



## RETAIL LEASES – IMPORTANT FACTS FOR TENANTS

A landlord must provide this information brochure and a copy of the proposed lease to a person as soon as they enter into lease negotiations with that person. Failure to do so is an offence under section 15 of the *Retail Leases Act 2003* (the Act).

### The importance of your lease

If you are entering into a retail lease it is important to understand your rights and responsibilities under your lease and the Act. A lease is an important, enforceable and legally binding document so it is a good idea to get advice from a lawyer experienced in leasing law before you sign anything.

## CHECKLIST

- Have you **read the lease** in full?
- Have you read the **disclosure statement** that the landlord must give you at least **seven days** before the lease is entered into?
- Do you understand you are entitled to a **minimum five-year lease** (including any option for a further lease term) unless you choose to accept a lesser term? To do this you need to apply for a certificate at [www.vsbcc.vic.gov.au/](http://www.vsbcc.vic.gov.au/) waiver.
- What is the **rent** (\$.....) and how can the rent be **increased**?
- How much is the **security deposit** or **bank guarantee** (\$.....)?
- What other costs must you pay including any **fit-out costs** (\$.....)?
- What is the date by which you must write to the landlord to take up any option (further lease term) to **renew** the lease .....
- Have you completed an **inspection report** and taken **photos** of the premises?
- Do you require any **council or other permits** to conduct your business?
- Have you considered getting **legal advice**?

### Entering into a lease

A lease starts when:

- you take possession of the premises, or
- you begin to pay rent, or
- the lease is signed by both you and the landlord.

You should not do any of these things unless you are happy to go ahead with the lease.

## **Documents you should receive before entering the lease**

At least seven days before entering into a lease the landlord must give you a disclosure statement and proposed lease. A disclosure statement contains information you need to make an informed decision about entering into a lease including details about:

- the premises, including a plan if available and the lettable area
- structures, fixtures, plant and equipment provided by the landlord
- permitted use
- term of lease and length of any options to renew
- works, fit-out, refurbishment and alterations
- outgoings (costs you must pay), rent and rent adjustments.

If the landlord fails to give you a disclosure statement you may be able to withhold rent after notifying the landlord.

## **Before signing a lease make sure you understand the following**

- the starting rent and rent increases
- outgoings (costs you must pay) and other occupancy costs
- the permitted use of the premises and how long it will take to obtain any permits
- your obligation to restore the premises to the original state at the end of the lease.

## **During the lease the landlord has important obligations**

The Act also requires landlords to:

- give you a copy of the lease within 28 days of it being signed
- repair and maintain premises, structure, appliances, fittings and fixtures provided under the lease
- provide annual estimates of outgoings (if not provided you do not have to pay outgoings) and reconciliation statements
- hold a security deposit in an interest-bearing account
- pay for capital costs, lease preparation and costs of complying with the Act
- give reminder notices about lease options and renewals. If these notices are not given, your lease can be automatically extended
- not unreasonably withhold consent to transfer your lease (the Act contains requirements if you want to transfer (assign) your lease to a new tenant).

The above requirements automatically form part of your lease and cannot be overridden even if your lease states otherwise.

## **The Victorian Small Business Commission (VSBC)**

The VSBC provides guidance on the Act and a low-cost dispute resolution service which can be used to resolve disputes between landlords, tenants and guarantors. The VSBC also appoints specialist retail valuers to determine rents where a landlord and tenant have a dispute about a market rent increase and cannot agree on their own valuer.

For more information on your rights and responsibilities or if you have a dispute about your tenancy, visit [www.vsbcc.vic.gov.au](http://www.vsbcc.vic.gov.au), phone 13VSBC (13 87 22), or toll free 1800 136 034 or email [enquiries@vsbc.vic.gov.au](mailto:enquiries@vsbc.vic.gov.au).

The information in this brochure is current as at September 2018.