

# AUSTRALIAN CAPITAL TERRITORY.

No. 8 of 1951.

## AN ORDINANCE

### To amend the City Area Leases Ordinance 1936-1950.

**B**E it ordained by the Administrator of the Government 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 1909-1938* and the *Seat of Government (Administration) Act 1910-1947*, as follows:—

1.—(1.) This Ordinance may be cited as the *City Area Leases Ordinance 1951*.\*

Short title and citation.

(2.) The *City Area Leases Ordinance 1936-1950*, as amended by this Ordinance, may be cited as the *City Area Leases Ordinance 1936-1951*.

2. After section twenty-eight of the *City Area Leases Ordinance 1936-1950* the following section is inserted:—

“28A.—(1.) This section applies to a lease—

(a) granted before the date of commencement of this section and containing a covenant by the lessee restricting the right of the lessee to transfer or agree to transfer his interest in the land or in any portion thereof, or to hold or agree to hold the same in trust, during the period of five years after the date of the lease, and a provision permitting the determination of the lease upon breach of that covenant; or

(b) granted on or after the date of commencement of this section and containing an agreement by the parties that this section shall apply to the lease.

Restriction on transfer of leases of land with dwelling-houses.

“(2.) Subject to this section, a lease to which this section applies or any interest in the lease is not, during the period of five years after the date of the lease, capable of being transferred or assigned either at law or in equity.

“(3.) The last preceding sub-section does not apply—

(a) where the lessee or his predecessor in title has at any time made an offer in writing to the Commonwealth to surrender the lease, and to obtain the consent in writing of all registered mortgagees and encumbrancees to the surrender, in consideration of payment by the Commonwealth of compensation in accordance with the next succeeding sub-section, and the offer has not been accepted within one month after the date on which it was made; or

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\* Notified in the *Commonwealth Gazette* on 9th August, 1951.

(b) so as to prevent a transfer or assignment of a lease or of an interest therein—

- (i) by operation of law or by will;
- (ii) by way of mortgage; or
- (iii) by a mortgagee in pursuance of a power of sale as mortgagee.

“(4.) Where a lease to which this section applies is surrendered, and the surrender is accepted by the Commonwealth, then, notwithstanding the provisions of sub-section (4.) of section nineteen A of this Ordinance, the Commonwealth is liable to pay to the lessee by way of compensation an amount determined in accordance with the next succeeding sub-section to be the replacement value, as at the date on which the offer to surrender the lease was made, of the improvements on the land, less an amount representing any depreciation or obsolescence of those improvements.

“(5.) The amount so payable to the lessee shall be determined by agreement between the Minister and the lessee, or, in default of agreement, by arbitration under the laws in force in the Territory relating to arbitration.

“(6.) A certificate signed by the Minister and certifying that the lessee under a lease specified in the certificate has duly made an offer in accordance with paragraph (a) of sub-section (3.) of this section but that the offer has not been accepted within one month after the date on which it was made is conclusive evidence that the transfer or assignment of the lease is no longer prevented or restricted by this section.

“(7.) A lease to which this section applies which was granted before the date of commencement of this section shall, on and after that date, operate as if the covenant, and the provision for determination of the lease, referred to in paragraph (a) of sub-section (1.) of this section were not included in the lease.”.

Dated this eighth day of August, 1951.

J. NORTHCOTT

Administrator.

By His Excellency's Command,

W. S. KENT HUGHES

Minister of State for the Interior.

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