



REPUBLIC OF SINGAPORE

GOVERNMENT GAZETTE

ACTS SUPPLEMENT

Published by Authority

NO. 32]

FRIDAY, SEPTEMBER 8

[2023

First published in the *Government Gazette*, Electronic Edition, on 5 September 2023 at 5 pm.

The following Act was passed by Parliament on 3 August 2023 and assented to by the President on 21 August 2023:—

LEASE AGREEMENTS FOR RETAIL PREMISES ACT 2023

(No. 28 of 2023)

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REPUBLIC OF SINGAPORE

No. 28 of 2023.

I assent.



HALIMAH YACOB,
President.
21 August 2023.

An Act to establish the Fair Tenancy Industry Committee, the terms on which retail premises may be leased, the resolution of disputes concerning those terms, and for other matters connected therewith.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

PART 1
PRELIMINARY

Short title and commencement

1. This Act is the Lease Agreements for Retail Premises Act 2023 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

General interpretation

2.—(1) In this Act —

“adjudicator” means an adjudicator on the panel of adjudicators;

“applicant”, in relation to a complaint of non-compliance, means the party that files the complaint with an authorised dispute resolution body;

“authorised dispute resolution body” means an authorised dispute resolution body authorised by the Minister under section 10(1);

“Chairperson” means the Chairperson of the Committee appointed under section 3(1);

“Code of Conduct” means the Code of Conduct for Leasing of Retail Premises in Singapore described in section 5(1);

“Committee” means the Fair Tenancy Industry Committee established under section 3;

“complaint of non-compliance” means a complaint of non-compliance with a leasing principle described in section 9(1);

“declaration of permitted deviation”, in relation to a lease agreement, means a joint declaration by the landlord and tenant of the qualifying lease to which the lease agreement relates, that the landlord and tenant have agreed on a permitted deviation in relation to that lease agreement;

“disclosure”, in relation to any document or information, includes permitting access to the document or information;

- “landlord” means the person who grants or proposes to grant the right to occupy any retail premises under a lease;
- “law enforcement agency” means any authority or person charged with the duty of investigating offences or charging offenders under any written law;
- “lease” includes a licence, a sub-lease and a sub-licence;
- “lease agreement” means the agreement between a landlord and a tenant for a qualifying lease;
- “leasing principles” means the leasing principles referred to as such in the Code of Conduct, providing for requirements and best practices for landlords and tenants in relation to qualifying leases;
- “mediator” means a mediator on the panel of mediators;
- “member” means a member of the Committee;
- “panel of adjudicators” means the panel of adjudicators maintained by an authorised dispute resolution body under section 10(2)(b);
- “panel of mediators” means the panel of mediators maintained by an authorised dispute resolution body under section 10(2)(a);
- “parties”, in relation to a complaint of non-compliance, means the applicant and the respondent, and “party” means any one of those persons;
- “public authority” means —
- (a) any ministry, department or Organ of State of the Government, or a public officer of any ministry, department or Organ of State of the Government; or
 - (b) a public authority established under any public Act for a public purpose or an officer or an employee of the public authority;

“qualifying lease” means a lease for retail premises, or an extension or a renewal of such lease, where —

- (a) the agreement for the lease, extension or renewal (as the case may be) is signed on or after the date of commencement of Part 3; and
- (b) the period of the lease or the period of the extension or renewal (as the case may be) is or exceeds the period specified in the First Schedule,

whether or not the lease, extension or renewal is expressed to be governed by the law of Singapore;

“Regulations” means any regulations made under section 34;

“respondent”, in relation to a complaint of non-compliance, means the party against whom the complaint is filed with an authorised dispute resolution body;

“retail premises” means any premises in Singapore specified in the Second Schedule;

“secretariat” means the secretariat to the Committee appointed by the Minister under section 4(2);

“tenant” means the person who has the right to occupy any retail premises under a lease.

(2) In this Act, where a leasing principle —

- (a) makes it mandatory for any matter to be included in a lease agreement; but
- (b) permits the matter to be not so included if the landlord and tenant to the lease agreement agree to the same,

the matter that is not so included in the lease agreement with the agreement of the landlord and tenant, is referred to as a permitted deviation.

(3) In this Act, where a leasing principle —

- (a) makes it mandatory for any matter not to be included in a lease agreement; but

(b) permits the matter to be so included if the landlord and tenant to the lease agreement agree to the same, the matter that is so included in the lease agreement with the agreement of the landlord and tenant, is referred to as a permitted deviation.

(4) In this Act, there is non-compliance with a leasing principle if the leasing principle is one to which section 6(1) applies and any of the following occurs:

- (a) where the leasing principle makes it mandatory for any matter to be included in a lease agreement — the matter is not included in the lease agreement, unless the matter not so included is a permitted deviation;
- (b) where the leasing principle makes it mandatory for any matter not to be included in a lease agreement — the matter is included in the lease agreement, unless the matter so included is a permitted deviation;
- (c) where the leasing principle makes it mandatory for any matter to be included in the lease agreement and the matter is included in the lease agreement — the matter is not complied with;
- (d) where any matter included in the lease agreement is a permitted deviation or is treated as a term of the lease agreement under section 6(4)(b), 23(5)(b) or 24(5)(b) — the matter is not complied with.

