

CITY AREA LEASES.

No. 8 of 1924.^(c)

An Ordinance relating to the Leasing of Commonwealth Lands in the City Area of the Territory.

BE it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act* 1909 and the *Seat of Government (Administration) Act* 1910, as follows :—

1. This Ordinance may be cited as the *City Area Leases Ordinance* Short title. 1924.

2. The *City Leases Ordinance* 1921 and the *City Leases Ordinance* Repeal. 1924 are hereby repealed.

(b)

(a) Made on 18th June, 1924; notified in *Gazette* of 26th June, 1924; affected by No. 12 of 1924, *infra* p. 114.

(b) For previous Ordinances, see 1911–1916 vol., pp. 565, 571, and 574; and this vol., pp. 33 and 87.

(c) Made on 9th October, 1924; notified in *Gazette* of 10th October, 1924; affected by No. 12 of 1924, *infra* p. 114.

(d) Section 2A has since been inserted by No. 13 of 1924, *infra* p. 116.

Application of
Ordinance.

3.—(1.) This Ordinance shall apply to land the property of the Commonwealth within an area specified by the Minister by notice in the *Gazette*.

(2.) The Minister may, at any time, by notice in the *Gazette*, vary the area.

(3.) The area, as varied from time to time, is in this Ordinance referred to as "the City Area."

Power of
Minister to
grant leases

4. Subject to this Ordinance, the Minister may, in the name of the Commonwealth, grant leases of land for business or residential purposes or for both business and residential purposes.

Delegation by
Minister.

5.—(1.) Subject to this Ordinance, the Minister may, by notice in the *Gazette*, delegate to any person or authority all or any of his powers and functions under this Ordinance or any regulations made under this Ordinance (except this power of delegation) so that the delegated powers may be exercised by the delegate with respect to the matters or class of matters specified in the instrument of delegation.

(2.) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power by the Minister.

(3.) Judicial notice shall be taken of—

(a) the signature and seal of a person or authority to whom the Minister has delegated the power to grant leases under this Ordinance; and

(b) the fact that such power has been so delegated,

if such signature and seal purport to be attached appended or affixed to a lease granted under this Ordinance.

Aliens not to
hold leases.

6. A person who is not a British subject shall not at any time be capable of being a lessee or an assignee or transferee of a lease of land under this Ordinance.

Limitation as
to lease for
business
purposes.

7. A lease granted for business purposes or for business and residential purposes may specify the particular class or classes of business for which the leased land may be used.

Land only to
be used for
purpose for
which leased.

8. Land leased under this Ordinance shall not be used for any purpose other than the purpose specified in the lease.

Terms and
conditions
of leases.

9. A lease granted under this Ordinance shall be—

(a) for such period not exceeding 99 years; and

(b) subject to such conditions as to rent and otherwise,

as the Minister determines or as are prescribed.

Auctioning of
leases.

10.—(1.) Subject to this section, the Minister may offer by auction the right to a lease under this Ordinance of any unleased land.

(2.) Notice of the auction shall be published in the *Gazette* at least fourteen days prior to the date of the auction and shall set forth—

- (a) the date, time and place of the auction ;
- (b) the situation and description of the land to be offered for lease ;
- (c) the period of the lease ;
- (d) a description of the improvements (if any) on the land and the value placed upon the improvements ;
- (e) the period (not being less than one year) for which the successful bidder shall pay rent in advance at the time of auction ;
- (f) the period within which the value of the improvements (if any) shall be paid ;
- (g) the purposes for which the land may be used ; and
- (h) the reserve value (if any) placed by the Minister on each parcel of land to be offered.

(3.) Bidding at the auction shall be by capital sum representing the unimproved value of the land.

(4.) The successful bidder shall at the time of the auction pay to the Commonwealth the survey fee fixed by the Minister for surveying the parcel of land for which he is the successful bidder.

(5.) The successful bidder shall be entitled to and shall accept, sign and seal, a lease under this Ordinance of the parcel of land for which he is the successful bidder.

11.—(1.) Subject to this section, the Minister may, by notice in the *Gazette*, invite applications for the grant of a lease of any parcel of land.

Power of
Minister to
invite
applications
for leases.

(2.) A reserve value may be placed by the Minister on each parcel of land in respect of which applications for a lease are invited.

(3.) Applications shall be made in such form and contain such particulars and be subject to such conditions as the Minister directs.

(4.) Each applicant for a lease shall, in his application, state the unimproved value placed by him upon the parcel of land.

(5.) Other matters being equal, a lease of the parcel of land may be granted to the person placing the highest unimproved value on the parcel.

(6.) If two or more applicants place the same unimproved value on a parcel of land and are otherwise equally eligible as lessees the Minister may determine by ballot or otherwise the applicant to whom the lease may be granted.

(7.) The Minister may at any time before a lease is granted—

- (a) revoke the notice inviting applications for a lease ; and
- (b) invite fresh applications for the lease on the same or other conditions.

Rent.

12. Subject to this Ordinance, the rent payable in respect of a parcel of land leased under this Ordinance shall be at the rate of Five pounds per centum per annum of—

- (a) the unimproved value of the parcel as bid by the successful bidder at auction ; or
- (b) the unimproved value placed on the parcel by the successful applicant for a lease thereof,

as the case may be.

Power of
Minister to
grant lease
where amount
offered is less
than reserve
value.

13. If the highest unimproved value—

- (a) bid for a parcel of land at auction ; or
- (b) placed on a parcel of land by an applicant in his application for a lease

is less than the reserve value placed on the parcel by the Minister, the Minister may at any time thereafter grant a lease of such parcel at a rent of Five pounds per centum per annum of an unimproved value not less than the reserve value.

