

COMMERCIAL TENANCY (RETAIL SHOPS)
AGREEMENTS ACT 1985.

(No. 43 of 1985).

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COMMERCIAL TENANCY
(RETAIL SHOPS)
AGREEMENTS.

No. 43 of 1985.

AN ACT to regulate commercial tenancy agreements relating to certain shops, to provide for the determination of questions arising under such agreements, and for connected purposes.

[Assented to 13 May 1985.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY.

1. This Act may be cited as the *Commercial Tenancy (Retail Shops) Agreements Act 1985*. Short title.

Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

Interpreta-
tion.

3. (1) In this Act, unless the contrary intention appears—

“accountant” means a member of either the Institute of Chartered Accountants of Australia or the Australian Society of Accountants;

“building” includes any structure;

“common area”, in relation to a retail shopping centre, means an area within or adjacent to the centre that is intended for use by the public or for use in common by tenants of premises in the centre in connection with the conduct of business at premises in the centre and includes all stairways, escalators, elevators, malls, walkways, trafficways, parking areas, toilets, restrooms, gardens and fountains intended for any such use;

“goodwill”, in relation to a business, means an intangible saleable asset, separate and distinct from the stock, fixtures, fittings, and other tangible assets of the business, arising from the reputation of the business, the relations formed with customers of the business, and the nature of the location of the business;

“key-money” means—

(a) money that is to be paid to, or at the direction of, a landlord or his agent, by way of a premium, non-repayable bond or otherwise; or

(b) any benefit that is to be conferred on, or at the direction of, a landlord or his agent,

in connection with the granting, renewal or assignment of a lease or the sub-leasing of the premises the subject of a lease;

“landlord”, in relation to a lease, means the person who, under the lease, grants or is to grant to the tenant the entitlement to occupy the premises the subject of the lease but not include a person who assigns his interest as tenant under the lease;

“lease” means any lease, licence, or agreement, whether in writing or not, that provides for the occupation of premises situated within the State whether for a term or by way of a periodic tenancy or a tenancy at will, and whether or not the lease, licence, or agreement is entered into outside the State or purports to be governed by any law other than the law of the State;

“Registrar” means the Commercial Registrar under the Commercial Tribunal Act 1984;

“retail shop” means—

- (a) any premises situated in a retail shopping centre that are used wholly or predominantly for the carrying on of a business; and
- (b) any premises not situated in a retail shopping centre that are used wholly or predominantly for the carrying on of—
 - (i) a business involving the sale of goods by retail; or
 - (ii) a specified business,

but does not include premises used wholly or partly for the carrying on of a business involving the retail sale of petroleum products as defined in section 47G of the Transport Act 1966 for use in road vehicles as so defined;

“retail shop lease” means a lease that provides for the occupation of a retail shop other than where—

- (a) the retail shop has a floor area that exceeds 1 000 square metres; or
- (b) the lease is held by a corporation within the meaning of the Companies (Western Australia) Code that would not be eligible to be incorporated in Western Australia as a proprietary company, or that is held by a subsidiary of such a corporation;

“retail shopping centre” means a collection of premises—

- (a) 5 or more of which are used wholly or predominantly for the carrying on of—
 - (i) a business involving the sale of goods by retail; or
 - (ii) a specified business; and
- (b) all of which have, or upon being leased would have, a common head lessor,

but does not include a multi-level building except in relation to each floor of the building on which is situated a collection of premises in respect of which paragraphs (a) and (b) apply;

“specified business” means a business of a kind prescribed by the regulations to be a specified business;

“tenant”, in relation to a lease, means the person who, under the lease, is or would be entitled to occupy the premises the subject of the lease;

“the business”, in relation to a retail shop lease, means the business carried on or to be carried on at or from the retail shop the subject of the lease;

“Tribunal” means the Commercial Tribunal of Western Australia established under the Commercial Tribunal Act 1984.

(2) Where the parties to a retail shop lease enter into, or have entered into, an agreement or arrangement, whether in writing or not, containing a provision that, if made in the retail shop lease, would be void, that provision is for the purposes of this Act deemed to be contained in the retail shop lease and this Act applies to and in relation to that provision as if it were so contained.

