

Legislative Council—No 219

As introduced and read a first time, 13 November 2013

South Australia

**Retail and Commercial Leases (Miscellaneous)
Amendment Bill 2013**

A BILL FOR

An Act to amend the *Retail and Commercial Leases Act 1995*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Amendment provisions

Part 2—Amendment of *Retail and Commercial Leases Act 1995*

- 3 Amendment of section 4—Application of Act
- 4 Substitution of section 30
 - 30 Recovery of land tax

Schedule 1—Transitional provision

- 1 Application of section 30 to certain retail shop leases
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Retail and Commercial Leases (Miscellaneous) Amendment Act 2013*.

5 2—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Retail and Commercial Leases Act 1995*

3—Amendment of section 4—Application of Act

10 Section 4—after subsection (3) insert:

- (4) The regulations may, in prescribing an amount for the purposes of subsection (2)(a), provide for that amount to be indexed in accordance with a scheme set out in the regulations.

4—Substitution of section 30

15 Section 30—delete the section and substitute:

30—Recovery of land tax

- (1) Except as provided by this section, a retail shop lease cannot require the lessee to pay land tax or to reimburse the lessor for the payment of land tax in respect of the shop (however, nothing in this section prevents the lessor's liability for land tax in respect of the premises from being taken into account in the assessment of rent).
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- (2) A retail shop lease may require the lessee to pay an amount of land tax, or reimbursement to the lessor for a payment of land tax, that does not exceed the single holding rate for the shop, determined in accordance with subsection (3).
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- (3) The single holding rate for particular premises will be taken to be—
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- (a) if the shop is the only premises owned by the lessor for which land tax is payable under the *Land Tax Act 1936*—an amount equal to the amount of land tax payable in relation to the shop; or
- (b) if the value of the shop is included in a calculation of land tax payable by the lessor (being a calculation on the basis of the aggregate taxable value of all land owned by the lessor as contemplated by section 8A of the *Land Tax Act 1936*)—an amount equal to the amount of land tax that would be payable were the shop the only land owned by the lessor for which land tax is payable under the *Land Tax Act 1936*,
- less an amount equal to such part of any waiver or refund of, or any exemption from, land tax paid or payable by the lessor under the *Land Tax Act 1936* as may be directly attributable to the shop.
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- (4) Subsection (1) does not apply to a retail shop lease entered into before a date fixed by regulation for the purposes of this section.
- (5) Subsection (2) does not apply to a retail shop lease entered into before the commencement of this section.

Schedule 1—Transitional provision

1—Application of section 30 to certain retail shop leases

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Except where the lessor and lessee in relation to a retail shop lease entered into before the commencement of this Act otherwise agree in writing, sections 4 and 30 of the *Retail and Commercial Leases Act 1995* (as in force immediately before the commencement of this Act) continue to apply in relation to the lease as if this Act had not been enacted.