

Information Sheet



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Assignments of Lease under the *Retail and Commercial Leases Act 1995*

The information provided on this sheet is of a general nature only and should not be regarded as a substitute for professional advice and/or reference to the appropriate legislation.

From 4 February 2002, the law relating to assignments of leases regulated by the Retail and Commercial Leases Act 1995 (the Act) will change.

From that date, the law will impose a maximum period of two years on the continuing liability of a lessee who assigns a lease, if the disclosure required by the Act is given. In some cases the period may be shorter.

From 4 February 2002, the Act will have the effect that, where a lease is assigned, the lessee and any guarantor of the lessee will be discharged from any liability under the lease on and after the first to occur of:

- the second anniversary of the assignment;
- the date on which the lease expires; or
- if the lease is renewed or extended following the assignment, the date on which the renewal or extension commences.

Where the lease relates to a retail shop that will continue as an ongoing business, the lessee must also provide a disclosure statement about a number of things to both the lessor and the proposed assignee. These things are:

- whether the proposed assignee has been given a copy of the lessor's disclosure statement;
- whether there are any outstanding notices in respect of the lease;

- whether there are any outstanding notices from any authority in respect of the retail shop to which the lease relates;
- whether there are any encumbrances on the lease, and, if so, details of those;
- whether there are any encumbrances on or third party interests in the fixtures and fittings in the shop, and, if so, details of those.

The statement must be given to the proposed assignee before the request for consent to the assignment is made to the lessor. It must be given to the lessor at the time the lessee makes the request for consent.

The form in which the disclosure must be given is set out in the regulations to the Act.

The requirements referred to above are in addition to the rules already applied to assignments of lease under the Act. If the disclosure required is not given, the new limitations will not apply.

Business

