

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 31 of 1936.

AN ORDINANCE

Relating to the Leasing of Commonwealth Lands in the City Area of the Territory.

BE it ordained by the Deputy of the Governor-General in and over 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* 1910-1933, as follows:—

1. This Ordinance may be cited as the *City Area Leases* Short title. Ordinance 1936.

2.—(1.) The Ordinances set out in the Schedule to this Repeal. Ordinance are repealed.

(2.) Any lease granted or any notice given under any repealed Ordinance, and in force immediately prior to the commencement of this Ordinance, and any right, title, interest, power, duty, obligation, liability or privilege created by, acquired under, or by virtue or in respect of, any repealed Ordinance or any such lease or notice, shall continue to be in force as if this Ordinance had been in operation at the time the lease was granted or notice given or the right, title, interest, power, duty, obligation, liability or privilege accrued or was acquired or incurred, and the lease or notice had been granted or given, and the land included in any such lease had been leased, and the right, title, interest, power, duty, obligation, liability or privilege had accrued or had been acquired or incurred, under this Ordinance, and this Ordinance shall apply to and in relation to any such lease or notice or land and to and in relation to any such right, title, interest, power, duty, obligation, liability or privilege accordingly.

3. In this Ordinance, unless the contrary intention appears— Definitions.

“lease” means a lease under this Ordinance and includes any lease granted under any repealed Ordinance;

“lessee” means the grantee of a lease and includes the person to whom any lease passes by assignment, transfer, devolution or operation of law;

“Real Property Ordinance” means the *Real Property Ordinance* 1925 and includes that Ordinance as subsequently amended; and

“repealed Ordinance” means any Ordinance repealed by section two of this Ordinance and includes any such Ordinance as subsequently amended.

Application of Ordinance.

4.—(1.) This Ordinance shall apply to land the property of the Commonwealth within the area specified by the Minister, in pursuance of any repealed Ordinance, by notice in the *Gazette*, as varied by the Minister in pursuance of any such Ordinance.

(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.

5. 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.

6.—(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; 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.

Power of aliens to hold leases and sub-leases.

7. A person who is not a British subject shall not at any time, except with the approval of the Minister, be capable of being—

(a) a lessee, or an assignee or transferee of a lease;

(b) a sub-lessee under a sub-lease from the lessee or any other person of a parcel of land, or portion of a parcel of land, included in a lease, or an assignee or transferee of any such sub-lease; or

(c) a sub-lessee under a sub-lease from the lessee or any other person of any portion of a building erected on a parcel of land included in a lease or an assignee or transferee of any such sub-lease.

8. A lease granted for business purposes or for business and residential purposes may specify the particular class or classes of business for which the land included in the lease may be used. Limitation as to lease for business purposes.

9. The land included in a lease shall not be used for any purpose other than the purpose specified in the lease. Land only to be used for purpose for which leased.

10.—(1.) Where in any lease the lessee covenants to use the land included in the lease for residential purposes only, the land shall not be deemed to be used for any other purpose by reason only of any person, *bona fide* resident on the land, carrying on, with and subject to the approval of the Minister, and in accordance with such conditions relating to the use of the land as the Minister specifies, his profession, trade, occupation or calling on the land. Power to carry on profession, &c., on land leased for residential purposes only.

(2.) The Minister may approve in writing of any person *bona fide* residing on any such land, carrying on his profession, trade, occupation or calling on the land for such period as the Minister specifies, and may in the instrument of approval or any subsequent instrument specify the conditions relating to the use of the land to be observed by that person in so carrying on his profession, trade, occupation or calling:

Provided that the Minister shall not approve—

- (a) of the carrying on of any offensive trade on the land;
- (b) of the doing of any act or thing in connexion with the carrying on of any profession, trade, occupation or calling on the land which may become a danger or nuisance to the tenants or occupiers of adjoining lands; or
- (c) of the carrying on of any profession, trade, occupation or calling on the land if he is satisfied that it is not in the public interest so to do.

(3.) Any instrument approving of the carrying on of any profession, trade, occupation or calling on any such land, or specifying the conditions under which the profession, trade, occupation or calling may be so carried on, shall be forthwith published in the *Gazette*.