(3) A reference in this Act to a question arising under a lease includes a reference to any question arising in relation to that lease under a provision of this Act.

4. (1) Subject to subsection (2), this Act does not apply to or in relation to a retail shop lease that was entered into—

Application.

(a) before the relevant day; or

(b) pursuant to an option granted or agreement made before the relevant day.

(2) Sections 16 to 21 apply to and in relation to a retail shop lease whether or not it was entered into as mentioned in subsection (1), but sections 22 and 27 have no effect in relation to a question arising under a retail shop lease if it was entered into as mentioned in subsection (1).

(3) In this section “the relevant day”, in relation to a retail shop lease, means the day on which this Act comes into operation or, where the lease is a retail shop lease by reason only of a regulation

prescribing a business of a particular kind to be a specified business, means the day on which that regulation comes into operation.

Crown
bound.

5. This Act binds the Crown.

PART II—RETAIL SHOP LEASES.

Disclosure.

6. (1) Where a retail shop lease is entered into and the tenant has not, at least 7 days before the entering into of the lease, been given a disclosure statement in accordance with subsection (4), the tenant may, subject to subsection (3), give to the landlord a written notice of termination.

(2) Where the tenant under a retail shop lease gives to the landlord a notice of termination under subsection (1) the lease terminates upon the expiry of a period of 14 days after the notice was given.

(3) A notice of termination under subsection (1) shall not be given if a period of 28 days has expired after the lease was entered into.

(4) A disclosure statement given for the purposes of this section shall be in the prescribed form duly completed and signed by or on behalf of the landlord and the tenant and shall contain a statement notifying the tenant that he should seek independent legal advice.

(5) Where the tenant under a retail shop lease (in this subsection referred to as "the outgoing tenant") assigns the lease to another person (in this subsection referred to as "the incoming tenant"), nothing in this section gives to the incoming tenant a right to terminate the lease that the outgoing tenant would not have had if he had continued as the tenant under the lease.

7. (1) Without limiting subsection (2) (a), ^{Rent based on turnover.} where a retail shop lease contains a provision to the effect that the rent is to be determined either in whole or in part by reference to the turnover of the business and—

- (a) the tenant did not, by notice in writing in the prescribed form given to the landlord before the provision was included in the lease, elect that the rent should be so determined; and
- (b) the tenant, by notice in writing given to the landlord, objects to the rent being so determined,

the provision is void as from the day on which the notice referred to in paragraph (b) is given.

(2) Where a retail shop lease contains a provision to the effect that the rent is to be determined either in whole or in part by reference to the turnover of the business—

- (a) that provision is void if the lease does not specify the formula by which the amount of the rent is to be determined; and
- (b) unless by reason of this section that provision is void, the lease shall be taken to provide that the tenant shall furnish to the landlord—
 - (i) not later than 14 days after the end of each month in respect of which the rent or any of the rent is to be so determined or at such other times as are agreed between the parties, a statement in writing specifying the turnover of the business during that month; and
 - (ii) not later than 42 days after the end of each calendar year, or each financial year of the business,

during which the rent or any of the rent is to be so determined or at such other times as are agreed between the parties, and at the termination of the lease, a statement of the turnover of the business certified by an accountant to truly and accurately represent the turnover of the business during the last preceding year or, where the lease has terminated other than at the end of a year, during the part of that year before which the lease terminated.

(3) Where the tenant under a retail shop lease furnishes to the landlord statements in accordance with subsection (2) (b) (i) and (ii) in respect of a period he shall be taken to have satisfied any obligation under the lease to provide turnover figures or statements in relation to the business in respect of that period but shall, at the request of the landlord, permit an accountant engaged by the landlord to carry out an audit of those turnover figures at the cost of the landlord and shall reimburse the landlord for the cost of the audit if the audit discloses that the statement furnished under subsection (2) (b) (ii) understated the turnover of the business during the relevant period by more than 5%.