(5) Where any lease is extended or renewed (whether or not by virtue of the exercise of an option to renew in the original lease), each extension or renewal is treated for the purposes of this Act as if it were in and of itself a separate lease, and a reference in this Act to the signing of a lease agreement is to the signing of the agreement or option for the extension or renewal of the lease by the person or persons required to sign the same.

PART 2

FAIR TENANCY INDUSTRY COMMITTEE

Appointment of Fair Tenancy Industry Committee

3.—(1) The Minister may appoint a Fair Tenancy Industry Committee comprising —

- (a) a Chairperson; and
- (b) any other members that the Minister may determine.

(2) The members must comprise —

- (a) individuals who in the Minister's view represent the interests of landlords of retail premises;
- (b) individuals who in the Minister's view represent the interests of tenants of retail premises; and
- (c) individuals who in the Minister's view have expertise relevant to the functions of the Committee.

(3) Each member may be appointed for a term not exceeding 2 years, and may be re-appointed.

(4) The Minister may revoke the appointment of any member before the expiry of the member's term.

(5) A member may resign from the Committee by written notice to the Minister.

(6) Decisions of the Committee are made by the Chairperson after consulting with all other members of the Committee.

Functions of Committee

4.—(1) The Committee has the following functions:

- (a) to review and, with the Minister's approval, modify the Code of Conduct from time to time;
- (b) to monitor and promote compliance by landlords and tenants with this Act and the Code of Conduct;

- (c) to establish the process for the submission to the Committee of, and maintaining a register for, declarations of permitted deviations;
- (d) to gather feedback on matters relating to the leasing of retail premises;
- (e) to conduct outreach and education relating to this Act and the Code of Conduct and matters relating to the leasing of retail premises.

(2) The Minister may appoint a secretariat to the Committee, to provide the Committee with any assistance that the Committee requires in carrying out its functions, including the keeping of proper accounts for, and records of, the funds for the Committee.

PART 3

CODE OF CONDUCT

Code of Conduct

5.—(1) For the purposes of this Act, the Code of Conduct is the Code of Conduct for Leasing of Retail Premises in Singapore (first issued by the Fair Tenancy Pro Tem Committee on 26 March 2021 and subsequently modified by that Committee), as may be modified from time to time under subsection (3), setting out leasing and negotiating principles to ensure fair and balanced bargaining positions between landlords and tenants in the negotiation of qualifying leases.

(2) The Committee must publish the Code of Conduct in any manner that will secure adequate publicity of the Code of Conduct to landlords and tenants of retail premises.

(3) Where the Committee proposes to modify the Code of Conduct, the Committee must —

- (a) obtain the Minister's approval for the modification; and
- (b) on obtaining the Minister's approval, publish the Code of Conduct (as so modified) in accordance with

subsection (2) at least 30 days before the Code of Conduct (as so modified) is to take effect, specifying —

- (i) the modifications so approved; and
- (ii) the date from and including which the Code of Conduct (as so modified) is to take effect.

(4) The Committee must also publish the following information in any manner that will secure its adequate publicity:

- (a) that the latest version of the Code of Conduct, and all other versions of the Code of Conduct having effect at any time in at least the preceding 5 years before the date of first publication of the latest version of the Code of Conduct, are available for inspection without charge at the premises of the secretariat, during the normal office hours of the secretariat;
- (b) if the Code of Conduct is available in any other way, the details of where or how it can be so accessed or obtained.

(5) To avoid doubt, nothing in this section requires the Code of Conduct or any modification thereto to be published in the *Gazette*.

(6) The Committee must maintain such versions of the Code of Conduct as are necessary for the purpose of an inspection mentioned in subsection (4)(a), and for the purpose of being accessed or obtained under subsection (4)(b).

Compliance with leasing principles in Code of Conduct

6.—(1) The landlord and the tenant of a qualifying lease must ensure that the lease agreement for that qualifying lease complies with the leasing principles in force at the time the lease agreement is signed by the landlord and the tenant.

(2) Where there is a permitted deviation in the lease agreement, the landlord must, if required by the leasing principle in question, submit to the Committee a declaration of permitted deviation for the permitted deviation.

