
City Area Leases (Amendment) Ordinance 1982

No. 56 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 9 July 1982.

ZELMAN COWEN
Governor-General

By His Excellency's Command,

TONY MESSNER
Minister of State for Veterans' Affairs
for and on behalf of the
Minister of State for the Capital Territory

An Ordinance to amend the *City Area Leases Ordinance* 1936

Short title

1. This Ordinance may be cited as the *City Area Leases (Amendment) Ordinance* 1982.¹

Principal Ordinance

2. In this Ordinance, "Principal Ordinance" means the *City Area Leases Ordinance* 1936.²

Interpretation

3. Section 3 of the Principal Ordinance is amended by omitting "Interior" from the definition of "the Secretary" in sub-section (1) and substituting "Capital Territory".

Variation of purposes for which land is leased

4. Section 11A of the Principal Ordinance is amended—

- (a) by omitting from paragraph (4) (a) "at the Department of the Interior, Canberra";
- (b) by inserting in sub-section (9) "determine" after "made" (first occurring);

- (c) by omitting from paragraph (9) (a) "determine";
- (d) by omitting from paragraph (9) (b) "determine";
- (e) by omitting from sub-section (9) "each determination" and substituting "the determination of those capital sums";
- (f) by omitting sub-section (9E) and substituting the following sub-sections:

"(9E) A notice under sub-section (9) shall include—

- (a) a statement of the terms of section 11B; and
- (b) a statement setting out the amount of the premium payable to the Commonwealth in accordance with sub-section (9B) or a statement that a premium is not payable in accordance with that sub-section, as the case requires.

"(9EA) The validity of a determination made by the Minister under sub-section (9) shall not be taken to be affected by a failure to comply with paragraph (9E) (a).

"(9EB) Where a notice of a determination by the Minister is given to a lessee under sub-section (9), the lessee may, within 28 days after receiving the notice, by notice in writing given to the Minister, request the Minister to furnish to the lessee a statement in writing setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the determination, and the Minister shall, as soon as practicable, but in any case within 28 days after receiving the request, prepare, and furnish to the lessee, such a statement.";

- (g) by omitting from sub-section (11) all the words after "Minister" and substituting "shall be effected by sending the document by post addressed to the Secretary, Department of the Capital Territory, Canberra or by leaving the document with the Secretary".

5. Section 11B of the Principal Ordinance is repealed and the following section substituted:

Appeal to Administrative Appeals Tribunal

"11B. (1) Application may be made to the Administrative Appeals Tribunal by a lessee who has paid the premium payable in respect of a variation under section 11A for a review of the determination made by the Minister under sub-section 11A (9).

"(2) Notwithstanding the provisions of section 29 of the *Administrative Appeals Tribunal Act* 1975, an application under sub-section (1) shall be made within 30 days after the payment of the premium by the lessee or within such further period as the Administrative Appeals Tribunal allows, whether before or after the expiration of the period of 30 days."

Adjustment of premium on variation of determination on review

6. Section 11C of the Principal Ordinance is amended—

- (a) by omitting "a review or an appeal under the last preceding section," and substituting "a review under section 11B,";

- (b) by omitting "either or both of the relevant determinations made under sub-section (9) of section eleven A of this Ordinance," and substituting "the determination made under sub-section 11A (9),";
- (c) by omitting "sub-sections (9A), (9B) and (9C) of that section" and substituting "sub-sections 11A (9A), (9B) and (9C)"; and
- (d) by adding at the end thereof the following sub-section:
 - "(2) In this section, 'the lessee' means the person who is the lessee on the date on which the Administrative Appeals Tribunal gives its decision on a review under section 11B."

7. Section 18B of the Principal Ordinance is repealed and the following section substituted:

Review of variations of rent

"18B. (1) Where --

- (a) the rent payable under a lease is varied in accordance with a term of the lease; and
- (b) the lease does not include a provision for the submission to arbitration of differences between the parties to the lease regarding variation of the rent payable under the lease,

the lessee may, within 30 days after he receives notification of the variation or within such further period as the Minister allows, post to or lodge with the Secretary a request in writing that the Minister review the variation.

"(2) The making of a request under sub-section (1) does not affect the operation of the variation to which the request relates or prevent the taking of action to implement the variation.

"(3) Where a request is made under sub-section (1), the Minister shall review the variation to which the request relates and may confirm that variation or set aside that variation and substitute such other variation as the Minister thinks fit.

"(4) The Minister shall cause notice in writing of a decision refusing to allow an extension of the period under sub-section (1) or a decision on a review under sub-section (3) to be given to the lessee.

"(5) A notice under sub-section (4) shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, the lessee is entitled to apply to the Administrative Appeals Tribunal for a review of the decision to which the notice relates.

"(6) The validity of a decision of the Minister referred to in sub-section (4) shall not be taken to be affected by a failure to comply with sub-section (5).

"(7) The lessee may apply to the Administrative Appeals Tribunal for a review of a decision of the Minister

- (a) refusing to allow an extension of the period under sub-section (1); or
- (b) on a review by the Minister under sub-section (3)."

Repeal of section 18C

8. Section 18C of the Principal Ordinance is repealed.

Restrictions on transfer, &c., of certain leases

9. Section 28B of the Principal Ordinance is amended by omitting from paragraph (7) (c) "to the Department of the Interior".

Transitional

10. (1) Where before the commencement of this Ordinance—

(a) a request was made by a lessee under section 11B of the Principal Ordinance for a review by the Valuation Review Board of a determination made by the Minister under sub-section 11A (9) of that Ordinance; and

(b) the Board has not completed that review,

sections 11B and 11C of the Principal Ordinance continue to apply to and in relation to that review, notwithstanding the repeal of section 11B and the amendment of section 11C by this Ordinance.

(2) Where before the commencement of this Ordinance—

(a) a request was made by a lessee under section 18B of the Principal Ordinance for a review by the Valuation Review Board of a variation of the rent payable under a lease referred to in that section; and

(b) the Board has not completed that review,

sections 18B and 18C of the Principal Ordinance continue to apply to and in relation to that review, notwithstanding the repeal of those sections by this Ordinance.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 13 July 1982.

2. 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; No. 45, 1970; No. 11, 1971; Nos. 3 and 58, 1973; Nos. 13, 19, 25, 50 and 56, 1974; No. 32, 1975; Nos. 12 and 25, 1976; Nos. 57 and 64, 1977; No. 18, 1978; No. 23, 1979.