11.—(1.) Where in any lease the lessee covenants to use the land included in the lease for shop purposes only or for any purpose incidental thereto, the land shall not be deemed to be used for any other purpose by reason only of any person duly licensed under the *Billiard Saloon Ordinance* 1926 conducting either as lessee or sub-lessee, with and subject to the approval of the Minister and in accordance with such conditions relating to the use of the land as the Minister specifies, a billiard saloon on the land. Power to carry on billiard saloon on land leased for shop purposes.

(2.) The Minister may approve in writing of any person duly licensed under the *Billiard Saloon Ordinance* 1926 conducting a billiard saloon on such land for such period as the Minister specifies,

and may, in the instrument of approval, or any subsequent instrument, specify the conditions relating to the use of the land to be observed by that person in so conducting the billiard saloon:

Provided that the Minister shall not approve—

- (a) of the doing of any act or thing in connexion with the conducting of the billiard saloon on the land which may become a nuisance to the tenants or occupiers of adjoining lands; or
 - (b) of the conducting of a billiard saloon on the land if he is satisfied that it is not in the public interest so to do.
- (3.) Any instrument approving of the conducting of a billiard saloon on any such land, or specifying the conditions under which the billiard saloon may be so conducted, shall be forthwith published in the *Gazette*.

Terms and
conditions of
leases.

12. A lease shall be—

- (a) for such period not exceeding 99 years; and
- (b) subject to such covenants and conditions as to rent and otherwise,

as the Minister determines or as are prescribed.

Auctioning of
leases.

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

(2.) Where there are improvements on the land the Minister may—

- (a) if the bidding is to be by capital sum representing the unimproved value of the land, fix the amount payable for the improvements; and
- (b) if the bidding is to be by capital sum representing the value of the improvements, fix the unimproved value of the land for the purpose of payment of rent.

(3.) The Minister may place a reserve value on each parcel of land, or on the improvements on each parcel of land, the right to the lease of which is to be offered by auction.

(4.) 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, if the bidding at the auction is to be by capital sum representing the unimproved value of the land, the amount payable for the improvements;

- (e) if the bidding at the auction is to be by capital sum representing the value of the improvements on the land, the unimproved value of the land fixed for the purpose of payment of rent;
- (f) the period (not being less than one year) for which the successful bidder shall pay rent in advance at the time of auction;
- (g) the period within which, and the terms and conditions upon which, the successful bidder shall pay for the improvements (if any);
- (h) the purposes for which the land may be used;
- (i) the reserve value placed by the Minister on each parcel of land, or on the improvements on each parcel of land to be offered; and
- (j) the nature of the bidding at the auction.

(5.) Bidding at the auction shall be by capital sum representing the unimproved value of the land or the value of the improvements (if any) on the land, as the Minister thinks fit.

(6.) Where the bidding at the auction is by capital sum representing the unimproved value of the land, the successful bidder shall, at the time of the auction, pay to the Minister a sum representing the difference (if any) between the reserve value placed by the Minister on the parcel of land for which he is the successful bidder and the unimproved value of the parcel as bid by the successful bidder.

(7.) 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.

(8.) 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.

(9.) Where the successful bidder has failed to accept, sign and seal, within three months after the date of the auction, a lease of the parcel of land for which he is the successful bidder, the Minister may, at any time during which the failure continues, by notice in the *Gazette*, after at least three months' notice (given in accordance with the provisions of this section) of his intention so to do, determine the right of the successful bidder to the lease.

(10.) The notice of the intention of the Minister to determine the right of the successful bidder to the lease shall be given in writing and signed by the Minister and shall be deemed to have been duly given to the successful bidder if it is delivered to him or sent by registered letter addressed to him at his last known place of abode or his address given to the Minister at the date of the auction, or if it is posted in a conspicuous place on the land to which it relates.

(11.) Where the notice of intention is sent by registered letter, it shall be deemed to have been received by the successful bidder on the date on which in the ordinary course of post it would have been delivered at his last known place of abode or the address given at the date of the auction (as the case may be).

(12.) Where a successful bid has been made by a person purporting to bid as the agent of another person and the secondly mentioned person has not acknowledged to the Minister the authority in that behalf of the person bidding or ratified the bid, the notice of the intention of the Minister to determine the right of the successful bidder to the lease may be given in accordance with the provisions of this section as if either of the persons mentioned in this sub-section were the successful bidder.

