

AUSTRALIAN CAPITAL TERRITORY

City Area Leases (Amendment) Ordinance 1984

No. 39 of 1984

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 26 July 1984.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

TOM UREN
Minister of State for Territories and Local Government

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 1984*.¹

Principal Ordinance

2. In this Ordinance, "Principal Ordinance" means the *City Area Leases Ordinance 1936*.²

Assignment, mortgage &c., of lease where building required to be erected on the land

3. Section 28 of the Principal Ordinance is amended—

- (a) by omitting sub-sections (2B) and (2C) and substituting the following sub-sections:

“(2B) Subject to this section, where a lease contains a building and development covenant, the lease or an interest in the lease is not capable of being transferred or assigned, either at law or in equity—

- (a) otherwise than in the case of the death of the lessee;
- (b) otherwise than in pursuance of an order made by the Family Court of Australia or any other court having jurisdiction under the *Family Law Act 1975*;
- (c) otherwise than by virtue of the operation of any law relating to bankruptcy or insolvency; or
- (d) unless the lessee has obtained—
 - (i) a certificate under sub-section (2A); or
 - (ii) the consent of the Minister under this section as in force at any time before the commencement of the *City Area Leases Ordinance (No. 2) 1973*.

“(2C) Subject to this section, where a lease contains a building and development covenant, the lease or an interest in the lease shall not be capable of being mortgaged unless—

- (a) the lessee has obtained a certificate under sub-section (2A); or
- (b) the mortgage is required by the lessee—
 - (i) to enable the lessee to repay money borrowed by the lessee for purpose of acquiring the lease;
 - (ii) to secure money borrowed by the lessee for the purpose of acquiring the lease; or
 - (iii) to enable the lessee to comply with the building and development covenant in the lease.”; and
- (b) by omitting from sub-section (4) “(2C) or”.

Restrictions on transfer, &c., of certain leases

4. Section 28B of the Principal Ordinance is amended—

- (a) by omitting sub-section (1) and substituting the following sub-section:

“(1) This section applies to and in relation to—

- (a) a lease of a parcel of land specified in an order made by the Minister under sub-section 13 (3) (being an order that includes a direction as provided for by sub-section 13 (3A)) granted to the successful bidder for the right to the lease at the auction specified in the order; and
 - (b) a lease of a parcel of land granted under section 17 to a person included in a class of persons specified by the Minister, for the purposes of this paragraph, by instrument in writing published in the *Gazette*.”;
- (b) by omitting from paragraph (10) (a) “or”; and
- (c) by omitting paragraph (10) (b) and substituting the following paragraphs:
- “(b) in the case of a transaction in respect of a lease of the kind referred to in paragraph (1) (b)—the period (if any) specified by the Minister in the instrument specifying a class of persons for the purposes of that paragraph; or
 - (c) in any other case—a period of 5 years.”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 2 August 1984.
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; No. 56, 1982; Nos. 54 and 57, 1983.