- (3) The declaration of permitted deviation must be —
- (a) submitted within the period prescribed by the Regulations; and
 - (b) accompanied by any fee or charge prescribed by the Regulations or (if none is prescribed) specified by the Committee for the submission, payable to the secretariat.
- (4) Where the landlord fails to comply with subsection (2) or (3) —
- (a) the permitted deviation is void (but not if the permitted deviation relates to a rental formula); and
 - (b) if the leasing principle provides for any consequence in the event of the landlord's failure, then that consequence may be enforced as if it were a term of the lease agreement.
- (5) To avoid doubt, a leasing principle must not provide for any matter, including compensation, that is inconsistent with the requirements of any written law or rule of law, and subsection (1) does not apply in relation to a leasing principle that contravenes this subsection.
- (6) Part 4 applies in relation to a qualifying lease, despite anything in the lease agreement.

Register of declarations of permitted deviations

7. The Committee must maintain —
- (a) a register of declarations of permitted deviations submitted to it under this Act; and
 - (b) the record of a declaration of permitted deviation in the register for at least 5 years after the submission of the declaration of permitted deviation to the Committee.

Restrictions on disclosure of information concerning or contained in declarations of permitted deviations

8. The Committee and the secretariat must not disclose any information concerning or contained in a declaration of permitted deviation for any qualifying lease to any other person, except —

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- (a) with the consent of the persons to whom the information relates;
 - (b) to the extent the information has already been made available to the public at the time of its disclosure, other than information that is only in the public domain due to an unlawful disclosure;
 - (c) to the extent the information is not disclosed in a form that could reasonably be expected to identify any particular person;
 - (d) for the purpose of seeking legal advice;
 - (e) to the extent that the disclosure is necessary for the purposes of, or in connection with —
 - (i) any proceeding before a mediator or an adjudicator;
 - (ii) the enforcement or disputing of any settlement agreement mentioned in section 23 or 24 or any determination of an adjudicator mentioned in section 14 or 25; or
 - (iii) any proceeding before a court or an arbitral tribunal or any other dispute resolution proceeding;
 - (f) to the extent the disclosure is required by an order of court, or required or authorised by or under any written law;
 - (g) to the extent the disclosure is made in compliance with a request or requirement imposed by a public authority and is necessary to enable the public authority to perform its duties or discharge its functions;
 - (h) to the extent the disclosure is made to assist a law enforcement agency in the investigation of any offence under any written law;
 - (i) to the extent the information relates to the commission of any offence under any written law or was given in furtherance of any illegal purpose; or
 - (j) to the extent that the disclosure is required or permitted for any purpose under this Act.

PART 4

DISPUTE RESOLUTION

*Division 1 — Complaints of non-compliance***Complaints of non-compliance**

9.—(1) A landlord or a tenant under a qualifying lease may file with an authorised dispute resolution body a complaint that there has been a non-compliance with a leasing principle in relation to their lease agreement.

(2) The complaint of non-compliance must —

(a) be filed with an authorised dispute resolution body within the period, and in the form and manner, specified by the authorised dispute resolution body in its rules and procedures under section 10(2)(c);

(b) be accompanied by any application fee that may be determined by the authorised dispute resolution body in its rules and procedures under section 10(2)(c); and

(c) contain or be accompanied by —

(i) any information or documents that may be specified by the authorised dispute resolution body in its rules and procedures under section 10(2)(c); and

(ii) any other information or documents that the applicant may consider to be relevant to the complaint of non-compliance.

(3) A party that has filed a complaint of non-compliance must notify the respondent of the complaint of non-compliance within the period, and in the form and manner, specified by the authorised dispute resolution body in its rules and procedures under section 10(2)(c).

(4) The requirements in subsections (2) and (3) are subject to any provision to the contrary in the Regulations.

Division 2 — Authorised dispute resolution bodies, mediators, adjudicators, and mediation and adjudication proceedings

Authorised dispute resolution body, etc.

10.—(1) The Minister may —

- (a) authorise any person to be an authorised dispute resolution body for the purposes of this Part, subject to any terms and conditions that the Minister thinks fit; and
- (b) withdraw any such authorisation.

(2) An authorised dispute resolution body must —

- (a) maintain a panel of mediators for the purposes of this Part;
- (b) maintain a panel of adjudicators for the purposes of this Part;
- (c) maintain rules and procedures (not inconsistent with this Act or any other written law) for mediations and adjudications under this Act, including in relation to a notification under section 9(3) and the response, reply and other documents to be filed subsequent to a complaint of non-compliance;
- (d) provide administrative support to facilitate the conduct of such mediations and adjudications;
- (e) establish a schedule of fees payable to the authorised dispute resolution body for mediation and adjudication services provided under or by virtue of this Act, including mediators' and adjudicators' fees, and the persons by whom the fees are to be borne or shared in any proportion;
- (f) abide by any Regulations; and
- (g) undertake any other functions or duties that may be imposed under this Act or as may be directed by the Minister.

(3) Despite the schedule of fees established under subsection (2)(e), the fees payable to the authorised dispute resolution body for mediation and adjudication services provided under or by virtue of this Act are subject to any amounts prescribed by the Regulations.

(4) An individual may be on both the panel of mediators and the panel of adjudicators, but the individual must, in relation to any complaint of non-compliance, only be appointed to act either as a mediator or as an adjudicator, and not as both.

