

RETAIL TENANCY UNIT

When you want to sell the business

Retail Tenancy Unit
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If you want to sell your business, you need to be aware of the process set out in the Retail Leases Act for assigning (transferring) the lease. The lessee becomes the assignor of the lease, and the potential new tenant becomes the assignee. In brief, these are the steps you need to take:

- Get an updated copy of the Lessor's Disclosure Statement.* If an updated disclosure statement has not been issued during the term of your lease, request one in writing from the lessor. If it is not provided within 14 days, provide the latest version of the disclosure statement you have (or if none exists, this requirement does not apply to you).
- Give a copy of the Assignor's Disclosure Statement* to the assignee (and to the lessor at least seven clear days before the assignment if you want to be protected from ongoing liability under the lease).
- Gather from the assignee the following information to provide to the lessor:
 - the assignee's name and contact details,
 - documentation to indicate the assignee's financial standing,
 - business experience of assignee, and
 - a written record of statements (things said) by the assignor or the lessor which influenced the assignee to enter the assignment.
- Provide information listed in the dot points above to the lessor in writing by:
 - delivering personally to the lessor or the lessor's agent,
 - leaving it at, or posting it to, the last known residential or business address – in or out of New South Wales – of the person to be served, or by
 - delivering as set out in Section 81A of the Act.
- The lessor must respond to the request for assignment of the lease within 28 days from the time all the required information is received, or the assignment is deemed to have taken place.
- There are five reasons the lessor can refuse a request for assignment of a lease:
 - If the use of the premises is to change.
 - If the assignee (new tenant) has less retailing skills than the proposed assignor (current tenant).
 - If the assignee has inferior financial resources than the proposed assignor.
 - If you have not complied with the procedure for obtaining consent to the assignment as set out in Section 41 of the Act.
 - If the shop is airside at Sydney (Kingsford-Smith) Airport and the landlord has the right to refuse assignment under Section 80E of the Act.

* Standard forms of these statements are available on www.retail.nsw.gov.au