

CITY AREA LEASES.

No. 12 of 1961.

An Ordinance to amend the *City Area Leases Ordinance 1936-1959*.

1.—(1.) This Ordinance may be cited as the *City Area Leases Ordinance 1961*.^{*} Short title.
and citation

(2.) The *City Area Leases Ordinance 1936-1959*[†] is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *City Area Leases Ordinance 1936-1961*.

2.—(1.) Subject to the next succeeding sub-section, this Ordinance shall come into operation on a date to be fixed by the Minister by notice in the *Gazette*.[‡] Commence-
ment.

(2.) Section eleven of this Ordinance shall come into operation on the date on which the notification of the making of this Ordinance is notified in the *Gazette*.[§]

3. Section three of the Principal Ordinance is amended by adding at the end thereof the following sub-section:— Interpretation.

“(2.) For the purposes of this Ordinance, the unimproved value of a parcel of land leased or to be leased under this Ordinance is the capital sum which the lease, subject to the terms and conditions upon which it is held or is to be held, might be expected to realize if offered for sale on reasonable terms, assuming that the improvements (if any) on the land had not been made and that the lease had an unexpired term of ninety-nine years at the time of the sale, and leaving out of consideration any rent payable in respect of the lease other than prospective increments or decrements of rent after re-appraisal.”

* Made on 28th June, 1961; notified in the *Commonwealth Gazette* on 13th July, 1961.

† Ordinance No. 31, 1936, as amended by Nos. 38 and 40, 1936; No. 21, 1938; No. 14, 1947; No. 18, 1950; No. 8, 1951; No. 18, 1957; and No. 21, 1959.

‡ The date fixed was 29th March, 1962; see *Commonwealth Gazette*, 29th March, 1962, p. 1041.

§ The date of notification was 13th July, 1961.

4. Sections thirteen, fourteen, fifteen and sixteen of the Principal Ordinance are repealed and the following sections inserted in their stead:—

Auctioning of leases.

“ 13.—(1.) In this section, ‘ the successful bidder ’, in relation to the sale by auction of the right to the grant of a lease of a parcel of land, means the person who, at the auction, bids the highest amount for the right to the grant of the lease.

“ (2.) Subject to this section, the Minister may offer for sale by auction rights to the grant of leases under this Ordinance of parcels of unleased land.

“ (3.) The Minister may determine that the right to bid at an auction shall be restricted to persons who have, before the date of the auction, been approved by the Minister as persons eligible to bid at the auction and may in such a determination declare that—

(a) a person so approved by him shall not be entitled to obtain, at the auction, the right to the grant of a lease of more than one parcel of land; or

(b) a person so approved by him shall not be entitled to obtain, at the auction, rights to the grant of leases of more than a specified number of parcels of land.

“ (4.) The Minister shall cause notice of the holding of the auction to be published in the *Gazette* at least fourteen days before the date of the auction and where the Minister has made a determination under the last preceding sub-section, the Minister shall cause to be published in the notice—

(a) details of his determination; and

(b) the manner in which, and the time within which, applications for approval as persons eligible to bid at the auction shall be made.

“ (5.) At an auction in respect of which the Minister has, in a determination under sub-section (3.) of this section, made a declaration referred to in paragraph (a) of that sub-section, a person who becomes the successful bidder for the right to the grant of a lease of one parcel of land, ceases to be eligible to make further bids at the auction.

“ (6.) At an auction in respect of which the Minister has, in a determination under sub-section (3.) of this section, made a declaration referred to in paragraph (b) of that sub-section, a person who becomes the successful bidder for the rights to the grant of leases of the number, specified in the declaration, of parcels of land, ceases to be eligible to make further bids at the auction.

“ (7.) At an auction in respect of which the Minister has made a determination under sub-section (3.) of this section—

- (a) a bid made by a person other than a person who has been approved by the Minister as a person eligible to bid at the auction; or
- (b) a bid made by a person who has been so approved and has ceased to be eligible to make further bids at the auction,

is not an effective bid.

“ (8.) Where the right to the grant of a lease of a parcel of land on which there are improvements is to be offered for sale by auction, the Minister may, in the notice of the holding of the auction, specify an amount as the value of the improvements and, at the auction, a bid that is less than the amount so fixed is not an effective bid.