(13.) A person whose right to a lease of a parcel of land has been determined under this section shall not have any claim for compensation in respect of the determination or for the recovery of any rent or other moneys paid to the Minister in respect of that parcel of land.

Power to
invite
applications
for leases.

14.—(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.

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

(3.) Notwithstanding anything contained in this section, the Minister may, where there are improvements on the land, fix the amount payable for the improvements.

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

(5.) Each applicant for a lease shall, in his application, state the unimproved value placed by him upon the parcel of land, or the value placed by him upon the improvements thereon, or both, as the Minister requires.

(6.) Other matters being equal, a lease of the parcel of land may be granted to the person placing the highest unimproved value upon the parcel, or the highest value upon the improvements, or both, as the case may be.

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

(8.) The successful applicant under this section for the lease of a parcel of land on which a reserve value has been placed by the Minister shall, before the lease is granted, pay to the Minister a sum representing the difference (if any) between the reserve

value placed by the Minister on the parcel of land and the unimproved value placed on the parcel by the successful applicant in his application.

(9.) 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.

15. If the highest unimproved value or the highest value for improvements—

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

Power to grant leases where amount offered is less than reserve value.

is less than the reserve value placed on the parcel or the improvements, or both, by the Minister, the Minister may at any time thereafter grant a lease of that parcel under this Ordinance.

16. If—

- (a) no bid is received for the right to a lease of a parcel of land offered by auction; or
- (b) no application is received for the grant of a lease of a parcel of land for which applications have been invited by the Minister,

Power of Minister to grant lease where no offer made.

the Minister may, at any time thereafter, grant a lease of such parcel under this Ordinance.

17. The Minister may grant a lease of any unleased land under this Ordinance notwithstanding that the right to the lease has not been offered by auction and that applications for the lease have not been invited under section fourteen of this Ordinance.

Power to lease without auction or inviting applications.

18.—(1.) Subject to this Ordinance, the rent payable in respect of a parcel of land included in any lease granted prior to the fourth day of January, One thousand nine hundred and thirty-five, shall be at the rate of Five pounds per centum per annum of—

Rent.

- (a) the reserve value (if any) placed by the Minister on the parcel in pursuance of any repealed Ordinance, or, if no such reserve value has been placed thereon, the unimproved value of the parcel as bid by the successful bidder at auction or as fixed by the Minister in pursuance of any repealed Ordinance, as the case may be, where the lease is offered by auction; or
- (b) the reserve value (if any) placed by the Minister on the parcel in pursuance of any repealed Ordinance, or if no such reserve value has been placed thereon, the unimproved value placed on the parcel by the

successful applicant for a lease thereof, or as fixed by the Minister in pursuance of any repealed Ordinance, as the case may be, where applications are invited for the lease.

(2.) Subject to this Ordinance, the rent payable in respect of a parcel of land included in any lease granted on or after the fourth day of January, One thousand nine hundred and thirty-five, shall be at the rate of Five pounds per centum per annum of—

(a) the reserve value (if any) placed by the Minister on the parcel in pursuance of this Ordinance, or, if no such reserve value is or has been placed thereon, the unimproved value of the parcel as bid by the successful bidder at auction or as fixed by the Minister in pursuance of this Ordinance, as the case may be, where the lease is offered by auction; and

(b) the reserve value (if any) placed by the Minister on the parcel in pursuance of this Ordinance or any repealed Ordinance, or, if no such reserve value is or has been placed thereon, the unimproved value placed on the parcel by the successful applicant for a lease thereof, or as fixed by the Minister in pursuance of this Ordinance, as the case may be, where applications are invited for the lease.

(3.) Subject to this Ordinance, the rent payable in respect of a parcel of land included—

(a) in any lease granted under section eleven A, thirteen or thirteen A of the *City Area Leases Ordinance 1924*, or of that Ordinance as subsequently amended; or

(b) in any lease granted under section fifteen, sixteen or seventeen of this Ordinance,

shall be at the rate of Five pounds per centum per annum of the unimproved value of the parcel as determined—

(c) in the case of any lease referred to in paragraph (a) of this sub-section, in pursuance of any repealed Ordinance; or

(d) in the case of any lease referred to in paragraph (b) of this sub-section, by the Minister.

