

EXPLANATORY STATEMENT

CITY AREA LEASES (AMENDMENT) ORDINANCE 1986

NO. 16 OF 1986

LEASES (SPECIAL PURPOSES) (AMENDMENT) ORDINANCE 1986

NO. 17 OF 1986

The City Area Leases (Amendment) Ordinance 1986 and the Leases (Special Purposes) (Amendment) Ordinance 1986 (“the amending Ordinances”) amend respectively the City Area Leases Ordinance 1936 and the Leases (Special Purposes) Ordinance 1925 (“the Principal Ordinances”) to clarify the basis on which compensation for improvements will be assessed when the lease on which the improvements are situated expires is surrendered or otherwise determined.

The Principal Ordinances provide for compensation for improvements to the amount agreed upon by the Minister and the lessee or, where a lease is granted to a third party, the amount the Commonwealth receives in respect of the improvements.

The Principal Ordinances do not specify the basis on which the value of improvements is to be assessed. The value is the sum agreed to by the Minister and the lessee, or, where no agreement can be reached, the amount determined by arbitration. The improvements could thus be valued on the basis of depreciated replacement cost or on the basis of the sum which represents the value which the improvements add to the market value of the lease. The amending Ordinances make it clear that compensation will be assessed on the latter basis and provide an appeal against the Minister’s determination of value to the Administrative Appeals Tribunal.

Details of the amending Ordinances are as follows:

Sections 1 and 2 deal with interpretation.

Section 3 amends the Principal Ordinances (section 19A of the City Area Leases Ordinance and section 5BA of the Leases (Special Purposes) Ordinance) to delete the definitions of the value of improvements and insert the new definition contained in section 4. Section 3 also amends the Leases (Special Purposes) Ordinance to bring the definition of “improvements” into line with the wording of the definition of “improvements” in the City Area Leases Ordinance.

Section 4 inserts a new section into the Principal Ordinances (new section 20 into the City Areas Leases Ordinance, new section 5BB into the Leases (Special Purposes) Ordinance).

Sub-section (1) deals with interpretation. “Market Value” is defined as 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 at a bona fide sale on the day immediately before the expiry, determination or surrender of the lease.

Sub-section (2) provides that the Minister shall determine the market value of the improvements as soon as practicable after the date of expiry, determination or surrender of the lease.

Sub-section (3) provides that where the lease has expired, it is to be assumed for the purposes of valuing the improvements that the lease had been renewed on the same covenants and conditions and for the same term.

Sub-section (4) provides that where the lease has been determined under the conditions of the lease or has been surrendered before expiry, the improvements are to be valued on the basis that the term remaining on the lease was still to run.

Sub-section (5) provides an appeal to the Administrative Appeals Tribunal for review of the Minister's decision determining the value of the improvements.

Sub-section (6) provides that the Minister must give notice in writing to the former lessee of his decision within 30 days of it being made, setting out the reasons for the decision and notifying the former lessee of his right to appeal to the Administrative Appeals Tribunal.

Sub-section (7) provides that failure to notify the former lessee of his right of appeal to the Administrative Appeals Tribunal does not affect the validity of the determination.