(4) For the purposes of subsection (2) (b) and (3) and the construction of any provision of a retail shop lease that relates to the determination of rent by reference to turnover (but without limiting the generality of that expression in subsection (1)), "turnover" does not include—

- (a) the net amount of discounts reasonably and properly allowed to any customer in the usual course of business;
- (b) the amount of losses incurred in the resale or disposal of goods reasonably and properly purchased from customers as trade-ins in the usual course of business;

- (c) the amount of uncollected credit accounts written off by the tenant;
- (d) the amount of any cash or credit refund allowed on a transaction the proceeds of which have previously been included as gross receipts where the merchandise is returned and the sale is cancelled or fees for the services are refunded wholly or partly;
- (e) the amount of any instalment of purchase moneys refunded to customers where a lay-by transaction is cancelled;
- (f) the amount of any purchase, receipt or other similar tax imposed upon the purchase price or cost of hire of merchandise or services at the point of sale or hire;
- (g) the amount of delivery charges;
- (h) the price of merchandise exchanged between stores of the tenant made solely for the convenient operation of business and not for the purpose of concluding a sale made at or from the retail shop the subject of the lease;
- (i) the price of merchandise returned to shippers, wholesalers or manufacturers;
- (j) the amount received from the sale of the fixtures and fittings of the tenant from the retail shop the subject of the lease; and
- (k) receipts from sales of tickets in any lottery, game of lotto, or soccer football pool within the meaning of those expressions in the definition of "lottery" in section 4 (1) of the Lotteries (Control) Act 1954, other than amounts derived as commission or fees from those sales.

(5) Where by reason of this section, a provision of a retail shop lease to the effect that rent is to be determined either in whole or in part by reference to the turnover of the business is void, the rent shall be as is agreed in writing between the parties or determined under Part III by the Tribunal.

Turnover figures not generally required.

8. (1) A provision in a retail shop lease—

(a) to the effect that the tenant is obliged to furnish, or permit the landlord or his agent to gather, figures or statements relating to the turnover of the business; or

(b) to the effect that the landlord is entitled to be furnished with figures or statements relating to the turnover of the business,

is void unless the figures or statements are required for the purpose of determining rent either in whole or in part by reference to the turnover of the business.

(2) Where a retail shop lease contains a provision of a kind referred to in subsection (1) and the figures or statements to which the provision applies are required for the purpose of determining rent either in whole or in part by reference to the turnover of the business, that provision ceases to have effect upon those figures or statements being no longer required for the purpose.

Key-money and goodwill.

9. (1) Subject to subsection (2), a provision in a retail shop lease to the effect that the landlord or a person claiming through him is entitled to, or may require from the tenant—

(a) any key-money in connection with the entering into or assignment of that lease or any further lease or a sub-lease of the premises; or

(b) any consideration in respect of the goodwill of the business,

is void.

(2) Subsection (1) shall not be construed so as to make void a provision in a retail shop lease for the landlord to—

- (a) recover from the tenant costs reasonably incurred by the landlord in investigating a proposed assignee of the tenant or sub-lessee of the premises; or
- (b) recover from the tenant his fair and reasonable expenses of and incidental to the documentation of a retail shop lease, an assignment thereof, or a sub-lease thereunder, and the obtaining of any necessary consents thereto.

(3) Any amount paid or the value of any benefit conferred by a person under a provision of a lease that is void by reason of subsection (1) may be recovered by that person from the person to whom the amount was paid or on whom the benefit was conferred in a court of competent jurisdiction as a debt due.

10. Where under a retail shop lease a tenant may, with the consent of the landlord, assign the lease or sub-lease the premises and the tenant has, in writing, requested the landlord to consent to an assignment of the lease or a sub-leasing of the premises and the landlord fails to give to the tenant, within 42 days after receiving the request, notice in writing consenting or withholding consent thereto, the landlord shall be taken to have consented to the assignment or sub-leasing, as the case may be.

Consent to assignment or sub-lease.

11. (1) A provision in a retail shop lease for review of the amount of rent payable under the lease during the currency of the lease is void unless the lease specifies the basis on which or the formula by which the review is to be made.

Rent review.