“ (9.) The successful bidder for the right to the grant of a lease of a parcel of unimproved land is, subject to this Ordinance, entitled to the grant of a lease of the parcel of land.

“ (10.) Where—

- (a) the right to the grant of a lease of a parcel of improved land is offered for sale by auction; and
- (b) the Minister has specified an amount as the value of the improvements on the parcel of land,

the successful bidder is, subject to this Ordinance, entitled to the grant of a lease of the parcel of land.

“ (11.) Where—

- (a) the right to the grant of a lease of a parcel of improved land is offered for sale by auction; and
- (b) the Minister does not specify an amount payable in respect of the improvements on the parcel of land,

the successful bidder is, subject to this Ordinance and to the approval of the Minister, entitled to the grant of a lease of the parcel of land.

“ (12.) The successful bidder for the right to the grant of a lease of a parcel of land on which there are no improvements shall, at the time of the auction, pay to the Commonwealth—

- (a) an amount equal to the amount of the bid that made him the successful bidder;

- (b) the survey fee fixed by the Minister for surveying the parcel of land; and
- (c) an amount equal to the first year's rent for the parcel of land.

“(13.) The successful bidder for the right to the grant of a lease of a parcel of land on which there are improvements the value of which was specified in the notice of the holding of the auction shall, at the time of the auction, pay to the Commonwealth—

- (a) an amount ascertained by deducting from the amount of the bid that made him the successful bidder an amount equal to the value of the improvements so specified;
- (b) the survey fee fixed by the Minister for surveying the parcel of land; and
- (c) an amount equal to the first year's rent for the parcel of land.

“(14.) The successful bidder for the right to the grant of a lease of a parcel of land on which there are improvements the value of which was not specified in the notice of the holding of the auction shall, at the time of the auction, pay to the Commonwealth—

- (a) an amount that is not less than one-tenth of the bid that made him the successful bidder;
- (b) the survey fee fixed by the Minister for surveying the parcel of land; and
- (c) an amount equal to the first year's rent for the parcel of land.

“(15.) A successful bidder who is entitled to the grant of a lease of the parcel of land for which he is the successful bidder shall accept, sign and seal a lease under this Ordinance of the parcel of land.

Power of
Minister to
invite
applications
for leases.

“14.—(1.) In this section, ‘the successful applicant’, in relation to applications invited for the right to the grant of a lease of a parcel of land, means the person who offers the highest amount for the right to the grant of the lease or, in the circumstances referred to in sub-section (4.) of this section, the person determined in accordance with that sub-section to be the successful applicant.

“(2.) Subject to this section, the Minister may, by notice in the *Gazette*, invite applications for the right to the grant of a lease of any parcel of unleased land and, if there are improvements on the parcel of land, the Minister may, in the notice, specify an amount as the value of the improvements.

“ (3.) An application shall be made in such manner, contain such particulars, and be subject to such conditions, as the Minister directs.

“ (4.) If—

- (a) two or more applicants offer the same amount for the right to the grant of a lease of a parcel of land;
- (b) the amount so offered is the highest amount offered for the right to the grant of a lease of the parcel of land; and
- (c) the applicants are otherwise equally eligible as lessees,

the Minister may determine by ballot, or otherwise, which of the applicants is the successful applicant.

“ (5.) Where applications are invited for the right to the grant of a lease of a parcel of land, the successful applicant is, subject to this Ordinance and to the approval of the Minister, entitled to the grant of a lease of the parcel of land.

“ (6.) The successful applicant for a parcel of unimproved land shall, upon being notified that he is the successful applicant, pay to the Commonwealth—

- (a) an amount equal to the amount offered by him in his application;
- (b) the survey fee fixed by the Minister for surveying the parcel of land; and
- (c) an amount equal to the first year's rent for the parcel of land.

“ (7.) The successful applicant for a parcel of land on which there are improvements the value of which was specified in the notice inviting applications for the grant of a lease of the parcel of land shall, upon being notified that he is the successful applicant, pay to the Commonwealth—

- (a) an amount ascertained by deducting from the amount offered by him an amount equal to the value of the improvements so specified;
- (b) the survey fee fixed by the Minister for surveying the parcel of land; and
- (c) an amount equal to the first year's rent for the parcel of land.