Reference of complaint of non-compliance to mediator

11.—(1) On receipt of a complaint of non-compliance, the authorised dispute resolution body must appoint a mediator from its panel of mediators —

- (a) to mediate between the parties; and
- (b) to assist the parties to settle the dispute or disputes that is or are the subject of the complaint, including any variation to the lease agreement agreed by the parties.

(2) A mediator must, in mediating any dispute that is the subject of a complaint of non-compliance —

- (a) act independently, impartially and in a timely manner; and
- (b) avoid incurring unnecessary expense.

Reference of complaint of non-compliance to adjudicator

12.—(1) If the mediation under section 11 does not result in a settlement agreement between the parties on a dispute, the party that filed the complaint of non-compliance may apply to the authorised dispute resolution body for an adjudicator from its panel of adjudicators to be appointed to hear and determine the dispute, and the authorised dispute resolution body must so appoint an adjudicator.

(2) The application under subsection (1) must be made within the period prescribed by the Regulations or (if none is prescribed) specified by the authorised dispute resolution body in its rules and procedures under section 10(2)(c).

(3) An adjudicator must, in hearing and determining any dispute that is the subject of a complaint of non-compliance —

- (a) act independently, impartially and in a timely manner;
- (b) avoid incurring unnecessary expense; and
- (c) comply with the principles of natural justice.

Stay of court proceedings

13.—(1) Where there are any proceedings before a court in respect of any matter which is the subject of a complaint of non-compliance, any party may apply to that court to stay the proceedings so far as the proceedings relate to that matter.

(2) The court hearing the application may make an order, on any terms or conditions that the court thinks fit, staying the proceedings so far as the proceedings relate to that matter.

(3) The court may, in making an order under subsection (2), make any interim or supplementary orders that the court thinks fit for the purpose of preserving the rights of the parties.

(4) For the purposes of this section, a reference to a party includes a reference to any person claiming through or under a party.

(5) To avoid doubt, this section applies whether the proceedings before the court were commenced before the filing of the complaint of non-compliance or during the course of any mediation or adjudication conducted following the filing of the complaint of non-compliance.

Fees of adjudication proceedings

14. Where any provision in the schedule of fees mentioned in section 10(2)(e) requires a party (*A*) to pay any fees to the authorised dispute resolution body, an adjudicator may determine that another party (*B*) must pay to *A* an amount representing some or all of the fees, if the adjudicator is satisfied that —

(a) the fees relating to the adjudication are occasioned by any frivolous or vexatious conduct of, or unfounded submissions by, *B*; or

(b) it is fair in all the circumstances of the case to so decide.

Protection from liability for mediators, adjudicators and authorised dispute resolution bodies

15.—(1) No liability shall lie against a mediator or an adjudicator with respect to anything done or omitted to be done in good faith in

the discharge or purported discharge of the mediator's or adjudicator's functions or duties under this Act.

(2) No liability shall lie against an authorised dispute resolution body or any person acting under the direction of an authorised dispute resolution body —

- (a) with respect to anything done or omitted to be done in good faith in the discharge or purported discharge of the authorised dispute resolution body's function of appointing mediators and adjudicators under this Act; and
- (b) with respect to anything done or omitted to be done in good faith and with reasonable care in the discharge or purported discharge of any other functions or duties of the authorised dispute resolution body under this Act.

(3) No liability shall lie against an authorised dispute resolution body for anything done or omitted to be done by an individual appointed by the authorised dispute resolution body under this Act as a mediator or an adjudicator, in the discharge or purported discharge of the individual's functions or duties as such, by reason only of the authorised dispute resolution body having appointed the individual as such.

Division 3 — Confidentiality

Subdivision (1) — General

Interpretation of this Division and application

16.—(1) In this Division —

“adjudication communication”, in relation to an adjudication, means —

- (a) anything said or done;
- (b) any document prepared; or
- (c) any information provided,

for the purposes of or in the course of an adjudication, including a settlement agreement entered into in the course of the adjudication;

“mediation communication”, in relation to a mediation, means —

- (a) anything said or done;
- (b) any document prepared; or
- (c) any information provided,

for the purposes of or in the course of a mediation, including a settlement agreement resulting from the mediation;

“third party” —

(a) in relation to a mediation, means any person who —

- (i) is not a party to the mediation;
- (ii) is not a mediator for the mediation; and
- (iii) is not the authorised dispute resolution body that appointed any mediator for the mediation; and

(b) in relation to an adjudication, means any person who —

- (i) is not a party to the adjudication;
- (ii) is not an adjudicator for the adjudication; and
- (iii) is not the authorised dispute resolution body that appointed any adjudicator for the adjudication.