(4.) Nothing in this section shall prevent the enforcement of any covenant by a lessee to pay additional rent where any amount of rent payable under his lease remains unpaid for such period as is specified in the lease.

Payment for
improvements.

19.—(1.) The grant of a lease may be subject to payment by the lessee for the improvements (if any) on the land at the commencement of the lease.

(2.) The amount payable for the improvements shall be—

- (a) where the right to the lease is offered by auction—
 - (i) the amount fixed by the Minister; or
 - (ii) the value of the improvements bid by the successful bidder,
 as specified in the notice of the auction;
- (b) where applications are invited for the grant of the lease—
 - (i) the amount fixed by the Minister; or
 - (ii) the value placed upon the improvements by the successful applicant,
 as specified in the notice inviting the applications; and
- (c) where the lease is granted in pursuance of section fifteen, sixteen or seventeen of this Ordinance—the amount fixed by the Minister,

and shall be paid in accordance with the provisions of this section.

(3.) Where the right to the lease is offered by auction, the successful bidder may—

- (a) at the time of the auction pay the whole of the amount payable for the improvements;
- (b) subject to such terms and conditions as the Minister thinks fit, pay that amount (together with such interest thereon as is fixed by the Minister) by such instalments as the Minister determines; or
- (c) at the time of the auction pay part of that amount, and execute in favour of the Commonwealth a mortgage of the land included in the lease, in such form as the Minister thinks fit, to secure the payment of the balance of the purchase money and such interest as is provided for in the mortgage.

(4.) Where—

- (a) applications are invited for the grant of the lease; or
- (b) a person has entered into an agreement with the Minister for the grant of a lease under section fifteen, sixteen or seventeen of this Ordinance, or has offered to accept a lease under any of those sections and has paid rent or other moneys to the Minister in respect of the land to which the offer relates,

the successful applicant or that person, as the case may be, may—

- (i) on or before the date of the grant of the lease pay the whole of the amount payable for the improvements;
- (ii) subject to such terms and conditions as the Minister thinks fit, pay that amount (together with such interest thereon as is fixed by the Minister) by such instalments as the Minister determines; or

- (iii) on or before the date of the grant of the lease, pay part of that amount, and execute in favour of the Commonwealth a mortgage of the land included in the lease, in such form as the Minister thinks fit, to secure the payment of the balance of the purchase money and such interest as is provided for in the mortgage.

(5.) A mortgage executed in pursuance of this section may contain such covenants as the Minister thinks fit.

(6.) The Minister may, in the name of the Commonwealth, take any such mortgage, and may, in relation to any mortgage so taken, do, for or on behalf of the Commonwealth, any or all of the acts or things which the Commonwealth as mortgagee is empowered, permitted or required to do.

(7.) Where, prior to the commencement of this Ordinance, the Minister or any other authority or person has purported to take a mortgage of land included in any lease to secure to the Commonwealth or any authority under the Commonwealth the payment of any part of the amount payable for the improvements on the land, that mortgage shall be deemed to be and at all times to have been as valid and effectual for all purposes as if this Ordinance had been in force when the Minister, authority or person purported to take it, and as if it had been taken by the Minister in pursuance of this section.

**Payment of
survey fees.**

20.—(1.) The lessee of any land included in a lease under section fourteen, fifteen, sixteen or seventeen of this Ordinance shall pay to the Minister the survey fee fixed by the Minister for surveying the land.

(2.) The survey fee shall, unless sooner paid, be paid within such time after the date of the lease as the Minister determines.

**Determination
of right to
grant of lease.**

21.—(1.) Where any person, who has entered into an agreement with the Minister for the grant of a lease under section fifteen, sixteen or seventeen of this Ordinance, or who has offered to accept a lease under any of those sections and has paid any rent or other moneys to the Minister in respect of the land to which the offer relates, has failed to accept, sign and seal within three months after the date of the agreement or the date of the first payment of any such rent or other moneys, a lease of the land to which the agreement or the offer relates, the Minister may, at any time during which the failure continues, by notice in the *Gazette*, after at least three months' notice (given in accordance with the provisions of this section) of his intention so to do, determine that person's right (if any) to be granted the lease.

