



Australian Capital Territory

Leases (Commercial and Retail) Regulation 2002

SL2002-19

made under the

Leases (Commercial and Retail) Act 2001

Republication No 5

Effective: 12 July 2016 – 26 November 2023

Republication date: 12 July 2016

Last amendment made by [SL2016-19](#)

About this republication

The republished law

This is a republication of the *Leases (Commercial and Retail) Regulation 2002*, made under the *Leases (Commercial and Retail) Act 2001* (including any amendment made under the [Legislation Act 2001](#), part 11.3 (Editorial changes)) as in force on 12 July 2016. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 12 July 2016.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the [Legislation Act 2001](#) applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The [Legislation Act 2001](#), part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see [Legislation Act 2001](#), s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the [Legislation Act 2001](#), section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$150 for an individual and \$750 for a corporation (see [Legislation Act 2001](#), s 133).



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R5
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Australian Capital Territory

Leases (Commercial and Retail) Regulation 2002

made under the

Leases (Commercial and Retail) Act 2001

1 Name of regulation

This regulation is the *Leases (Commercial and Retail) Regulation 2002*.

2 Shopping centres—Act, s 8 (2)

The group of premises made up of the following 2 groups of premises is prescribed as a shopping centre:

- (a) the group of premises from time to time comprising a shopping centre on the land described, as at 1 June 2010, as follows:
 - (i) block 1 section 79 division of City;
 - (ii) block 1 section 51 division of City;
 - (iii) block 9 section 56 division of City;
 - (iv) block 3 section 53 division of City;
 - (v) blocks 1 to 10 section 82 division of City;
 - (vi) blocks 1 to 3 section 83 division of City;
 - (vii) blocks 2 and 3 section 38 division of City;
 - (viii) block 1 section 70 division of City;
- (b) the group of premises from time to time comprising a shopping centre on the land described, as at 1 June 2010, as follows:
 - (i) blocks 16 and 17 section 84 division of City;
 - (ii) blocks 2 to 8 section 94 division of City;
 - (iii) blocks 10 to 14 section 94 division of City;
 - (iv) blocks 1 and 3 section 97 division of City.

3 Leases to which Act applies—Act, s 12 (1) (k)

The following premises are prescribed:

- (a) for the Act—premises under a lease that are used as a service station (whether referred to as a service station, motor service station or in any other way) or for a related purpose; and
- (b) for the [Act](#), section 8 (1) (a) (iii) and section 11 (1) (a)—premises mentioned in the [Act](#), section 12 (1) (d) to (j).

4 Leases to which Act does not apply—Act, s 12 (2) (b)

(1) The following leases are prescribed:

- (a) agreement for lease (and subsequent lease) between P T Limited (ACN 004 454 666) and Commonwealth Funds Management Limited (ACN 052 289 442) (lessors) and Kmart Australia Limited (ACN 004 700 485) (tenant) for premises located at Westfield Shoppingtown Belconnen;
- (b) agreement for lease (and subsequent lease) between P T Limited (ACN 004 454 666) and Commonwealth Funds Management Limited (ACN 052 289 442) (lessors) and Coles Supermarkets Australia Proprietary Limited (ACN 004 189 708) (tenant) for premises located at Westfield Shoppingtown Belconnen;
- (c) a lease for any part of the land that is block 1 section 1 division of Bruce for a term longer than 50 years granted between Calvary Hospital ACT Incorporated (lessor) and Calvary Clinic Pty Limited and any assignee or transferee of Calvary Clinic Pty Limited (tenant);
- (d) a lease (including any lease resulting from the existence of an option) of premises at block 2 section 13 division of Phillip between Perpetual Trustee Company Limited (ACN 000 001 007) (lessor) and Coles Supermarkets Australia Proprietary Limited (ACN 004 189 708) (tenant);

