

No. 58 of 1973

AN ORDINANCE

To amend the *City Leases Ordinance 1936-1971*, as amended by the *City Area Leases Ordinance 1973*.

I, THE GOVERNOR-GENERAL of Australia, acting with the advice of the Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1972*.

Dated this eighteenth day of December, 1973.

PAUL HASLUCK
Governor-General.

By His Excellency's Command,

GORDON M. BRYANT
Minister of State for the Capital Territory.

CITY AREA LEASES ORDINANCE (No. 2) 1973

1. (1) This Ordinance may be cited as the *City Area Leases Ordinance (No. 2) 1973*.^{*} Short title and citation.

(2) The *City Area Leases Ordinance 1936-1971*,[†] as amended by the *City Area Leases Ordinance 1973*,[‡] is in this Ordinance referred to as the Principal Ordinance.

(3) Section 1 of the *City Area Leases Ordinance 1973* is amended by omitting sub-section (3).

(4) The Principal Ordinance, as amended by this Ordinance, may be cited as the *City Area Leases Ordinance 1936-1973*.

2. Section 28 of the Principal Ordinance is amended—

(a) by omitting sub-sections (1) and (2) and substituting the following sub-sections:—

“(1) In this section, ‘building and development covenant’ means a covenant in the lease whereby the lessee is required to carry out any works on the land included in the lease or on unleased land adjacent to the land included in the lease.

“(2) Where a lease contains a building and development covenant, the lessee may apply to the Minister for a certificate that the building and development covenant has been complied with.

Assignment, mortgage, etc., of lease where building required to be erected on land.

^{*} Notified in the *Australian Government Gazette* on 19 December 1973.

[†] Ordinance No. 31, 1936, as amended by No. 38, 1936; No. 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; No. 45, 1970; and No. 11, 1971.

[‡] Ordinance No. 3, 1973.

“(2A) Where, on an application under sub-section (2), the Minister is satisfied that the building and development covenant has been complied with, the Minister shall issue a certificate to that effect.

“(2B) Subject to this section, where a lease contains a building and development covenant—

(a) the lease or an interest in the lease shall not be capable of being transferred or assigned, either at law or in equity, 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 lease or an interest in the lease shall not be capable of being mortgaged,

unless the lessee has obtained a certificate under sub-section (2A).

“(2C) The Minister may consent to a mortgage of a lease or of an interest in a lease before the issue of a certificate under sub-section (2A) where he is satisfied that the mortgage is required by the lessee—

(a) to enable the lessee to repay money borrowed by the lessee for the purpose of acquiring the lease; or

(b) to enable the lessee to comply with the building and development covenant in the lease.”;

(b) by omitting paragraph (a) of sub-section (3) and substituting the following paragraph:—

“(a) intends to comply with the building and development covenants in the lease;”;

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

“(4) A lessee may appeal to the Supreme Court from the refusal of the Minister to grant a certificate under sub-section (2A) or the refusal of the Minister to grant his consent under sub-section (2C) or (3).

“(5) The Supreme Court shall hear and determine an appeal under this section.

“(6) On an appeal under this section, the Supreme Court—

(a) may direct the Minister to grant a certificate under sub-section (2A) or grant his consent under sub-section (2C) or (3), as the case may be; or

(b) may dismiss the appeal.”.

Application. 3. The Principal Ordinance, as amended by this Ordinance, applies to, and in relation to, a lease granted before or after the commencement of this Ordinance.