

CITY AREA LEASES

No. 7 of 1964.

An Ordinance to amend the *City Area Leases Ordinance 1936-1963*.

Short title
and citation.

1.—(1.) This Ordinance may be cited as the *City Area Leases Ordinance 1964*.*

(2.) The *City Area Leases Ordinance 1936-1963*† 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 1936-1964*.

Land only to
be used for
purpose for
which leased.

2. Section nine of the Principal Ordinance is amended by adding at the end thereof the following sub-section:—

“(2.) Without limiting the application of the last preceding sub-section, where the class or classes of business for which the land included in the lease may be used is specified in the lease, the land shall not be used for a business other than a business included in that class or one of those classes of business, as the case may be.”

3. After section nine of the Principal Ordinance the following sections are inserted:—

“9A.—(1.) In this section—

‘lessee’, in relation to a lease, means the person or persons liable to pay rent under the lease;

‘sub-lease’, in relation to the land, or part of the land, comprised in a lease, means a sub-lease of the land, or that part of the land, so comprised granted by the grantee of the lease or by a person to whom the lease has passed by assignment, transfer, devolution or operation of law;

‘sub-lessee’, in relation to a sub-lease, means the person or persons liable to pay rent under the sub-lease.

“(2.) Except in a case to which the next succeeding sub-section applies, where the land, or part of the land, comprised in a lease is used for a purpose other than a purpose for which the use of the land comprised in the lease is authorized by or under

* Made on 13 August, 1964; notified in the *Commonwealth Gazette* and commenced on 21 August, 1964.

† Ordinance No. 31, 1936, as amended by 1936, Nos. 38 and 40; No. 21, 1938; No. 14, 1947; No. 18, 1950; No. 8, 1951; No. 18, 1957; No. 21, 1959; No. 12, 1961; and No. 18, 1963.

the lease, the lessee or each lessee of the land shall be taken to have committed an offence and is punishable, upon conviction, by a fine not exceeding One hundred pounds plus Ten pounds for each day on which the contravention continues after the first day.

“ (3.) Where the land, or part of the land, comprised in a lease is subject to a sub-lease and is used for a purpose other than a purpose for which the use of the land comprised in the lease is authorized by or under the lease, the sub-lessee or each sub-lessee shall be taken to have committed an offence and is punishable, upon conviction, by a fine not exceeding One hundred pounds plus Ten pounds for each day on which the contravention continues after the first day.

“ (4.) It is a defence if a person charged with an offence against either of the last two preceding sub-sections, being an offence that relates to a lease of land granted for residential purposes but no other purpose, proves that the use of the land—

- (a) does not constitute a substantial nuisance;
- (b) does not substantially disturb the occupier of any adjoining land;
- (c) does not substantially interfere with the nature or amenities of the neighbourhood; and
- (d) does not cause untidiness in the neighbourhood.

“ (5.) This section applies to and in relation to the use of a building or a part of a building that is erected on land comprised in a lease or sub-lease and is used—

- (a) if the purposes for which the building or part is authorized to be used are specified in, or have been determined under, the lease of the land on which the building is erected—for a purpose other than a purpose included in the purposes so specified or determined; or
- (b) in any other case—for a purpose other than a purpose for which the use of the land on which the building is erected is authorized by or under the lease of that land.

“ (6.) In the application of sub-sections (2.) and (3.) of this section in accordance with the last preceding sub-section to and in relation to a building or part of a building that is erected on land comprised in a lease—

- (a) references to the land or part of the land comprised in a lease shall be read as references to the building or part of a building; and

- (b) if the purposes for which the building or part is authorized to be used are specified in, or have been determined under, the lease—references to a purpose for which the use of the land comprised in the lease is authorized to be used shall be read as references to a purpose included in the purposes so specified or determined.

Particulars of sub-tenancies.

“ 9B.—(1.) The Secretary, or a person authorized in writing by the Secretary, may, by notice in writing to a person who is the lessee of land comprised in a lease, require the person to furnish to the Secretary, within fourteen days after his receipt of the notice or within such extended period as the Secretary or person so authorized allows, a statement, under his hand, setting out whether the land, or any part of the land, comprised in the lease, or a building, or any part of a building, erected on land so comprised (being land, a part of land, a building, or a part of a building specified in the notice) is subject to a sub-lease, and, if so, the full name of the sub-lessee.

“ (2.) A person who furnishes a statement under the last preceding sub-section shall certify in writing at the foot of the statement as to the correctness of the information set out in the statement.

Penalty: One hundred pounds.