- (e) a lease (including any lease resulting from the exercise of an option) of premises at block 4 section 41 division of Griffith between Manuka Plaza Nominees Proprietary Limited (ACN 080 817 438) (lessor) and Coles Supermarkets Australia Proprietary Limited (ACN 004 189 708) (tenant);
- (f) a lease (including any lease resulting from the exercise of an option) of premises at block 4 section 41 division of Griffith between Manuka Plaza Nominees Proprietary Limited (ACN 080 817 438) (lessor) and Liquorland Australia Proprietary Limited (ACN 007 512 414) (tenant);
- (g) a lease (including any lease resulting from the exercise of an option) of premises at blocks 9, 10 and 20 section 52 division of Belconnen between P T Limited (ACN 004 454 666) and Commonwealth Funds Management Limited (ACN 052 289 442) (lessors) and Franklins Management Services Proprietary Limited (ACN 000 052 077) (tenant);
- (h) a lease of any part of block 4 section 69 division of Lynham, if the lease is for—
 - (i) premises that are used for horse stables; and
 - (ii) a term of at least 20 years;
- (i) a lease in the City West precinct between the Australian National University (lessor) and a tenant if—
 - (i) the term of the lease is 30 years or more; and
 - (ii) the permitted use under the lease is the same as the permitted use under the relevant Crown lease;
- (j) a lease of premises with a lettable area larger than 1000m² that is leased to a listed public company, or a subsidiary of a listed public company, that has changed to a proprietary company;

- (k) a lease (including any lease resulting from the exercise of an option) of premises that are used as a petrol station between VER Custodian Pty Limited (ACN 612 669 520), in its capacity as trustee of the VER Trust (lessor) and Viva Energy Australia Pty Ltd (ACN 004 610 459) (tenant).
- (2) In this section:
- City West precinct*—see the *Planning and Development Regulation 2008*, section 102.

5 Included provisions—Act, s 20 (3)

The standard provisions are set out in schedule 1.

Schedule 1 Lease—standard provisions

(see s 5)

1 Interpretation

- (1) An expression used in this lease that is not defined in the dictionary to this lease has the same meaning as in the *Leases (Commercial and Retail) Act 2001*.
- (2) Any other expression has the same meaning as in the *Legislation Act 2001*, except so far as the contrary intention appears.

2 Application of Land Titles Act 1925

The covenants, powers and provisions implied in every lease by the *Land Titles Act 1925* do not apply.

3 Term

The term of this lease is 1 month beginning on the commencement date.

4 Rent

- (1) The monthly rent begins on the commencement date.
- (2) Rent for the 1st month is payable on the commencement date.
- (3) If clause 14 (Holding over) applies, the tenant must pay the monthly rent by equal monthly instalments (and proportionately for any part of the month).
- (4) The instalments must be paid to the lessor (or as the lessor directs) in advance in full and on the same day of each month.
- (5) If there is no corresponding day in the relevant month, the monthly rent must be paid on the last day of the month.

5 Charges

The tenant agrees to pay on time all amounts payable by the tenant that are separately charged or imposed in connection with the premises or the tenant's occupation of the premises.

6 Alterations

The tenant must not make, or allow to be made, any alteration or addition to the premises (whether structural or otherwise) without the written consent of the lessor.

7 Maintenance and repairs

- (1) The tenant must, to the reasonable satisfaction of the lessor—
 - (a) keep the premises clean and in a tidy condition; and
 - (b) keep the premises and the lessor's property in good repair; and
 - (c) hand over the premises in good repair at the end of the lease (having regard to the state of repair at the commencement date).
- (2) Subclause (1) does not apply in relation to damage caused by—
 - (a) fair wear and tear; and
 - (b) fire, storm, lightning, flood or earthquake.

8 Assignments, subleases and mortgages

The tenant may assign, sublease or mortgage the tenant's interest in the premises only if the tenant has the written consent of the lessor obtained in accordance with the Act.

9 Use of premises

- (1) The tenant must comply with all laws and requirements of authorities in connection with the premises, the tenant's business carried on at the premises, the tenant's property kept at the premises and the use or occupation of the premises by the tenant.

