
Leases (Amendment) Ordinance 1982

No. 107 of 1982

I, THE GOVERNOR-GENERAL of 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*.

Dated 20 December 1982.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

MICHAEL HODGMAN
Minister of State for the Capital Territory

An Ordinance to amend the *Leases Ordinance 1918*

Short title

1. This Ordinance may be cited as the *Leases (Amendment) Ordinance 1982*.¹

Principal Ordinance

2. In this Ordinance, "Principal Ordinance" means the *Leases Ordinance 1918*.²

Minister may vary rent

3. Section 3AA of the Principal Ordinance is amended by inserting "section 3AAA or" after "made in pursuance of".

4. After section 3AA of the Principal Ordinance the following sections are inserted:

Appeals by lessees

"3AAA. (1) Where, after the commencement of the *Leases (Amendment) Ordinance 1982*, the Minister offers in writing to a lessee under this Ordinance the grant of a lease upon the expiration of, or in substitution for, his existing lease, the lessee may, within one month after his receipt of the offer—

- (a) accept the offer; or
- (b) apply in writing to the Minister to vary the rent reserved by, or any term or condition of, the lease so offered.

“(2) A person who makes an application to the Minister under paragraph (1) (b) shall specify in his application—

- (a) the variation that he considers should be made; and
- (b) the grounds on which he considers that the variation should be made.

“(3) Where, after the commencement of the *Leases (Amendment) Ordinance 1982*, the Minister, in accordance with the conditions of any lease under this Ordinance, determines the rent payable under that lease, the lessee, if dissatisfied with the determination, may, within one month after his receipt of notice of the determination, apply in writing to the Minister to vary the rent as so determined.

“(4) A person who makes an application to the Minister under sub-section (3) shall specify in his application—

- (a) the variation that he considers should be made in the rent determined to be payable; and
- (b) the grounds on which he considers that the variation should be made.

“(5) The Minister shall consider every application made under sub-section (1) or (3) and shall, by notice in writing, delivered to, or served by post on, the lessee, either —

- (a) affirm the offer or determination in respect of which the application was made; or
- (b) vary the offer or determination to such extent or in such manner as is specified in the notice.

“(6) The Minister shall not, under sub-section (5)—

- (a) affirm an offer or determination where the rent reserved by the lease offered, or the rent determined, is higher than a fair rent for the relevant property; or
- (b) vary an offer or determination so that the rent reserved by the lease offered, or the rent determined, is higher than a fair rent for the relevant property.

“(7) Where a notice referred to in sub-section (5) is delivered to or served on a lessee, the lessee may—

- (a) where the decision of the Minister relates to an offer referred to in sub-section (1)—
 - (i) if the original offer was not varied by the decision—within one month after the notice is delivered to or served on him, accept the offer;
 - (ii) if that offer was varied by the decision—within one month after the notice is delivered to or served on him, accept the offer as so varied; or
 - (iii) make application to the Administrative Appeals Tribunal for review of the decision of the Minister; or
- (b) where the decision of the Minister relates to a determination referred to in sub-section (3)—make application to the Administrative Appeals Tribunal for review of the decision of the Minister.

“(8) A notice under sub-section (5) shall—

- (a) where the notice relates to an offer referred to in sub-section (1), contain a statement of the provisions of paragraph (7) (a); or
- (b) where the notice relates to a determination referred to in sub-section (3), contain a statement of the provisions of paragraph 7 (b).

“(9) The failure of a notice under sub-section (5) to comply with the requirements of sub-section (8) shall not be taken to affect the validity of the notice.

Fair rent

“3AAB. A reference in sub-section 3AAA (6) to a fair rent shall be read as a reference to—

- (a) in the case of a property in respect of which the grant of a lease has been offered that is the subject of an application under sub-section 3AAA (1)—a rent that it would be reasonable to reserve in respect of the property having regard to—
 - (i) the physical characteristics of the property;
 - (ii) the location of the property;
 - (iii) the purposes for which the property may be used under the proposed lease;
 - (iv) the period for which the proposed lease would be granted;
 - (v) the rent reserved by leases of similar properties in similar locations; and
 - (vi) any other factors pertaining to the property or the proposed lease to which it would be reasonable to have regard; and
- (b) in the case of a property subject to a lease under which the Minister has made a determination referred to in sub-section 3AAA (3)—
 - (i) a rent that it would be reasonable to reserve in respect of the property having regard to—
 - (A) the physical characteristics of the property;
 - (B) the location of the property;
 - (C) the purposes for which the property may be used under the lease;
 - (D) the period for which the lease was granted;
 - (E) the unexpired portion of the period for which the lease was granted;
 - (F) the rent reserved by leases of similar properties in similar locations; and
 - (G) any other factors pertaining to the property or the lease to which it would be reasonable to have regard; or
 - (ii) the minimum rent that may be fixed under the conditions, if any, of the lease that prescribe the minimum rent payable under the lease,

whichever is the greater.”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 31 December 1982.
2. No. 2, 1918 as amended by No. 7, 1919; No. 7, 1923; Nos. 1 and 12, 1924; No. 4, 1925; No. 12, 1926; No. 10, 1927; Nos. 15 and 27, 1933; No. 29, 1936; No. 27, 1937; No. 10, 1955; No. 9, 1958; No. 19, 1966; No. 7, 1972.