(2) Where a retail shop lease provides for review of the amount of rent payable thereunder during the currency of the lease having regard to the

market rent of the premises, unless the lease contains an express provision to the contrary the market rent of the premises shall, for that purpose, be taken to be the rent that would be obtained for the premises on a free and open market if the premises were unoccupied and offered for rental for the use for which the premises are then permitted, or will be permitted under the lease, and on the same terms as are contained in the lease.

(3) A retail shop lease that provides for review of the amount of rent payable thereunder during the currency of the lease shall be taken to provide that, where the parties do not agree upon a question arising as to the amount of rent payable as a result of such review, the question shall be resolved by a person who is licensed under the Land Valuers Licensing Act 1978 by whom each of the parties agrees to be bound or, where the parties do not agree to be bound by one such person, by agreement between 2 persons each of whom is so licensed and one of whom is nominated by each of the parties, and such a question shall not be referred under this Act to the Registrar unless 2 persons so nominated fail to reach agreement or the leave of the Registrar has been first obtained.

Contribution
to landlord's
expenses.

12. Where provision is made in a retail shop lease for payment by the tenant, in addition to rent, of all or any of the expenses of the landlord in operating, repairing, or maintaining a building of which the retail shop the subject of the lease forms a part or where the retail shop is in a retail shopping centre, that building and the common area—

(a) the amount payable by the tenant thereunder is limited to the items of expense that the lease specifies are to be paid wholly or in part by the tenant and does not include an amount in respect of which the lease does not specify both—

(i) how the amount is to be determined and, where applicable, apportioned to the tenant; and

(ii) how and when the amount is to be paid by the tenant;

(b) the lease shall be taken to provide that—

(i) the tenant is not required to make any payment of, and the landlord is not entitled to recover, any such expenses in respect of any year or part of a year until at least one month after the landlord has given to the tenant annual estimates of expenditure under each item of expense in respect of that year; and

(ii) the landlord is required to furnish to the tenant, within 3 months after the termination of the year to which the expenses relate, an annual statement of expenditure incurred under each item of expenses specified in accordance with paragraph (a) (i) audited by an accountant.

13. (1) Subject to subsection (2), where a retail shop lease provides for the occupation of premises for a certain term (in this subsection and subsection (2) called “the current term”) the lease shall be taken to give the tenant an option, exercisable, subject to subsection (3), by notice in writing in the prescribed form given to the landlord, to renew the lease for a term commencing immediately after the expiry of the current term and, subject to subsection (4), continuing until a day specified in the notice being not later than—

Right to at
least 5
years'
tenancy.

(a) where the premises were occupied by the tenant as mentioned in subsection (2) (a) (i), the day that is 5 years after the commencement of the period mentioned in subsection (2) (a) (i);

- (b) where the premises were not occupied by the tenant as mentioned in subsection (2) (a) (i), the day that is 5 years after the commencement of the current term.

(2) Subsection (1) does not apply to a retail shop lease in respect of premises if—

- (a) the lease provides for occupation of the premises by the tenant for a term that, together with—
 - (i) any period, ending immediately before the commencement of the current term, during which the premises were occupied as a retail shop by the tenant; and
 - (ii) any period during which the tenant will, upon the expiry of the current term, be entitled to occupy the premises if he exercises an option to renew the lease contained therein,

is at least 5 years; or

- (b) the landlord holds the premises under a lease (in this paragraph called “the head lease”), and renewal of the retail shop lease or, in the case of a retail shop lease containing an option to renew, renewal of the retail shop lease for a longer term than that provided for in the option, would be inconsistent with the head lease.

(3) The option that a lease is, by reason of subsection (1), taken to give a tenant—

- (a) is exercisable not less than 90 days before the expiry of the current term or during such other period before the expiry of the current term as the Registrar, having regard to the term of the lease or such other circumstances as he considers relevant, approves in a particular case; but

- (b) is not exercisable while there exists any unremedied default under the lease on the part of the tenant notice of which has been given by the landlord, in writing, to the tenant.