(2.) The notice of the intention of the Minister to determine, in accordance with the provisions of this section, the right (if any) of any person to be granted a lease under this Ordinance shall be given in writing and signed by the Minister and shall be deemed to have been duly given to that person if it is delivered to him or

sent by registered letter addressed to that person at his last known place of abode or his address specified in the agreement or the offer or if it is posted in a conspicuous place on the land to which it relates.

(3.) Where the notice of intention is sent by registered letter, it shall be deemed to have been received by the person to whom it is addressed on the date on which in the ordinary course of post it would have been delivered at his last known place of abode or his address specified in the agreement or the offer (as the case may be).

(4.) Where a notice is published in the *Gazette* in pursuance of sub-section (1.) of this section, the person to whom the notice relates shall not have any claim for compensation in respect of the determination of any right which he had to be granted a lease under this Ordinance, or for the recovery of any rent or other moneys paid to the Minister under the agreement or in respect of the land to which the offer relates.

22.—(1.) Where by virtue of any provision contained in any lease the Commonwealth may determine the lease, the lease shall not be determined until fourteen days' notice that the Commonwealth intends, in pursuance of the powers contained in the lease, to determine the lease and setting out fully the conditions for failure to comply with which the lease may be determined has been given to the following persons:—

Determination
of leases.

- (a) The lessee;
- (b) Where the land included in the lease is subject to a mortgage or other encumbrance registered under the Real Property Ordinance—the mortgagee or encumbrancee;
- (c) Where any person has any interest, registered under that Ordinance, in the lease or the land—that person; and
- (d) Where a caveat lodged under that Ordinance is in force in respect of the land—the caveator.

(2.) Any notice by the last preceding sub-section required to be given to any person shall be in writing signed by the Minister and shall be deemed to have been duly given if—

- (a) in the case of a lessee—it is delivered to him or sent by registered post addressed to the lessee at his last known place of abode or his address specified in the lease, or if it is posted in a conspicuous place on the land to which it relates; and
- (b) in the case of any person referred to in paragraphs (b), (c) or (d) of that sub-section—it is delivered to that person or sent by registered post addressed to him at his address as entered in the Register Book kept under the Real Property Ordinance or appointed in the caveat as the place at which notices relating to the caveat may be served, as the case may be.

(3.) The lessee may furnish to the Minister any explanation of the reason why he has not complied with the conditions specified in the notice.

(4.) If the Minister is satisfied with the explanation, he may waive the non-compliance and may direct that the conditions be complied with within such time as he thinks fit.

(5.) If no explanation is furnished, or if the Minister is not satisfied with the explanation furnished, he may—

- (a) give notice in writing to the lessee to comply with the conditions within such time as he thinks fit; or
- (b) if he considers the non-compliance to have been wilful and that the lessee has made no real effort to comply with the conditions of his lease, by notice in the *Gazette* determine the lease.

(6.) If a lessee fails to comply with any direction under sub-section (4.) or with any notice under paragraph (a) of sub-section (5.) of this section, the Minister may, by notice in the *Gazette*, determine the lease.

(7.) Any notification in the *Gazette* in pursuance of sub-section (5.) or (6.) of this section shall be conclusive evidence of the lease having been determined.

(8.) Notice of the determination of the lease shall also be given, in writing signed by the Minister, to the persons referred to in sub-section (1.) of this section in the manner specified in sub-section (2.) thereof.

Reduction of rent and relief from conditions in the case of approved associations.

23.—(1.) Notwithstanding anything contained in this Ordinance or in any repealed Ordinance or in any other Ordinance, the Minister may, in respect of any period, whether commencing before, at or after the commencement of this section, or whether commencing before, at or after the giving of the approval, approve of—

- (a) the reduction of the rent payable by any approved association under its lease; or
- (b) the grant of relief, to any approved association, from compliance, wholly or in part, with any covenant or condition to which its lease is subject,

and thereupon the liability and obligation of the lessee under the lease shall, in respect of that period, be discharged to the extent of the reduction or grant of relief approved.

(2.) Any grant of relief approved in pursuance of the last preceding sub-section may be absolute or subject to such conditions as the Minister thinks fit.