- (2) The tenant must not—
 - (a) breach a term of the territory lease that applies to the premises;
or
 - (b) breach a term of any headlease that the lessor has told the tenant about.

10 Inspection of premises

- (1) The tenant must allow the lessor, or anyone authorised by the lessor, to enter and inspect the premises at any reasonable time.
- (2) The lessor must give the tenant reasonable notice of the lessor's intention to inspect the premises.

11 Indemnity

- (1) The tenant indemnifies the lessor against all liabilities or losses arising out of any injury to, or damage to the property of, the tenant or its employees, agents, invitees, contractors or licensees while on or entering any part of the premises.
- (2) Subclause (1) does not apply to any liability or loss caused by the lessor or the lessor's employees, agents, invitees or contractors.

12 Removal of tenant's property

- (1) The tenant must remove all the tenant's property from the premises at the end of this lease.
- (2) The tenant must repair any damage to the premises done by the tenant when removing the tenant's property.

13 Re-entry on default

The lessor may end this lease and recover possession of the whole or part of the premises if—

- (a) the rent is 1 month or more in arrears; or

(b) the tenant is otherwise in breach of this lease.

14 Holding over

- (1) If the tenant continues to occupy the premises after 1 month after the expiry date for this lease, the tenant—
 - (a) is a monthly tenant at the monthly rent then applying; and
 - (b) occupies the premises on the conditions of this lease.
- (2) The monthly tenancy may be ended by either party by 1 month's written notice to the other given at any time.

15 Dictionary

In this lease, unless the contrary intention appears:

Act means the [Leases \(Commercial and Retail\) Act 2001](#).

commencement date means the date this lease is entered into.

lessor's property means the property provided by the lessor under this lease.

monthly rent means the amount agreed to be paid by the tenant to the lessor each month under this lease.

premises means the premises the subject of this lease.

tenant's property means the fixtures and fittings and other property of the tenant in the premises.

territory lease means the Crown lease of the land covered by this lease.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the [Legislation Act 2001](#), part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

This regulation was originally the *Leases (Commercial and Retail) Regulations 2002*. It was renamed under the *Legislation Act 2001*.

Leases (Commercial and Retail) Regulation 2002 SL2002-19

notified LR 26 June 2002

s 1, s 2 commenced 26 June 2002 (LA s 75 (1))

remainder commenced 1 July 2002 (s 2)

as amended by

Leases (Commercial and Retail) Amendment Regulations 2004 (No 1) SL2004-19

notified LR 15 June 2004

s 1, s 2 commenced 15 June 2004 (LA s 75 (1))

remainder commenced 16 June 2004 (s 2)

Leases (Commercial and Retail) Amendment Regulation 2011 (No 1) SL2011-12

notified LR 16 May 2011

s 1, s 2 commenced 16 May 2011 (LA s 75 (1))

remainder commenced 17 May 2011 (s 2)

Leases (Commercial and Retail) Amendment Regulation 2016 (No 1) SL2016-19

notified LR 11 July 2016

s 1, s 2 commenced 11 July 2016 (LA s 75 (1))

remainder commenced 12 July 2016 (s 2)

4 Amendment history

Name of regulation

s 1 am R3 LA

Shopping centres—Act, s 8 (2)

s 2 om LA s 89 (4)
ins [SL2011-12](#) s 4

Leases to which Act does not apply—Act, s 12 (2) (b)

s 4 am [SL2004-19](#) s 4; [SL2011-12](#) s 5, s 6; [SL2016-19](#) s 4

Endnotes

5 Earlier republications

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 1 July 2002	1 July 2002- 15 June 2004	not amended	new regulation
R2 16 June 2004	16 June 2004– 1 Nov 2004	SL2004-19	amendments by SL2004-19
R3 2 Nov 2004	2 Nov 2004– 16 May 2011	SL2004-19	includes editorial amendments under Legislation Act
R4 17 May 2011	17 May 2011– 11 July 2016	SL2011-12	amendments by SL2011-12

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