(4) Where the landlord holds the premises under a lease (in this subsection called "the head lease") and it would be inconsistent with the head lease for the retail shop lease to continue until the day mentioned in subsection (1) (a) or (b), as the case may be, the day that may be specified in a notice under subsection (1) as the day until which the retail shop lease is to be renewed shall be not later than the last day until which the retail shop lease can lawfully continue.

(5) The terms and conditions upon which a lease is renewable under an option that a lease is, by reason of subsection (1), taken to give a tenant are the same as those upon which the lease is held at the time notice is given under subsection (1) except that—

- (a) the tenant does not have any further option thereunder to renew the lease; and
- (b) where the lease does not provide for a review of rental, the lease shall be taken to provide that the rental payable during the term for which the lease is renewed shall be determined having regard to the market rent of the premises ascertained as provided in section 11 (2).

(6) The landlord under a retail shop lease, whether or not the lease is for a certain term, is not entitled to determine the lease at a time that is before the day mentioned in subsection (1) (a) or (b), as the case may be, except—

- (a) by reason of default by the tenant or failure of the tenant to remedy any such default in accordance with the lease;

- (b) by reason that it would be inconsistent with a lease under which the premises are held by the landlord for the first-mentioned lease to continue; or
- (c) under and in accordance with a provision that is included in the lease with the approval in writing of the Registrar given under subsection (7).

(7) The Registrar may, upon application made to him by the landlord notice of which has been given to the tenant, approve of the inclusion in a retail shop lease of a provision under which the landlord may determine the lease at a time that is before the day mentioned in subsection (1) (a) or (b), as the case may be, otherwise than for a reason mentioned in subsection (6) (a) or (b) if he is satisfied that special circumstances exist by reason of which such approval ought to be given.

(8) Where a retail shop lease has been assigned, a reference in subsection (1) (a), (1) (b) or (2) (a) (i) shall be read as a reference to the person who entered into the lease as the tenant and not as a reference to his assignee.

Compensation by landlord.

14. Where a retail shop lease provides for the occupation of a retail shop situated in a retail shopping centre, the lease shall be taken to provide that if the landlord—

- (a) inhibits the access of the tenant to the retail shop in any substantial manner;
- (b) takes any action that would substantially alter or inhibit the flow of customers to the retail shop;
- (c) causes, or fails to make reasonable efforts to prevent or remove, any disruption to trading within the centre which disruption causes loss of profits to the tenant;

- (d) fails to have rectified as soon as practicable any breakdown of plant or equipment under his care and maintenance which breakdown causes loss of profits to the tenant; or
- (e) fails to adequately clean, maintain, or repaint the building or buildings of which the centre is comprised or any common area connected with the centre,

and after being given by the tenant notice in writing requiring him to rectify the matter does not do so within such time as is reasonably practicable, then notwithstanding any provision contained in the lease, the landlord is liable to pay to the tenant such reasonable compensation in respect thereof as is thereafter agreed in writing between the parties or determined by the Tribunal.

15. (1) Any provision of a retail shop lease that purports to— Act prevails.

- (a) exclude the application of any provision of this Act; or
- (b) limit the right of a party to the lease to refer any question arising under the lease to the Registrar,

is void.

(2) Subject to subsection (3), a provision of a retail shop lease is, to the extent that it is contrary to or inconsistent with anything in this Act or with anything that by this Act the lease is taken to provide, void.

(3) Subsection (2) does not apply to a provision of a retail shop lease to the extent that it expressly provides for the manner in which market rent shall be ascertained for the purposes of rent review.

PART III—DETERMINATION OF QUESTIONS.

16. Subject to section 11 (3), a party to a retail shop lease may refer to the Registrar any question arising under the lease. Questions that may be referred to Registrar.

Registrar to mediate.

17. For the purposes of this Act, the Registrar shall hear any question arising between parties to a retail shop lease that is referred to him with a view to attaining a solution to the question that is acceptable to the parties.

Records.

18. (1) Notwithstanding anything to the contrary provided under any Act, rule or practice, an official record of evidence given before the Registrar in the course of any hearing under section 17 shall not be made in any case but the Registrar may make such notes of evidence as he requires.

