

No. 11 of 1971

AN ORDINANCE

To amend the *City Area Leases Ordinance 1936-1970*

THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1970*.

Dated this seventeenth day of March, 1971.

PAUL HASLUCK
Governor-General.

By His Excellency's Command,

RALPH J. HUNT
Minister of State for the Interior.

CITY AREA LEASES ORDINANCE 1971

1.—(1.) This Ordinance may be cited as the *City Area Leases Ordinance 1971*.^{*} Short title and citation.

(2.) The *City Area Leases Ordinance 1936-1970*† 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 1936-1971*.

2. Section 28 of the Principal Ordinance is amended by omitting paragraph (b) of sub-section (1.). Assignment, mortgage, &c., of lease where building required to be erected on the land.

3.—(1.) After section 30 of the Principal Ordinance the following section is inserted:—

“30A.—(1.) For the purposes of this section—

- (a) the prescribed date is the first day of January, One thousand nine hundred and seventy-one; and
- (b) a reference to ground rent shall be read as a reference to rent under the relevant lease under this Ordinance held from the Commonwealth.

Effect of provisions in sub-leases drafted for operation of rent payable under sub-leases.

* Notified in the *Commonwealth Gazette* on 25 March 1971.

† 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; No. 21, 1959; No. 12, 1961; No. 18, 1963; No. 7, 1964; No. 19, 1966; No. 13, 1967; Nos. 3 and 28, 1968; No. 25, 1969; and No. 45, 1970.

“(2.) Subject to this section, a term, provision or covenant in a sub-lease entered into before the prescribed date that makes provision whereby the amount payable under the sub-lease by the sub-lessee to the sub-lessor, whether by way of rent or otherwise, is to be, or may be, increased or decreased in the event of—

(a) a variation in the annual ground rent payable in respect of the premises comprised in the sub-lease;

(b) a variation in the rates so payable; or

(c) a variation in the annual ground rent or rates so payable.

shall, on and after the prescribed date, be read and construed and has effect—

(d) as if any amount that was payable before the prescribed date by the sub-lessor as ground rent in respect of the premises had been payable as rates; and

(e) as if—

(i) in the case of a term, provision or covenant referring to ground rent only—the reference to ground rent were a reference to rates; or

(ii) in the case of a term, provision or covenant referring to ground rent or rates—the reference to ground rent or rates were a reference to rates.

“(3.) The last preceding sub-section does not prevent the making by the sub-lessor and sub-lessee under a sub-lease of an agreement in writing having an effect that is inconsistent with the last preceding sub-section and, if such an agreement is made—

(a) the agreement has effect according to its tenor; and

(b) the last preceding sub-section shall be deemed not to have applied, and not to apply, to or in relation to the sub-lease.

“(4.) On an application by the sub-lessor or the sub-lessee under a sub-lease entered into before the prescribed date containing a term, provision or covenant that makes provision whereby the amount payable under the sub-lease by the sub-lessee to the sub-lessor, whether by way of rent or otherwise, is to be, or may be increased or decreased in the event of a variation referred to in paragraph (a), (b) or (c) of sub-section (2.) of this section, the Supreme Court may, if it is satisfied that the application of that sub-section to and in relation to the sub-lease is not, or would not be, in all circumstances of the case, just and equitable, by order direct that that sub-section shall be deemed not to have applied, and is not to apply, to and in relation to the term, provision or covenant and, in that case, the term, provision or covenant in the sub-lease shall be deemed to have continued, and to continue, to have effect as if this section had not been made.

“(5.) Where—

(a) sub-section (2.) of this section has effect in relation to a sub-lease; and

(b) the sub-lease confers on the sub-lessee the right to exercise an option to renew the sub-lease,
that right shall be read and construed as a right to exercise an option to renew the sub-lease as it has effect by virtue of that sub-section.

“ (6.) This section—

(a) applies to the Commonwealth; and

(b) binds the Commonwealth,

in its capacity as a sub-lessee.”.

(2.) The section inserted by the last preceding sub-section shall be deemed to have come into operation on the first day of January, 1971.