introduced to Parliament in mid-October 2025. Following this, the Bill would then be for notice of motion, five days' adjournment, and passage in LA. If the Bill is passed, the Bill is proposed to commence on a day appointed by proclamation, likely to be approximately six months after assent. This will allow time to notify stakeholders of the amendments and draft the regulation changes. Following proclamation, the Regulation will be drafted by DCS and brought to the Minister.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

CCBA undertook initial consultation with key industry stakeholders from December 2024 to January 2025 to determine the policy positions on the proposed amendments. During this consultation, CCBA also committed to targeted consultation on the draft Bill before its introduction to Parliament.

DCS has engaged with the Small Business Commission to assist in industry communications and awareness raising strategies following introduction of the Bill and before commencement. DCS undertook consultation with relevant stakeholder groups through written submissions and meetings, collated feedback, and amended as necessary.

DCS also consulted with The Cabinet Office, Premier's Department, NSW Treasury, Department of Planning, Housing and Infrastructure and NSW Health on the preceding Cabinet submission.