(2) Notes of evidence made by the Registrar are not part of the record of a reference to the Registrar.

(3) In relation to hearings under section 17, the record of the Registrar consists of—

(a) particulars of the question referred to him, as completed by the party referring the question to the Registrar;

(b) the notation of the nature of the question as ascertained and recorded by the Registrar during the hearing; and

(c) the result of the hearing.

(4) The record mentioned in subsection (3) kept by the Registrar shall be open for inspection free of charge by the parties to the proceeding to which the record relates and their authorized representatives, and shall be available for production before the Tribunal or a court for the purposes of any proceeding before the Tribunal or court.

(5) Evidence of anything said or any admission made at a hearing under section 17 is not admissible in proceedings before the Tribunal or any court but nothing in this subsection prevents any such evidence being admitted in a further hearing under section 17.

19. (1) A question arising under a retail shop lease is referred to the Registrar by a party to the lease completing the prescribed form and lodging it, together with the prescribed fee, at the office of the Registrar.

Reference to Registrar.

(2) The Registrar shall ensure that a person is given such assistance as may be required in completing the form prescribed for the purposes of subsection (1).

(3) Each party to a reference before the Registrar shall have the carriage of his own case and is not entitled to be represented by an agent unless—

- (a) the party is a body corporate, in which case it may appear by a representative approved by the Registrar; or
- (b) in any other case, the Registrar, being of the opinion that an agent should be permitted to represent the party, approves of the party being so represented.

(4) A person who has a legal qualification under the laws of this State or any other place or who is of the nature of a professional advocate is not eligible to represent a party to a reference before the Registrar except where the Registrar, being aware that the person would otherwise be ineligible by reason of this subsection, gives his consent.

(5) The hearing of a reference before the Registrar shall not be open to the public.

(6) A person is not compellable to attend a hearing of a reference before the Registrar.

20. (1) The Registrar shall give or cause to be given to each person appearing to the Registrar to have a sufficient interest in a resolution of the question that has been referred to the Registrar reasonable notice of the time when, and the place where, the Registrar is to conduct a hearing of the reference.

Notice of hearing.

(2) Every person given notice under subsection (1) is a party to the reference and every person who satisfies the Registrar or the Tribunal, as the case may be, that he has a sufficient interest in a resolution of a question before the Registrar or the Tribunal is entitled to be, and shall be, joined as a party.

Mediation
agreements.

21. (1) Where a question has been referred to the Registrar and a solution in the form of an agreement acceptable to all of the parties to the reference has been attained, particulars of the agreement shall be reduced to writing and signed by or on behalf of the parties, and a copy thereof shall be filed in the records of the Registrar.

(2) The failure by a party to an agreement, a copy of the particulars of which has been filed under subsection (1), to comply with any term of the agreement within the time therein specified or, if no time is so specified, within 2 months after that copy was so filed constitutes a breach of the terms of the agreement.

Reference to
Tribunal.

22. Where under this Act a question is referred to the Registrar and—

- (a) the Registrar is of the opinion that the reference was made frivolously, vexatiously, or for an improper purpose;
- (b) the Registrar is of the opinion that a solution acceptable to all of the parties to the reference cannot be attained by means of a hearing, or any further hearing, under section 17;
- (c) a party to the reference, having been duly notified of the hearing of the reference, fails to attend the hearing;
- (d) a party to the reference who has entered into an agreement a copy of the particulars of which has been filed under section 21 (1) breaches the terms of the agreement; or

- (e) the question has not been resolved within 90 days after the question was referred to the Registrar,

the Registrar shall, by notice in writing in the prescribed form, forthwith refer the matter to the Tribunal for determination.

23. (1) For the purposes of the exercise by the Tribunal of the jurisdiction conferred on it by this Act, the Minister shall establish—

Constitution
of Tribunal.

- (a) a panel of persons representative of the interests of persons who are landlords under retail shop leases; and
- (b) a panel of persons representative of the interests of persons who are tenants under retail shop leases,

and the provisions of the Commercial Tribunal Act 1984 apply to and in relation to those panels as if they were established under section 6 (1) (a) and (b), respectively, of that Act.