(3.) Upon the exercise of any power under this section, the Minister shall send by post or deliver or cause to be sent by post or delivered to the lessee, a memorandum specifying the reduction or the grant of relief approved by the Minister, and any such

memorandum which purports to be signed by the Minister or by the Secretary to the Department of the Interior or by the Surveyor-General and Chief Property Officer, shall be conclusive evidence of the facts stated therein.

(4.) For the purposes of this section "approved association" means any society, association or other body which is not carried on for profit or gain to the individual members thereof and which the Minister declares, by notice in the *Gazette*, to be, for the purposes of this section, an approved association.

24. Notwithstanding anything contained in this Ordinance, or in any repealed Ordinance, or in the conditions and covenants subject to which any lease is or has been granted, but without prejudice to the operation of section twenty-three of this Ordinance or to the effect of anything done under that section—

Reduction of rent and unimproved value of certain lands.

- (a) the rate at which any lessee under any such lease has covenanted or covenants to pay rent shall, in respect of any portion of the term of the lease which fell or falls within the period commencing on the first day of July, One thousand nine hundred and thirty-one and ending on a date to be fixed by the Minister by notice published in the *Gazette*, be reduced and be deemed at all times to have been reduced by Twenty per centum of that rate;
- (b) the Minister may, in respect of a period not exceeding five years from the first day of January, One thousand nine hundred and thirty-three, reduce the unimproved capital value of any parcel of land included in a lease, and the unimproved capital value as so reduced shall, in respect of that period, be deemed to be and at all times to have been the unimproved capital value of the parcel of land for the purposes of this Ordinance or of any repealed Ordinance; and
- (c) where, prior to the commencement of this Ordinance, the Minister has purported to reduce the unimproved capital value of any parcel of land referred to in the last preceding paragraph, that reduction shall be as valid and effectual as if this Ordinance had been in force when the Minister purported to make the reduction.

25.—(1.) The unimproved value of land included in a lease shall be re-appraised by the prescribed authority during the twentieth year of the term of the lease and during each twentieth year thereafter.

Re-appraisal of value of land.

(2.) During the period of twenty years next after the year of re-appraisal, 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.

Commencement
of term of lease
for certain
purposes.

26.—(1.) Where a lessee of a parcel of land surrenders his lease for the purpose of being granted, in substitution for the surrendered lease, a lease under this Ordinance of another parcel of land, whether including the first mentioned parcel or any portion thereof or otherwise, the term of the lease granted in substitution for the surrendered lease shall for the purposes of the last preceding section—

- (a) if only one lease is surrendered or if two or more leases which commenced on the same date are surrendered—be deemed to have commenced on the date of the commencement of the term of the surrendered lease or leases; or
- (b) if two or more leases are surrendered and the dates of the commencement of the terms of those leases differ—be deemed to have commenced on such date as the Minister determines and as is acknowledged by the lessee in the lease granted in substitution for the surrendered leases.

(2.) Where any lease contains an acknowledgment by the lessee that the lease has been granted in substitution for a surrendered lease, or that, for the purposes of the re-appraisalment of the unimproved value of the land included in the lease, the lease shall be deemed to have commenced on the date specified in the acknowledgment, the acknowledgment shall be conclusive evidence of the facts therein stated.

Appeals against
re-appraisal-
ment.

27.—(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 those purposes 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.

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

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

- (a) the lease or any interest in the lease shall not, before completion of a building on the land in accordance with a building plan or design prepared or

- approved by the Minister for the building to be erected on the land, be capable of being transferred or assigned either at law or in equity, without the consent of the Minister, except in case of the death of the lessee or except through the operation of any law relating to bankruptcy or insolvency; and
- (b) the land, or any part thereof, shall not, before completion of a building thereon in accordance with that building plan or design, be capable of being sub-let 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 a building on the land in accordance with that building plan or design, be capable of being mortgaged without the consent of the Minister.

(2.) The Minister may consent to a mortgage of a lease or of an interest therein before completion of a building in accordance with a building plan or design prepared or approved by the Minister for the building 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 or completing a building on the land in accordance with that building plan or design.

(3.) The Minister may consent to a legal or an equitable transfer or assignment of a lease or an interest in a lease where he is satisfied that the transferee—

- (a) *bona fide* intends to carry out the covenant to erect a building in accordance with the lease; and
- (b) has given such security (if any) therefor as the Minister thinks fit.

