Hon Martin Hamilton-Smith MP
Minister for Small Business

Tuesday, 24 May 2016

Act review to support growth of retail and small business

Consultation on the review of the Retail and Commercial Leases Act 1995 is now underway and the State Government encourages all stakeholders play an active part.

The review was handed down by retired District Court Judge Mr Alan Moss last month and consultation will take place over the next three months.

Background

Minister for Small Business, Martin Hamilton-Smith, has asked the Small Business Commissioner, John Chapman, to coordinate submissions on the Review.

At the end of the three-month consultation, the Small Business Commissioner (SBC) will review feedback and brief the Minister, with a view to bringing recommendations back to Cabinet later this year. The Review puts forward a total of 20 recommendations, including:

- The threshold for the application of the Act should continue to be determined by the amount of the rental and not by the lettable area. The SBC should monitor the marketplace and make recommendations for the alteration of the threshold amount (if necessary) every 2 years.
- The rental threshold amount should be exclusive of GST.
- A shop leased for an amount under the rental threshold should be considered a small business, even if it is part of a larger franchise, brand or group.
- There should be no change to land tax provisions.
- Security should be by way of three months’ rental.
- All bank guarantees provided as security by lessees should be held by the SBC.
- The role of the SBC should be expanded to include the right to mediate and, if necessary, determine disputes under the Act up to $100,000, with a possible appeal to SACAT. The jurisdiction of the Magistrates Court to deal with matters under $100,000 should be revoked. In the alternative, the jurisdiction to determine such disputes should lie with SATAC.

Quotes attributable to Minister Hamilton-Smith

The Retail and Commercial Leases Act is of vital importance to the growth and development of small business, and I look forward to receiving feedback from stakeholders and interested parties on the recommendations put forward by Mr Moss.

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Our Small Business Commissioner, John Chapman, also encourages stakeholders to take this opportunity to provide their views on the recommendations set out in the review. He will use the feedback as the basis for recommendations to the Government, which ensures a collaborative approach to changing the Act through stakeholder engagement.


The closing date for submissions is Friday, August 26 2016.

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