“ (8.) The successful bidder for a parcel of land on which there are improvements the value of which was not specified in the notice inviting applications for the grant of a lease of

the parcel of land shall, upon being notified that he is the successful applicant, pay to the Commonwealth—

- (a) an amount that is not less than one-tenth of the amount offered by him;
- (b) the survey fee fixed by the Minister for surveying the parcel of land; and
- (c) an amount equal to the first year's rent for the parcel of land.

“ (9.) A successful applicant who is entitled to the grant of a lease of a parcel of land shall accept, sign and seal a lease under this Ordinance of the parcel of land.

“ 15. If—

- (a) a bid is not received for the right to the grant of a lease of a parcel of land offered for sale by auction;
- (b) an application is not received for the right to the grant of a lease of a parcel of land for which applications have been invited by the Minister; or
- (c) the Minister does not, for the purpose of sub-section (11.) of section thirteen, or sub-section (5.) of section fourteen, of this Ordinance, approve the grant of a lease of a parcel of land to a person who is, for the purposes of section thirteen or fourteen of this Ordinance, the successful bidder or the successful applicant, as the case may be,

the Minister may, at any subsequent time, grant a lease under this Ordinance of the parcel of land.”.

Power of
Minister to
grant lease
where no offer
made.

Determination
of right to
lease by ballot.

5. Section seventeen A of the Principal Ordinance is amended by omitting paragraph (h) of sub-section (2.) and inserting in its stead the following paragraph:—

“ (h) the annual rent and other fees and charges payable in respect of each parcel of land the right to a lease of which is to be determined by the ballot; and ”.

Rent.

6. Section eighteen of the Principal Ordinance is repealed and the following section inserted in its stead:—

“ 18.—(1.) Subject to this Ordinance, the rent payable in respect of a parcel of land included in a lease shall be at the rate specified in the lease.

“ (2.) The rate to be so specified in a lease granted—

(a) to a person who has acquired the right to the grant of the lease under section thirteen, fourteen or seventeen A of the *City Area Leases Ordinance* 1936-1961; or

(b) under section fifteen or seventeen of that Ordinance, is at the rate of Five pounds per centum per annum of the amount that the Minister has notified as the unimproved value of the parcel of land before—

(c) the right to the grant of the lease is offered for sale by auction;

(d) applications for the right to the grant of the lease are invited;

(e) the publication in the *Gazette* of a notice under section seventeen A of this Ordinance; or

(f) the grant of a lease under section fifteen or seventeen of this Ordinance,

as the case may be.

“ (3.) Nothing in this section prevents the enforcement of a covenant by a lessee to pay additional rent where an amount of rent payable under his lease remains unpaid for such period as is specified in the lease.”.

7. Section nineteen of the Principal Ordinance is amended by omitting sub-sections (1.), (2.), (3.) and (4.) and inserting in their stead the following sub-sections:—

Payment for
improvements.

“ (1.) In this section, a reference to the amount payable in respect of the improvements on a parcel of land is a reference to—

(a) where the Minister has, in a notice under section thirteen of this Ordinance offering for sale by auction a parcel of land on which there are improvements or a notice under section fourteen of this Ordinance inviting applications for the grant of a parcel of land on which there are improvements, specified an amount as the value of the improvements—the amount so specified by the Minister;

(b) where the Minister has not, in such a notice under either of those sections, specified an amount as the value of the improvements—the amount bid, or offered, as the case may be, for the right to the grant of the lease of the parcel of land less the amount paid under paragraph (a) of sub-section (14.) of section thirteen of this Ordinance or

under paragraph (a) of sub-section (8.) of section fourteen of this Ordinance, as the case may be; and

- (c) where a lease of a parcel of land on which there are improvements is to be granted under section fifteen or seventeen of this Ordinance—the amount determined by the Minister as the value of the improvements.

“(2.) A person who has become entitled to the grant of a lease of a parcel of land on which there are improvements, may—

- (a) on or before the date of the grant of the lease, pay the amount payable in respect of the improvements on the parcel of land;
- (b) subject to such terms and conditions as the Minister thinks fit, agree to pay the amount payable in respect of the improvements on the parcel of land (together with such interest on that amount as is fixed by the Minister) by such instalments as the Minister determines; or
- (c) on or before the date of the grant of the lease, pay part of the amount payable in respect of the improvements on the parcel of land 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 amount so payable and such interest as is provided for in the mortgage.”

