



Victoria Government Gazette

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Retail Leases Act 2003

PREMISES NOT CONSTITUTING RETAIL PREMISES

This determination is made under Section 5(1)(c) of the **Retail Leases Act 2003**.

A. Acting under section 5(1)(c) of the **Retail Leases Act 2003**, I determine that the following kind of premises are premises to which section 4(2)(f) applies:

Premises which are leased under a lease:

- (a) the term of which (excluding any options for renewal) is 15 years or longer; or
- (b) the term of which (excluding any options for renewal) is less than 15 years which was granted by way of renewal (as provided in section 9 of the **Retail Leases Act 2003**) of a lease to which paragraph (a) applies or applied or a lease to which paragraph (a) would have applied had the lease been entered into after the date upon which this determination comes into effect; or
- (c) the term of which (excluding any options for renewal) is less than 15 years which was granted expressly or by operation of law by way of or as a result of the variation of a lease to which paragraph (a) applies or applied or a lease to which paragraph (a) would have applied had the lease been entered into after the date upon which this determination comes into effect provided that the terms of lease so granted are substantially the same as the terms of the lease which was varied – and which contains any provisions that –
- (d) impose an obligation on the tenant or any other person to carry out any substantial work on the Premises which involves the building, installation, repair or maintenance of:–
 - (i) the structure of, or fixtures in, the Premises; or
 - (ii) the plant or equipment at the Premises; or
 - (iii) the appliances, fittings or fixtures relating to the gas, electricity, water, drainage or other services; or
- (e) impose an obligation on the tenant or any other person to pay any substantial amount in respect of the cost of any of the matters set out in sub-paragraphs (d)(i), (ii) or (iii); or
- (f) in any significant respect disentitles the tenant or any other person to remove any of the things specified in paragraph (d) at or at any time after the end of any of the leases to which paragraphs (a), (b) or (c) apply.

B. This determination does not exclude from the operation of the **Retail Leases Act 2003** any sub-lease of the Premises or any part of the Premises which is a lease of retail premises under sections 3 and 4 of the **Retail Leases Act 2003** by reason only of the application of this determination to a lease from or through which title to the sub-lease is derived from time to time.

C. A certificate signed by the Small Business Commissioner shall be prima facie evidence that a lease is a lease which satisfies the provisions of paragraph A of this determination.

D. This determination only applies with respect to Premises the subject of a lease (including any renewal of a lease) which is entered into on or after the date upon which this determination comes into effect.

E. This determination is an addition to and does not replace any other determination.

This determination comes into effect on 24 August 2004.

Dated 20 August 2004

MARSHA THOMSON MP
Minister for Information and Communication Technology
Minister for Small Business

SPECIAL

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