“ (3.) A person shall not—

- (a) refuse or fail to furnish to the Secretary, in accordance with a requirement under sub-section (1.) of this section, a statement that he is so required to furnish in pursuance of that sub-section; or
- (b) furnish a statement in pursuance of sub-section (1.) of this section that is, to the knowledge of the person, false or misleading in a material particular.

Penalty: One hundred pounds.

“ (4.) In this section—

- (a) ‘ lessee ’, ‘ sub-lease ’ and ‘ sub-lessee ’ have, respectively, the same meanings as in the last preceding section; and
- (b) ‘ the Secretary ’ means the Secretary to the Department of the Interior.

Evidence.

“ 9C.—(1.) In any proceedings, a statement in writing under the hand of the lessee of land furnished to the Secretary in pursuance of a notice under sub-section (1.) of the last preceding section is evidence of the matters stated in it.

“ (2.) For the purposes of the last preceding sub-section, a document purporting to be a statement referred to in that sub-section shall, unless the contrary is proved, be deemed to be such a statement and to have been duly furnished.”

4. Section thirteen of the Principal Ordinance is amended by omitting from sub-section (7.) all words before paragraph (a) and inserting in their stead the words—

Auctioning
of leases.

“ At an auction in relation to which the Minister has made an order under sub-section (4.) of this section— ”.

5. Section nineteen A of the Principal Ordinance is amended—

Tenant right in
improvements.

(a) by inserting after sub-section (4.) the following sub-sections:—

“ (5.) For the purpose of this section—

‘improvements’ includes buildings and erections, but does not include improvements effected at the cost of the Commonwealth unless the Commonwealth has received or is entitled to receive payment for the improvements;

‘lessee’, in relation to a lease which has been determined or surrendered or in relation to a lease the term of which has expired, means the person who was the lessee under the lease at the date of the determination or surrender or at the date of the expiration of the term, as the case may be.

“ (6.) In this section, references to the value of improvements, in relation to improvements on land or part of land held under a lease, shall be read as references to the amount agreed upon by the Minister and the lessee as being the value of those improvements or, in default of agreement, the amount determined by arbitration under the Arbitration Act, 1902, of the State of New South Wales in its application in the Territory, to be that value.”; and

(b) by omitting sub-section (7.).

6. Section twenty-five of the Principal Ordinance is amended—

Re-appraisal
of
value of
land.

(a) by omitting from sub-section (2.) the word “During” and inserting in its stead the words “Subject to the next succeeding sub-section, during”;

(b) by inserting after sub-section (2.) the following sub-sections:—

“(2A.) Where the Supreme Court varies a provision, covenant or condition of a lease under section eleven A of this Ordinance, the unimproved value of the land included in the lease, being the value on the day next following the prescribed day, shall be re-appraised by the prescribed authority for the purposes of sub-section (1.) of this section.

“(2B.) Where notice of re-appraisal under the last preceding sub-section has been given to a lessee, the lessee shall pay as rent Five pounds per centum per annum of the re-appraised value of the unimproved value of the land or of the unimproved value of the land as determined on appeal under this Ordinance, as the case may be, from and including the quarter day next following the date on which that notice was given to the lessee until—

(a) if the notice is given before the expiration of the twentieth year of the term of the lease—the expiration of that twentieth year; or

(b) if the notice is given during a period of twenty years after a year of re-appraisal under sub-section (1.) of this section—the expiration of that period of twenty years,

unless a provision, covenant or condition of the lease is again varied before the expiration of that twentieth year or of that period, as the case may be.”; and

(c) by adding at the end thereof the following sub-section:—

“(4.) In this section—

‘quarter day’ means the first day of January, April, July or October;

‘the prescribed day’, in relation to a lease a provision, covenant or condition of which has been varied under section eleven A of this Ordinance, means the day on which the order of the Supreme Court effecting the variation takes effect.”.

7.—(1.) Section twenty-eight B of the Principal Ordinance is amended by inserting after sub-section (4.) the following sub-section:—

Restrictions on transfer, &c., of certain leases.

“(4A.) The last preceding sub-section shall not be taken—

- (a) to limit the classes of transactions to and in relation to which sub-section (2.) of this section applies; or
- (b) to limit the discretion of the Minister to give or refuse consent to any transaction to or in relation to which sub-section (2.) of this section applies.”

(2.) A consent to a transaction given by the Minister before the commencement of this section for the purposes of section twenty-eight B of the *City Area Leases Ordinance 1936-1963* is, by force of this sub-section, as valid and effectual for all purposes as it would be if the amendments of that section made by the last preceding sub-section had been in force when the consent was given.