Tenant right
in
improvements.

8. Section nineteen A of the Principal Ordinance is amended by omitting the definition of “value of the improvements” in sub-section (5.) and inserting in its stead the following definition:—

“‘value of the improvements’ means such amount as is agreed upon by the Minister and the lessee, or, in default of agreement, as is determined by arbitration under the laws in force in the Territory relating to arbitration.”

Payment of
survey fees.

9. Section twenty of the Principal Ordinance is amended by omitting from sub-section (1.) the words “fourteen,” and “, sixteen”.

10. Section twenty-one of the Principal Ordinance is repealed and the following section inserted in its stead:—

“21.—(1.) Where a person entitled, under section thirteen, fourteen, fifteen or seventeen of this Ordinance, to the grant of a lease of a parcel of land has failed to accept, sign and seal, within three months after the date of the auction or the date on which he

Failure of
person to
accept, sign
and seal a
lease.

is notified that he is so entitled, as the case may be, a lease of the parcel of land, the Minister may, at any time during which the failure continues, by notice in the *Gazette*, after at least one month's notice (given in accordance with the provisions of this section) of his intention so to do, determine the right of the person to the grant of the lease.

“(2.) The notice of the intention of the Minister to determine the right of a person to the grant of the lease shall be given in writing and signed by the Minister and shall be deemed to have been duly given to the person 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 auction, or in the application, 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 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.

“(4.) Where a bid or offer has been made by a person purporting to bid or offer as the agent of another person and the last-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 person to the grant of the lease may be given in accordance with the provisions of this section to either of the persons mentioned in this sub-section.

“(5.) A person whose right to the grant of 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.”

11. After section thirty-seven of the Principal Ordinance the following section is inserted:—

“37A.—(1.) The Minister may, subject to the next succeeding sub-section, authorize the refund to a person who has surrendered a lease granted under this Ordinance or whose lease has been determined in accordance with this Ordinance of an amount not exceeding the amount paid by the person for or in respect of the grant of the lease.

Refund of amounts paid for the grant of a lease in certain cases.

“(2.) The last preceding sub-section does not authorize the refund of an amount unless—

- (a) the land comprised in the lease was, at the commencement of the term of the lease, unimproved land;
- (b) the lease was a lease for residential purposes; and

(c) the person to whom the lease was granted has been unable, for reasons which, in the opinion of the Minister, warrant the refund, to comply with the covenants of the lease requiring the erection of a building on the land comprised in the lease.

“(3.) The Minister may, subject to the next succeeding sub-section, authorize the refund to a person who surrenders the right to the grant of a lease under this Ordinance of a parcel of land of an amount not exceeding the amount paid by the person for or in respect of the grant of the lease.

“(4.) The last preceding sub-section does not authorize the refund of an amount unless—

- (a) the land is unimproved land;
- (b) the conditions subject to which the right to the grant of the lease was obtained included a condition that the lease would be a lease for residential purposes;
- (c) the Minister is satisfied that reasons exist that justify the refund; and
- (d) the surrender of the right to the grant of the lease is made before the Minister has, in pursuance of section twenty-one of this Ordinance, given notice of his intention to determine under that section the right of the person to the grant of the lease.

“(5.) For the purpose of this section, the amount paid by a person for or in respect of the grant of a lease does not include any amount paid as survey fees or by way of rent.”

Continued application of certain provisions of the Principal Ordinance.

12.—(1.) Sub-sections (9.) to (13.) inclusive of section thirteen of the Principal Ordinance continue to apply to, and in relation to, a person who became a successful bidder within the meaning of that section at an auction held before the commencement of this section.

(2.) Where the Minister has, by a notice published in the *Gazette* before the commencement of this section, invited, under section fourteen of the Principal Ordinance, applications for the grant of a lease of a parcel of land, that section continues to apply to, and in relation to, applications for the lease and the determination of the successful applicant for the lease.

(3.) Section twenty-one of the Principal Ordinance continues to apply to, and in relation to, a person who, before the commencement of this section, entered into an agreement with the Minister for the grant of a lease under section fifteen, sixteen or seventeen of the Principal Ordinance or has offered to accept a lease under any of those sections.