

AUSTRALIAN CAPITAL TERRITORY

CITY AREA LEASES ORDINANCE (NO. 2) 1973

EXPLANATORY MEMORANDUM

No. 58 of 1973

Section 28 of the City Area Leases Ordinance 1936-1973 provides, broadly speaking, that a lease is not be transferred or mortgaged, without the Minister's consent, before the completion of a building on the land. It further provides that the Minister may consent to a mortgage or a transfer where he is satisfied, respectively, that the money to be advanced under the mortgage is required by the lessee to complete the building or that the transferee will comply with the covenant to erect a building.

Section 2 of the City Area Leases Ordinance (No. 2) 1973 will make amendments to section 28 as follows:

- new sub-sections 28 (2) and (2A) will provide that where a lease contains a building and development covenant (which encompasses more than the erection of a building only) the lessee may apply for and be issued with a certificate that the covenant has been complied with;
- new sub-section 28 (2B) will prevent the transfer or mortgage of a lease unless the lessee has obtained a certificate;
- new sub-section 28 (2C) will provide for the Minister's consent to a mortgage before the issue of a certificate where he is satisfied that the mortgage is required to enable compliance by the lessee with the building and development covenant or, in addition, to enable the lessee to repay money borrowed for the purpose of acquiring the lease;
- new paragraph (a) of sub-section (3) will provide for the Minister's consent to a transfer where he is satisfied that the transferee intends to comply with the building and development covenants; and
- new sub-sections (4), (5) and (6) will provide for a right of appeal to the Supreme Court by the lessee against the Minister's refusal to grant a certificate of compliance with the building and development covenants or against his refusal to grant consent to a mortgage or transfer.

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Minister's Initials