



Legal Update  
Singapore



ADSAN LAW

## THE LEASE AGREEMENTS FOR RETAIL PREMISES BILL

The Lease Agreements for Retail Premises Bill was passed in Parliament on 3 August 2023, which will make compliance with the Code of Conduct for Leasing of Retail Premises in Singapore (the “Code”) mandatory for qualifying leases of retail premises. The new legislation is expected to come into force in early February 2024.

The first version of the Code was published on 26 March 2021 by the Fair Tenancy Pro Tem Committee, which was first set up in June 2020, during the height of the COVID-19 pandemic and comprises industry leaders from both tenant and landlord communities. The code was later revised on 15 March 2022, whilst the third and latest version was published on 1 November 2023 and will take effect at the same time as the new legislation in early February 2024. The objectives of the Code provide guidance to both tenants and landlords in lease negotiations and to maintain a fair and balanced position for both parties, and also to establish procedures for the resolution of disputes between landlords and tenants. Whilst adoption of the Code is currently on a voluntary basis, since the first version of the Code came into effect in June 2021, the Government and major private sector landlords have voluntarily adopted the Code. The passing of new legislation will mandate compliance with the leasing principles set out in the Code by landlords and tenants of qualifying leases.

The Fair Tenancy Industry Committee (“FTIC”) was later set up on 3 May 2021 to act as the custodian of the Code. The new legislation will formally establish the FTIC as a body to be appointed by the Minister for Trade and Industry. The Bill sets out the functions of the FTIC, which include reviewing and, with the Minister’s approval, modifying the Code, monitoring and promoting compliance by landlords and tenants

of the Code, and establishing processes for submissions to the Committee of deviations from the leasing principles of the Code.

A “qualifying lease” has been defined as a lease for retail premises (or an extension or renewal of such a lease), which is signed on or after the date of commencement of Part 3 of the Bill, and which is for a period of at least one year. “Retail premises” has in turn been defined as premises that are used primarily for the sale of goods by retail or the supply of services, and would include eateries, restaurants, supermarkets, clinics, pet shops, walk-in bank branches, tuition centres, cinemas and gyms. The Bill will not apply to leases of office, industrial or residential spaces, and premises used primarily for carrying out administrative work in connection with the supply of services are not retail premises under the new legislation.

The Code contains 11 leasing principles for key tenancy terms and two further leasing principles in relation to confidentiality clauses and the data transparency between landlords and tenants. Certain select leasing principles may, with the landlord and tenant’s mutual consent, be deviated from, to prevent the Code from being overly restrictive and allow for commercial negotiations and considerations. The Code and the Bill will also require these permitted deviations to be declared and submitted to the FTIC within a prescribed period of time. Failure to submit these declarations may, in relation to certain leasing principles, render these deviations void. Further, it appears from the wording of the Code that some leasing principles may not be deviated from, even if said deviation has been agreed on by both parties.

Key leasing principles include prohibiting landlords from requiring tenants to pay any legal or administrative fees except in circumstances permitted by the Code, prohibiting multiple formulas for calculating rent, and prohibiting landlords from marking up the cost of supply of electricity, amongst others.

The Bill will also provide for a process for dispute resolution in instances of non-compliance with the Code’s leasing principles and for the appointment of an authorised dispute resolution body, which must maintain a panel of mediators and adjudicators for the purposes of the resolving disputes arising from non-compliance with the leasing principles in the Code. A landlord or tenant under a qualifying lease may file with the authorised dispute resolution body a complaint that there has been non-compliance with a leasing principle. Upon receipt of a complaint, the authorised dispute resolution body must appoint a mediator to mediate the issue between the parties and assist parties to come to an agreement on the dispute. However, if no outcome can be reached through mediation, the party that filed the complaint may apply to the authorised dispute resolution body for the appointment of an adjudicator who will hear and determine whether there has been non-compliance and further determine whether the lease agreement is to be varied to correct the non-compliance and whether any compensation should be paid.

Settlement agreements may, with the consent of all other parties to the settlement agreement, be recorded as an order of court. An adjudicator's determination may also be enforced in the same manner as an order of court, if the conditions in the new legislation are met.

The new legislation and the latest version of the Code are expected to come into force in early February 2024.

Reference materials:

Lease Agreements for Retail Premises Bill (<https://sso.agc.gov.sg/Bills-Supp/25-2023/Published/20230704?DocDate=20230704>)

Second reading of the Bill (<https://sprs.parl.gov.sg/search/#/sprs3topic?reportid=bill-652>)

Code of Conduct for Leasing of Retail Premises in Singapore (<https://www.ftic.org.sg/wp-content/uploads/2023/11/Code-of-Conduct-for-Leasing-of-Retail-Premises-Version-3-dated-1-November-2023.pdf>)

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