



SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

SHOPPING CENTRE
COUNCIL OF AUSTRALIA

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[Previous Editions](#)

UNFAIR CONTRACT TERMS BILL NOW IN THE FEDERAL PARLIAMENT

Legislation to prohibit 'unfair terms' in contracts involving small businesses was introduced into the House of Representatives this week by the Minister for Small Business, Bruce Billson. The Bill will not be debated until after Parliament resumes on 10 August. The Bill and Explanatory Memorandum are available [here](#). There is no change to the previously announced thresholds. The Bill (which amends the *Competition and Consumer Act*) will only apply to 'standard form contracts' where at least one party to the contract employs fewer than 20 persons and the 'upfront price' under the contract does not exceed either \$100,000 or \$250,000 if the contract's duration is more than 12 months.

Disappointingly there have been no changes of substance to the Bill from the Exposure Draft released in April (*Shop Talk* [30/4/15](#) & [18/6/15](#)). The Government has not published the submissions on the Draft Bill but it appears not to have accepted any drafting recommendations from any stakeholder. The Bill therefore retains a reverse onus of proof, meaning the onus is on the party under challenge to prove that a contract is not a standard form contract and also to prove that a term is not unfair. This will undoubtedly encourage litigation. Nor does it appear to close a loophole in the Bill whereby large companies will be able to take advantage of the provisions of the Bill by holding contracts in the name of a related corporate entity which employs fewer than 20 employees - a practice that is common in the retail leasing industry. The Bill, when passed, will apply to contracts entered into or renewed (or terms which are varied) after a date which is 6 months after the legislation receives Royal Assent. This means that, unless the Bill is referred to a Senate Committee for examination, it is likely to pass the Parliament by the end of the year and become operative around the middle of 2016.

ENTRIES FOR SHOPPING CENTRE COUNCIL MARKETING AWARDS OPEN ON 1 JULY.

Entries in the *Shopping Centre Council of Australia Marketing Awards* open next Wednesday, 1 July, and close on Friday 7 August. Nomination guidelines are in the [Call for Entries](#) booklet. This year the Sabina Rust Memorial Award, for Campaign of the Year, has been increased to \$25,000 and the winning company will be obligated to send a relevant staff member to next year's *ICSC RECon Asia Pacific*, which includes a marketing stream and also the ICSC Asia-Pacific Marketing Awards. The Awards Dinner will be held on 27 October 2015 at the Ivy in Sydney. More details are available on the [SCCA Marketing Awards Website](#).

SOUTH AUSTRALIA DELIVERS STAMP DUTY RELIEF FOR COMMERCIAL PROPERTY

Last week, the SA Treasurer Tom Koutsantonis [announced](#) that stamp duty on the transfer of non-residential real property would be phased out from 1 July 2016 and abolished on 1 July 2018. The announcement in the 2015-16 Budget follows a comprehensive state tax review (*Shop Talk* [30/4/15](#)). We welcomed the Government's acknowledgement that commercial property is an important jobs creator and economic stimulator. Pleasingly, the abolition of stamp duty isn't being funded by increases in other commercial property taxes. If calls for the phasing out of stamp duty gain traction across the country without equivalent effort to comprehensively reform land tax - a tax which, despite claims of 'efficiency', is far from benign and impacts investment decisions and returns - there could be big budget holes across the country that commercial property could be looked to to fill. This risk is heightened in SA where the Government has ruled out a broad based land tax which includes the family home. Efforts will continue to see comprehensive land tax reform progressed in SA and through the current Federal Tax Review.