(a)

Re-appraise-
ment of value
of land.

14.—(1.) The unimproved value of land leased under this Ordinance shall be re-appraised by the prescribed authority during the twentieth year of the term of the lease and during each tenth year thereafter.

(2.) During the period of ten years next after the year of re-appraisalment the lessee shall pay as rent Five pounds per centum per annum of the re-appraised value or of the unimproved value of the land as determined on appeal under this Ordinance.

(3.) Notice of re-appraisalment under this section shall be given in writing by the prescribed authority to the lessee within fourteen days after the date of the re-appraisalment.

Appeals against
re-appraisalment

15.—(1.) For the purposes of this Ordinance there shall be an Appeal Board consisting of three persons appointed by the Minister, one of whom shall be appointed Chairman of the Board.

(2.) The Chairman and one other member shall form a quorum, but the Board shall not have power to decide an appeal unless a majority of all the members concur in the decision.

(3.) A lessee may within the prescribed time and in the prescribed manner appeal to the Board against a re-appraisalment.

(4.) The Board shall hear the appeal and determine the unimproved value of the land and for that purpose shall have power to summon witnesses, require the production of books and documents and take evidence on oath.

(5.) A determination by the Board under this section shall be final and conclusive and without appeal.

(a) Section 13A has since been inserted by No. 13 of 1924, *infra* p. 116.

16.—(1.) Where in a lease the lessee is required to erect a building on the leased land—

Assignment, mortgage, &c., of lease, where building required to be erected on land

- (a) the lease or any interest in the lease shall not, before completion of the building, be capable of being transferred or assigned either at law or in equity except in case of the death of the lessee; and
- (b) the land or any part thereof shall not, before completion of the building, be capable of being sublet for any period extending beyond the date upon which the lease requires the erection of the building to be commenced; and
- (c) the lease or any interest in the lease shall not, before completion of the building, be capable of being mortgaged without the previous consent of the Minister.

(2.) The Minister may consent to a mortgage of a lease or of an interest therein before completion of the building required by the lease to be erected on the land where he is satisfied that the money to be advanced under the mortgage is *bona fide* required by the lessee for the purpose of erecting the building.

17.—(1.) Each parcel of land leased under this Ordinance shall at all times be held and occupied by or under the lessee as one undivided parcel.

Land leased to be held as one undivided parcel.

(2.) Subject to the last preceding section and to this section the leased land may be sublet and the lease and any interest therein may be assigned, transferred or mortgaged.

18.—(1.) The Minister may, by notice in writing to the lessee of land leased under this Ordinance, require the lessee to erect a fence on the boundary or any portion of the boundary of the land leased.

Fences.

(2.) Where the boundary to be fenced is a common boundary between two parcels of land leased under different leases the Minister may, by notice in writing to each of the lessees, require them jointly to erect the fence.

(3.) A notice under this section shall specify the fence to be erected and the portion of the boundary upon which it is to be erected.

(4.) If a fence in compliance with the notice is not erected within one month after the date of the notice—

- (a) the Minister may, at the cost of the lessee, cause the fence to be erected; and
- (b) the lessee shall pay to the Minister on demand the amount fixed by the Minister as the cost of erecting the fence or as the proportion payable by the lessee of that cost.

(5.) Where a fence is erected on a boundary of land leased under this Ordinance, which boundary at the time of the erection of the fence was not a common boundary between that land and other land leased under this Ordinance under a different lease but which subsequently becomes such a common boundary, the lessee of the firstly

mentioned land may recover in any Court of competent jurisdiction from the lessee of the secondly mentioned land half the cost of the erection of the fence less depreciation (if any) to the time of the grant of the lease of the secondly mentioned land.

Land to be kept clean.

19.—(1.) Land leased under this Ordinance shall at all times be kept by the lessee clean, tidy, and free from debris, dry herbage, rubbish, carcasses of animals and other unsightly or offensive matter.

(2.) Upon a non-compliance with this section the Minister may at the cost of the lessee cause any matter or thing to be removed from the land and restore the land to a clean and tidy condition.

(3.) The lessee shall pay to the Minister on demand the amount fixed by the Minister as the cost incurred by the Minister by reason of the failure of the lessee to comply with sub-section (1.) of this section.

Amounts demanded under ss. 18 and 19 deemed to be rent unpaid.

20. Any amount demanded by the Minister pursuant to section eighteen or section nineteen of this Ordinance shall as from the date of the demand be deemed for all purposes under the lease to be rent payable and unpaid by the lessee under the lease.

Leases Ordinance 1918-1923 not to apply.
Regulations.

21. The *Leases Ordinance 1918-1923* shall not apply to any land leased pursuant to this Ordinance.

22.—(1.) The^(a) Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and in particular prescribing matters providing for and in relation to—

- (a) the periods for which leases may be granted ;
- (b) the rent payable under leases ;
- (c) the forms of leases and the covenants and conditions to be contained therein ;
- (d) the method of recovering moneys due and unpaid under leases ; and
- (e) the determination of leases for non-fulfilment of conditions.

(2.) All regulations made by the Minister under this Ordinance shall—

- (a) be notified in the *Gazette* ;
- (b) take effect from the date of the notification or from a later date specified in the Regulations ; and
- (c) be laid before both Houses of the Parliament within thirty days of the making thereof or, if the Parliament is not then sitting, within thirty days after the next meeting of the Parliament.

(3.) If either House of the Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation, the regulations shall thereupon cease to have effect.

(a) This section has since been repealed by No. 12 of 1924, *infra* p. 114.