(2) Nothing in this Division prevents an authorised dispute resolution body from providing the Committee or a public authority with the following information:

- (a) the number of complaints of non-compliance received by the authorised dispute resolution body in any given period;
- (b) the number or percentage of those complaints lodged by landlords, and by tenants;
- (c) the number or percentage of those complaints resolved through mediation;

- (d) the number or percentage of those complaints that proceeded to adjudication;
- (e) the number or percentage of those complaints for which a determination was issued by an adjudicator;
- (f) without affecting paragraph (g), the nature of the disputes raised in those complaints, provided in a way that will not identify any party;
- (g) where, in relation to a complaint of non-compliance, an adjudication determination has been made under section 25(4) that any leasing principle has not been complied with, the fact that the determination has been made, the names of the parties and the nature of the non-compliance.

Subdivision (2) — Mediation communications

Restrictions on disclosure of mediation communication

17.—(1) Subject to section 18, a person must not disclose any mediation communication to a third party to the mediation.

(2) Without affecting subsection (1), where a complaint of non-compliance that has been referred to a mediator under section 11 is then referred to an adjudicator under section 12, the mediator must not disclose to the adjudicator any mediation communication or any other thing concerning the mediation or any dispute that is the subject of the complaint of non-compliance.

(3) Subsection (1) does not apply to any part of a settlement agreement resulting from a mediation that takes effect as a variation of a lease agreement under section 23(2).

(4) Where a mediation communication also becomes an adjudication communication (pursuant to section 18(1) or (2)), this Subdivision ceases to apply to the communication.

Permitted disclosures of mediation communication

18.—(1) Despite section 17(1) but subject to section 17(2), a person may disclose a mediation communication to a third party to the mediation if —

- (a) the disclosure is made with the consent of —
 - (i) all the parties to the mediation; and
 - (ii) for a mediation communication that is made by a person other than a party to the mediation, the maker of the mediation communication;
- (b) the content of the mediation communication is information that has already been made available to the public at the time of its disclosure, other than information that is only in the public domain due to an unlawful disclosure;
- (c) the disclosure is made for research, evaluation or educational purposes without revealing, or being likely to reveal, whether directly or indirectly, the identity of the maker of the mediation communication or any person to whom the mediation communication relates;
- (d) the disclosure is made for the purpose of seeking legal advice;
- (e) the disclosure is required by an order of court, or required or authorised by or under any written law;
- (f) the disclosure is in compliance with a request or requirement imposed by a public authority and is necessary to enable the public authority to perform its duties or discharge its functions;
- (g) the disclosure is made to assist a law enforcement agency in the investigation of any offence under any written law;
or
- (h) the mediation communication relates to the commission of any offence under any written law or was made in furtherance of any illegal purpose.

(2) Despite subsection (1), a person may, with the permission of a court or an arbitral tribunal under section 20, disclose a mediation communication to a third party to the mediation —

- (a) for the purpose of enforcing or disputing a settlement agreement resulting from the mediation;
- (b) for the purpose of establishing or disputing an allegation or a complaint of professional misconduct against a mediator or any other person who participated in the mediation in a professional capacity;
- (c) for the purpose of discovery or other similar procedures in any court proceedings or arbitral proceedings (as the case may be) which have been instituted for the production of documents, where the person who is a party to those proceedings is required to produce documents in the person's possession or control; or
- (d) for any other purpose that the court or arbitral tribunal (as the case may be) considers justifiable in the circumstances of the case.

Admissibility in evidence of mediation communication

19. A mediation communication is not to be admitted in evidence in any court, arbitral or disciplinary proceedings except with the permission of a court or an arbitral tribunal under section 20.

Permission of court or arbitral tribunal for disclosure or admission in evidence of mediation communication

20.—(1) A court or an arbitral tribunal may, on application by any person, grant permission for a mediation communication to be disclosed under section 18(2) or admitted in evidence under section 19.

(2) For the purposes of subsection (1), the court or arbitral tribunal (as the case may be) must take into account all of the following matters in deciding whether to grant permission:

- (a) whether the mediation communication may be or has been disclosed under section 18(1);

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- (b) whether it is in the public interest or the interests of the administration of justice for the mediation communication to be disclosed or admitted in evidence;
 - (c) any other circumstances or matters that the court or arbitral tribunal (as the case may be) considers relevant.
- (3) Where the mediation communication is sought to be disclosed or admitted in evidence in proceedings —
- (a) before a court — the application must be made to the court before which the proceedings are heard;
 - (b) before an arbitral tribunal — the application must be made to the arbitral tribunal before which the proceedings are heard; and
 - (c) in any other case — the application must be made to the General Division of the High Court.

Subdivision (3) — Adjudication communications

Restrictions on disclosure of adjudication communication

21.—(1) Subject to section 22, a person must not disclose any adjudication communication to a third party to the adjudication.

(2) Subsection (1) does not apply to any part of a settlement agreement entered into in the course of an adjudication that takes effect as a variation of a lease agreement under section 24(2).