(2) In subsection (1), “the Minister” means the person who is the Minister for the purposes of the Commercial Tribunal Act 1984.

(3) When exercising the jurisdiction conferred on it by this Act, the Tribunal shall be constituted in accordance with the Commercial Tribunal Act 1984 as if the panels established under subsection (1) (a) and (b) were, respectively, panels established for the purposes of this Act under section 6 (1) (a) and (b) of that Act.

24. Subject to this Act, the Tribunal has jurisdiction to hear and determine any matter referred to it under section 22 by the Registrar.

Jurisdiction
of Tribunal.

Additional powers of Tribunal.

25. The Tribunal may make or cause to be made such investigations as it thinks fit for the purposes of determining any matter before it, but nothing in this section shall be taken to limit any other power of the Tribunal.

Orders of Tribunal.

26. (1) Without limiting any power to make an order that is conferred by the Commercial Tribunal Act 1984 but subject to this Act the Tribunal may make—

- (a) an order that requires a party to proceedings before it to pay money to a person specified in the order;
- (b) an order for a party to proceedings before it to do, or refrain from doing, anything specified in the order; or
- (c) an order dismissing proceedings before it.

(2) Where the parties to proceedings before the Tribunal agree to settle any question in issue in the proceedings, the Tribunal may, with the consent of the parties, make an order disposing of the question in accordance with the terms agreed.

(3) An order of the Tribunal requiring anything to be done or discontinued may fix the time within which that thing is to be done or discontinued, as the case may be.

(4) Where the Registrar refers a matter to the Tribunal under section 22 (a), the Tribunal may deal with the matter under the Commercial Tribunal Act 1984 as if the proceedings before it had been instituted by the party from whose reference to the Registrar the matter arises.

Other jurisdictions.

27. (1) Where this Act provides for the reference of a question to the Registrar and the question is one that a court also has jurisdiction to determine, proceedings may be instituted to determine the question either—

- (a) before the court; or

(b) by way of a reference to the Registrar,
but not both.

(2) Where proceedings are instituted in, or are before, a court for the determination of a question that, but for subsection (1), could be referred to the Registrar the question shall—

- (a) if all parties to the proceedings so agree;
or
- (b) if the court of its own motion or on the application of a party so directs,

be transferred to the Registrar and shall be disposed of as if the question had been referred to the Registrar under this Act.

(3) Where a question has been referred to the Registrar under this Act and the question is one that a court also has jurisdiction to determine, the proceedings for the determination of the question shall—

- (a) if all the parties to the proceedings so agree; or
- (b) if, on the application of a party or of his or its own motion, the Registrar or, where the matter has been referred by the Registrar to the Tribunal under section 22, the Tribunal so directs,

be transferred to the court and shall be disposed of as if the proceedings had been instituted before the court.

PART IV—MISCELLANEOUS.

28. A person is not liable in civil proceedings, and the Crown in right of the State is not liable, for any act done or omission made by that person for the purposes of this Act and in good faith in the Protection.

course of the exercise or purported exercise of a power or duty which he had reasonable and probable cause to believe was conferred or imposed by this Act.

Annual reports.

29. (1) The Registrar shall cause to be prepared annually a report to the Minister relating to—

(a) the discharge of the duties of the Registrar under section 17; and

(b) the exercise by the Tribunal of the jurisdiction conferred on it by this Act,

bringing to notice matters that he considers to be significant concerning the relationship between parties to retail shop leases.

(2) The Minister shall cause a copy of each report made under subsection (1) to be laid before each House of Parliament as soon as practicable after he receives the report.

Regulations.

30. The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Act.

Review of Act.

31. (1) As soon as practicable after the expiration of the period of 5 years following the coming into operation of this Act the Minister shall cause an investigation and review to be conducted, and a report to be prepared, as to the need for this Act to continue in operation.

(2) The Minister shall cause a copy of the report prepared for the purposes of subsection (1) to be laid before each House of Parliament as soon as practicable after it is completed.