29.—(1.) Subject to section thirty of this Ordinance, each parcel of land included in a lease 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 but may be sub-let.

(2.) Subject to this Ordinance, the land may be sub-let and the lease and any interest therein may be assigned, transferred or mortgaged.

30.—(1.) Any portion of a building erected on a parcel of land included in a lease may, subject to the lease and any sub-lease of the land, be sub-let separately from the remainder of that building.

Power of lessee to sub-let portion of building or land in certain cases.

(2.) Where a portion of a building is sub-let separately from the remainder of the building, any portion of the parcel of land on which the building is erected may, with the consent of the Minister, be sub-let with the portion of the building separately from the remainder of the parcel of land, provided that that

portion of the parcel of land adjoins that portion of the parcel of land on which the portion of the building is erected.

Fences.

31.—(1.) The Minister may, by notice in writing to a lessee, require the lessee to erect a fence on the boundary or any portion of the boundary of the land included in his lease.

(2.) Where the boundary to be fenced is a common boundary between two parcels of land included in 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, in any building plan or design prepared or approved by the Minister for buildings or other structures to be erected on land subject to this Ordinance, a fence is shown or provided for on the common boundary or portion of the common boundary between two parcels of land, the lessee of either of the parcels of land shall have the right, power and authority to erect, maintain and use a fence in the position shown upon the plan or design, and the lessee who has erected any such fence may recover in any Court of competent jurisdiction from the lessee of the other parcel of land half the cost of the erection of the fence, less depreciation (if any) up to the time when proceedings may be commenced.

(6.) Proceedings in pursuance of the last preceding sub-section may be commenced—

- (a) where the other parcel of land is leased at the time of the commencement of the erection of the fence—at any time within six months after that time; and
- (b) where a lease in respect of the other parcel of land is granted after the time of the commencement of the erection of the fence—at any time within six months after the commencement of the lease.

(7.) The lessees of two parcels of adjoining land may agree as to the lessee by whom a fence shall be erected on the common boundary or portion of the common boundary between the two parcels of land, and in what proportion the cost of erection shall be borne by them.

(8.) In default of agreement between the lessees as to the apportionment of the cost of erecting a fence, the Minister may, at the request of either lessee, determine the cost of erecting the fence and the proportion of the cost to be borne by each lessee.

(9.) The amount agreed upon or determined by the Minister as payable by one lessee to another lessee under this section shall be a debt due and recoverable by the other lessee in any Court of competent jurisdiction.

(10.) Where, after the commencement of this section, a building is erected by or for the Commonwealth on a parcel of land adjoining a parcel of land held by a lessee, the Commonwealth shall, upon application by the lessee within six months after the commencement of the erection of the building, pay to the lessee half the cost of any fence approved by the Minister which has been erected by him on the common boundary or portion of the common boundary between the two parcels of land, less depreciation (if any) to the time of the commencement of the erection of the building, or, if the fence is not approved by the Minister, such reasonable amount as the Minister determines.

32.—(1.) In this section, “party-wall” means a wall or structure designed for the common use of two or more buildings and erected or to be erected upon a common boundary or portion of a common boundary between two parcels of land subject to this Ordinance, and extending laterally into each of such parcels of land, and includes any wall, wholly or partly used for the support of two or more buildings and erected in connexion with a building in respect of which a certificate of completion has been issued under the provisions of the Canberra Building Regulations made under the *Building and Services Ordinance* 1924, or under that Ordinance as subsequently amended, and in force at the time of the issue of the certificate. Party-walls.

(2.) Where in any building plan or design prepared or approved by the Minister for buildings to be erected on land subject to this Ordinance a party-wall is shown or provided for on the common boundary or portion of the common boundary between two parcels of land—

- (a) the lessee of each of the parcels of land shall, during the continuance of his lease, have the right, power and authority—
 - (i) to erect, maintain and use a party-wall in the position shown upon the building plan or design; and
 - (ii) to use for the support of the building or buildings provided for in or shown upon the building plan or design and erected upon the parcel of land of which he is lessee any party-wall so erected;