Permitted disclosures of adjudication communication

22. Despite section 21(1), a person may disclose an adjudication communication to a third party to the adjudication —

- (a) if the disclosure is made with the consent of —
 - (i) all the parties to the adjudication; and
 - (ii) for an adjudication communication that is made by a person other than a party to the adjudication, the maker of the adjudication communication;
- (b) if the content of the adjudication communication is information that has already been made available to the

public at the time of its disclosure, other than information that is only in the public domain due to an unlawful disclosure;

- (c) if the disclosure is made for research, evaluation or educational purposes without revealing, or being likely to reveal, whether directly or indirectly, the identity of the maker of the adjudication communication or any person to whom the adjudication communication relates;
- (d) if the disclosure is made for the purpose of seeking legal advice;
- (e) if the disclosure is required by an order of court, or required or authorised by or under any written law;
- (f) if the disclosure is in compliance with a request or requirement imposed by a public authority and is necessary to enable the public authority to perform its duties or discharge its functions;
- (g) if the disclosure is made to assist a law enforcement agency in the investigation of any offence under any written law;
- (h) if the adjudication communication relates to the commission of any offence under any written law or was made in furtherance of any illegal purpose;
- (i) to the extent that the disclosure is necessary for the purposes of, or in connection with, the adjudication, the enforcement of any determination of an adjudicator mentioned in section 14 or 25(4), or any proceeding before a court or an arbitral tribunal or any other dispute resolution proceeding;
- (j) for the purpose of establishing or disputing an allegation or a complaint of professional misconduct against an adjudicator or any other person who participated in the adjudication in a professional capacity; or
- (k) for the purpose of discovery or other similar procedures in any court proceedings or arbitral proceedings (as the case may be) which have been instituted for the production of

documents, where the person who is a party to those proceedings is required to produce documents in the person's possession or control.

*Division 4 — Mediated and adjudicated outcomes,
and enforcement*

Settlement agreements in mediation

23.—(1) The parties must set out their settlement of any dispute resulting from mediation, in a settlement agreement in writing.

(2) Where, by any part of the settlement agreement, the parties have agreed to vary the lease agreement that was the subject of the mediation, that part of the settlement agreement takes effect as a variation of the lease agreement.

(3) Where any part of the lease agreement as varied in accordance with subsection (2) includes any permitted deviation, the landlord must, if required by the leasing principle in question, submit to the Committee a declaration of permitted deviation for the permitted deviation.

(4) The declaration of permitted deviation must —

- (a) be submitted within the period prescribed by the Regulations; and
- (b) be accompanied by any fee or charge prescribed by the Regulations or (if none is prescribed) specified by the Committee for the submission, payable to the secretariat.

(5) Where the landlord fails to comply with subsection (3) or (4) —

- (a) the permitted deviation is void (but not if the permitted deviation relates to a rental formula); and
- (b) if the leasing principle provides for any consequence in the event of the landlord's failure, then that consequence may be enforced as if it were a term of the lease agreement.

Settlement agreements in adjudication

24.—(1) At any time before an adjudicator determines any dispute, the parties may settle the dispute, and set out their settlement in a settlement agreement in writing.

(2) Where, by any part of the settlement agreement, the parties have agreed to vary the lease agreement that was the subject of the adjudication, that part of the settlement agreement takes effect as a variation of the lease agreement.

(3) Where any part of the lease agreement as varied in accordance with subsection (2) includes any permitted deviation, the landlord must, if required by the leasing principle in question, submit to the Committee a declaration of permitted deviation for the permitted deviation.

(4) The declaration of permitted deviation must —

(a) be submitted within the period prescribed by the Regulations; and

(b) be accompanied by any fee or charge prescribed by the Regulations or (if none is prescribed) specified by the Committee for the submission, payable to the secretariat.

(5) Where the landlord fails to comply with subsection (3) or (4) —

(a) the permitted deviation is void (but not if the permitted deviation relates to a rental formula); and

(b) if the leasing principle provides for any consequence in the event of the landlord's failure, then that consequence may be enforced as if it were a term of the lease agreement.

Determinations in adjudication

25.—(1) Subject to section 12(3) and to any rules and procedures established by the authorised dispute resolution body under section 10(2)(c) (being rules and procedures not inconsistent with any requirement under this Act), an adjudicator may —

(a) conduct the adjudication proceedings in any manner that the adjudicator thinks fit;

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- (b) require submissions or documents from any party and set deadlines for their submission; and
 - (c) issue any directions (not inconsistent with any requirement under this Act) that may be necessary or expedient for the conduct of the case.

(2) The parties to a complaint of non-compliance must comply with any requirement made or direction issued by the adjudicator in accordance with this section.

(3) An adjudicator's power to determine any dispute that is the subject of a complaint of non-compliance is not affected by the failure of —

- (a) the respondent to file a response; or
- (b) any of the parties to comply with or carry out any requirement made or direction issued by the adjudicator under this section,

and in the event of any such failure, the adjudicator may determine the dispute based on the information and documents available to the adjudicator.

