

AUSTRALIAN CAPITAL TERRITORY

Leases (Special Purposes) (Amendment) Ordinance 1986

No. 17 of 1986

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 5 June 1986.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

G. SCHOLES
Minister of State for Territories

An Ordinance to amend the *Leases (Special Purposes) Ordinance 1925*

Short title

1. This Ordinance may be cited as the *Leases (Special Purposes) (Amendment) Ordinance 1986*.¹

Principal Ordinance

2. In this Ordinance, "Principal Ordinance" means the *Leases (Special Purposes) Ordinance 1925*.²

Tenant right in improvements

3. Section 5BA of the Principal Ordinance is amended—

- (a) by omitting from the definition of "improvements" in sub-section (7) "and in respect of which the Commonwealth has not received, or is not entitled to receive, payment" and substituting "unless the

Commonwealth has received or is entitled to receive payment for the improvements”; and

- (b) by omitting the definition of “value” in sub-section (7) and substituting the following definition:

“ ‘value’, in relation to improvements on land, means the value of the improvements determined in accordance with section 5BB.”.

4. After section 5BA of the Principal Ordinance the following section is inserted:

Determination of value of improvements

“5BB. (1) In this section—

‘lessee’ has the same meaning as in section 5BA;

‘market value’, in relation to improvements on land, means the amount by which the improvements increase the value of the lease of the land, assuming that the lease, together with the improvements, were offered for sale at a *bona fide* sale on the day immediately before the prescribed date on such reasonable terms and conditions as a *bona fide* seller would require;

‘prescribed date’ means, in relation to land the lease of which has expired or has been determined or surrendered, the date of expiry, determination or surrender, as the case requires.

“(2) Where compensation is payable under section 5BA in respect of improvements, the Minister shall, as soon as practicable after the date that is the prescribed date in relation to land, by instrument in writing determine, in accordance with this section, the market value of the improvements on the land as at the prescribed date.

“(3) Where the compensation is payable by virtue of sub-section 5BA (2), the Minister shall, in valuing the improvements, assume that the lease of the land had been renewed subject to the same covenants and conditions, and for the same term, as the lease the term of which had expired.

“(4) Where the compensation is payable by virtue of sub-section 5BA (6), the Minister shall, in valuing the improvements, assume that the lease of the land had not been determined or surrendered.

“(5) Application may be made to the Administrative Appeals Tribunal for a review of a decision of the Minister determining the value of improvements under this section.

“(6) Where the Minister makes a decision determining the value of improvements under this section, the Minister shall, not later than 30 days after the date of the decision, cause a notice in writing to be given to the lessee—

- (a) giving the reasons for the decision; and
- (b) including 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.

“(7) The validity of a decision referred to in sub-section (5) shall not be taken to be affected by a failure to include in a notice for the purposes of sub-section (6) a statement in accordance with paragraph (6) (b).”

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 13 June 1986.
2. No. 11, 1925, as amended by No. 5, 1927; No. 14, 1929; No. 8, 1930; No. 7, 1932; No. 3, 1936; No. 4, 1943; No. 46, 1970; No. 42, 1981.