- (b) the lessees of the two parcels of land may agree as to the lessee by whom the party-wall shall be erected and in what proportions the cost of erection shall be borne by them;
- (c) where a lessee of one parcel of land has at his own expense erected a party-wall, the lessee of the other parcel of land shall forthwith after commencing the erection of a building on the other parcel of land pay to the first-mentioned lessee a proportion of the cost of the erection of the party-wall;
- (d) in default of agreement between lessees as to the apportionment of the cost of erecting a party-wall, the Minister may at the request of either lessee determine the cost of erecting the party-wall, and the proportion of the cost to be borne by each lessee;
- (e) where any period has elapsed between the date of completion of the party-wall by the lessee of one parcel of land and the date of the commencement of the erection of a building on the other parcel of land, a reasonable allowance shall be made for depreciation of the party-wall in determining the proportion payable by the other lessee of the cost of erection of the party-wall; and
- (f) the amount agreed upon or determined by the Minister as payable by one lessee to another lessee under this section shall be a debt due and recoverable by the other lessee in any Court of competent jurisdiction.

Rent paid under lease surrendered for larger lease.

33. Where the lessee of one parcel of land surrenders his lease or his right to a lease of that parcel for the purpose of being granted a lease under this Ordinance of another parcel of land whether including the first mentioned parcel or any portion thereof or otherwise—

- (a) any rent paid, at the date of surrender of the first mentioned lease or the right thereto, in respect of the unexpired portion of the lease shall be deemed to have been paid as rent in respect of the lease of the other parcel of land; and
- (b) the Minister may, at his discretion, remit any fee or any portion of any fee payable under the Real Property Ordinance in respect of the registration of that surrender or in respect of the grant of the lease of the other parcel of land or in respect of bringing that parcel of land under that Ordinance.

Rent paid under lease granted in substitution for surrendered lease of same land.

34. Where the lessee of a parcel of land surrenders or has surrendered his lease of that parcel and is or has been granted a lease of the same parcel of land commencing on the same date as the surrendered lease, any rent paid at the date of surrender of the first-mentioned lease in respect of that lease shall be deemed to have been paid as rent in respect of the secondly-mentioned lease.

35.—(1.) The land included in a lease 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. Land to be kept clean.

(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.

36. Any amount demanded by the Minister in pursuance of section thirty-one or section thirty-five 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. Amounts demanded under ss. 31 and 35 deemed to be rent unpaid.

37. The *Leases Ordinance* 1918-1933 shall not apply to any land included in a lease under this Ordinance or any repealed Ordinance. Leases Ordinance 1918-1933 not to apply.

38. The 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— Regulations.

- (a) the periods for which leases may be granted;
- (b) the forms of leases and the covenants and conditions to be contained therein;
- (c) the method of recovering moneys due and unpaid under leases;
- (d) the determination of leases for non-fulfilment of covenants or conditions;
- (e) the method of recovering land on the determination of leases;
- (f) the easements and other rights and privileges which may be included in any lease as appurtenant to the land included in the lease;
- (g) the imposition, by way of damages recoverable summarily as a debt due to the Commonwealth, of a fine, whether in substitution for or in addition to the determination of the lease or not, not exceeding Five pounds or, where the breach is a continuing breach, of Five pounds per day for every day the breach continues, for the breach by a lessee of any covenant contained in his lease.

THE SCHEDULE.

Section 2.

ORDINANCES REPEALED BY THIS ORDINANCE.

City Area Leases Ordinance 1924 (No. 8 of 1924).
City Area Leases Ordinance (No. 2) 1924 (No. 13 of 1924).
City Area Leases Ordinance 1925 (No. 10 of 1925).
City Area Leases Ordinance 1926 (No. 5 of 1926).
City Area Leases Ordinance (No. 2) 1926 (No. 9 of 1926).
City Area Leases Ordinance (No. 3) 1926 (No. 18 of 1926).
City Area Leases Ordinance 1929 (No. 13 of 1929).
City Area Leases Ordinance 1934 (No. 20 of 1934).
City Area Leases Ordinance 1935 (No. 1 of 1935).
City Area Leases Ordinance (No. 2) 1935 (No. 17 of 1935).

Dated this seventeenth day of July, 1936.

HUNTINGFIELD

Deputy of the Governor-General.

By His Excellency's Command,

T. PATERSON

Minister of State for the Interior.

By Authority: L. F. JOHNSTON, Commonwealth Government Printer, Canberra.