(4) The adjudicator must, in relation to any dispute that is the subject of a complaint of non-compliance (unless the dispute has been settled under section 24) —

- (a) make a determination whether there has been non-compliance with a leasing principle as alleged by the party that filed the complaint of non-compliance; and
- (b) where the determination is that there has been such non-compliance, make a further determination, as may be applicable —
 - (i) that the lease agreement must be varied in order to correct the non-compliance; or
 - (ii) as to any compensation provided by the leasing principle for the non-compliance that should be paid.

(5) The determination of the adjudicator must be in writing.

(6) The determination of the adjudicator is binding on the parties and on any person claiming through or under them, unless or until —

- (a) permission of the court to enforce the adjudication determination is refused under section 27;
- (b) the dispute is finally determined by a court or an arbitral tribunal or at any other dispute resolution proceeding; or
- (c) the dispute is settled by agreement of the parties.

Enforcement of settlement agreements

26.—(1) Any party to a settlement agreement mentioned in section 23 or 24 may, in relation to a dispute in respect of which the settlement agreement was entered into and for which no proceedings have been commenced in a court, with the consent of all the other parties to that settlement agreement, apply to record the settlement agreement as an order of court.

(2) The application must —

- (a) be made to the court within whose jurisdiction the subject matter of the dispute would fall; and
- (b) be accompanied by an affidavit by the applicant setting out or exhibiting the settlement agreement, and the consent of all the other parties to the settlement agreement for the settlement agreement to be recorded as an order of that court.

(3) Subject to subsection (4), the court may record the settlement agreement as an order of court if the settlement agreement —

- (a) is in writing and signed by or on behalf of all the parties to the settlement agreement; and
- (b) contains any information that may be prescribed by rules made under section 33.

(4) The court may refuse to record the settlement agreement as an order of court if —

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- (a) the settlement agreement is void or voidable because of incapacity, fraud, misrepresentation, duress, coercion, mistake or any other ground for invalidating a contract;
 - (b) any term of the settlement agreement is not capable of enforcement as an order of court; or
 - (c) the recording of the settlement agreement as an order of court is contrary to public policy.

(5) A settlement agreement that is recorded under this section as an order of court may be enforced in the same manner as a judgment given or an order made by the court.

Enforcement of determinations by adjudicators

27.—(1) Any determination of an adjudicator under section 14 or 25(4) (called in this section the adjudication determination) may, with the permission of the court within whose jurisdiction the subject matter of the dispute that is the subject of a complaint of non-compliance to which the determination relates would fall, be enforced in the same manner as a judgment or an order of the court to the same effect.

(2) Where permission of the court is so granted, judgment may be entered in the terms of the adjudication determination.

(3) An application for permission to enforce an adjudication determination filed in court under this section must be accompanied by an affidavit by the applicant stating that the adjudication determination has not been complied with, or (as the case may be) stating the part of the adjudication determination that has not been complied with.

(4) A party to an adjudication may commence proceedings in the General Division of the High Court to set aside the adjudication determination or a judgment obtained pursuant to this section, but that party must pay into court as security the unpaid portion of the amount that that party is required to pay under the adjudication determination (if any), in any manner that the General Division of the High Court directs or as provided in the Rules of Court, pending the final determination of those proceedings.

(5) The grounds on which a party to an adjudication may commence proceedings under subsection (4) include, but are not limited to, the following:

- (a) the application for adjudication was not made in accordance with the provisions of this Act;
- (b) the adjudicator failed to comply with the provisions of this Act in making the adjudication determination;
- (c) a breach of the rules of natural justice occurred in connection with the making of the adjudication determination;
- (d) the making of the adjudication determination was induced or affected by fraud or corruption.

(6) A party that was a respondent in the adjudication may not commence proceedings under subsection (4) on any ground that the party did not raise as a response to the dispute under the adjudication, unless —

- (a) the circumstances to support that ground only arose after the party lodged the adjudication response with the authorised dispute resolution body; or
- (b) the party could not reasonably have known of those circumstances when lodging the adjudication response with the authorised dispute resolution body.

(7) Without affecting its powers under any other written law or rule of law, the General Division of the High Court may, in any proceedings under subsection (4) —

- (a) set aside an adjudication determination in whole or in part;
- (b) remit the whole or any part of the adjudication determination to an adjudicator to be appointed by the authorised dispute resolution body;
- (c) correct in the adjudication determination any clerical mistake, error arising from an accidental slip or omission, or defect of form; and
- (d) award costs to any party to an adjudication.

(8) Where the court makes an order of remission under subsection (7)(b) —

- (a) section 25 applies, with the necessary modifications, to the determination of the remitted issues by the adjudicator, as if the remitted issues were issues in an adjudication that commenced on a date specified by the court in the order; and
- (b) the adjudicator’s determination of the remitted issues has effect as if it were an adjudication determination.

Division 5 — Miscellaneous

Effect on other proceedings

28.—(1) Nothing in this Act prevents any party from challenging the party’s lease agreement (including as varied pursuant to this Act) as to whether or not the lease agreement complies with this Act, or any determination under section 25(4), in any proceeding before a court or an arbitral tribunal or in any other dispute resolution proceeding.

(2) To avoid doubt, nothing in this Act prevents an appeal from a decision of the court under section 26 or 27, in accordance with the Supreme Court of Judicature Act 1969.

PART 5

MISCELLANEOUS

Act to bind Government

29.—(1) This Act binds the Government.

(2) Despite subsection (1), the Government is not required to comply with any obligation under this Act that is inconsistent with any obligation of the Government under any other written law.

Publication of non-compliance with Act or Code of Conduct

30. The Committee may publish any details of non-compliance with this Act or the Code of Conduct, obtained by the Committee under or pursuant to this Act, as the Committee thinks necessary or expedient in the interest of landlords and tenants of retail premises generally.

Amendment of Schedules

31. The Minister may, by order in the *Gazette*, amend the First or Second Schedule.

General exemption

32. The Minister may, by order in the *Gazette*, either permanently or for any period that the Minister thinks fit, exempt any person or premises or any class of persons or premises from all or any of the provisions of this Act, subject to any conditions specified in the order.

Rules of Court

33.—(1) The Rules Committee constituted under section 80(3) of the Supreme Court of Judicature Act 1969 may make Rules of Court regulating the practice and procedure of the Court of Appeal, the Appellate and General Divisions of the High Court and the State Courts in respect of any matter under this Act.

(2) Without affecting subsection (1), the Rules of Court made under that subsection may make provision for the time during which applications under sections 26 and 27 may be made, and for any other information that may be required in the affidavits accompanying the applications.

(3) All Rules of Court made under this section must be presented to Parliament as soon as possible after publication in the *Gazette*.

Regulations

34.—(1) The Minister may make regulations as may be necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without affecting subsection (1), the regulations may make provision in respect of —

- (a) the procedure and practice for a proceeding before a mediator or an adjudicator, including requiring the proceeding to be held in private and the treatment of confidential information;
- (b) the forms to be used and the information or documents to be given for the proceedings;
- (c) the manner in which authorised dispute resolution bodies, mediators or adjudicators are to exercise their functions or perform their duties;
- (d) the manner of giving or serving any document and when it is deemed given or served for the purposes of this Act;
- (e) the extension (including by a mediator or an adjudicator) of any time within which any document is to be submitted, filed, given or served, for the purposes of this Act;
- (f) the fees and charges, the method of payment, and the person to whom the fees and charges must be paid, for anything to be done by the Committee under or for the purposes of this Act; and
- (g) anything required to be prescribed or in relation to which regulations may be made under this section.

(3) The power conferred by subsection (1) does not extend to any matter for which Rules of Court mentioned in section 33 may be made.

Saving and transitional provisions

35.—(1) Despite the definition of “qualifying lease” in section 2(1) read with section 2(5), this Act does not apply to an extension or a renewal of a lease (whether or not the extension or renewal is by virtue of the exercise of an option to extend or renew in the original lease) if —

- (a) the original lease was signed by the landlord and tenant before the date of commencement of Part 3;

(b) the terms of the extension or renewal were agreed between the landlord and tenant at the time the lease agreement for the original lease was signed; and

(c) the terms mentioned in paragraph (b) remain unchanged throughout the extension or renewal.

(2) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

(3) Any regulation under subsection (2) may be made to operate retrospectively to any date, not being a date earlier than the commencement of the provision of this Act in relation to which the regulation is made.

FIRST SCHEDULE

Sections 2(1) and 31

PERIOD OF LEASE, EXTENSION OR RENEWAL

1. For the purpose of paragraph (b) of the definition of “qualifying lease” in section 2(1), the period is one year.

2. For the purpose of paragraph 1, in determining whether the period of a lease is one year, any period provided in the lease agreement for which the lease may be extended or renewed or further extended or renewed, is to be disregarded.

Illustration

A lease agreement signed by a landlord and a tenant on or after the date of commencement of this Act provides for a lease of retail premises for an initial period of 6 months, and further provides an option to renew for one or more extensions of 6 months each. The period of the lease is 6 months, so the lease is not a qualifying lease. As the period of each renewal of the lease is 6 months, each renewal is also not a qualifying lease. The lease is not a qualifying lease by virtue of the lease being extended such that its total duration (that is, the sum total of its initial period and any extension) is or exceeds one year.

SECOND SCHEDULE

Sections 2(1) and 31

RETAIL PREMISES

1. Premises are retail premises if they are used primarily for any of the following:

- (a) the sale of goods by way of retail;
- (b) the supply of services.

2. Despite paragraph 1, the premises mentioned in paragraph 1(b) are not retail premises if they are used primarily for the purpose of conducting administrative work in connection with the supply of services.
