

AUSTRALIAN CAPITAL TERRITORY  
CITY AREA LEASES (AMENDMENT) ORDINANCE 1977

EXPLANATORY MEMORANDUM

Lease purpose clause enforcement provisions are currently contained in sections 9, 9B and 9C of the City Area Leases Ordinance 1936. Under these provisions an unauthorized use can be the subject matter of a prosecution and a substantial penalty.

The Senate Committee on Regulations and Ordinances took objection to the criminal character of these provisions and exacted an undertaking that the Ordinance would be amended whereby lease purpose enforcement could be dealt with on a civil basis. The City Area Leases (Amendment) Ordinance 1977 gives effect to that undertaking.

The Ordinance repeals the existing provisions and inserts eight new sections as follows:

- new section 9 provides for certain definitions;
- new section 9A empowers the Supreme Court to make an order directing a lessee or sub-lessee not to use the land in his lease or sub-lease or permit the land to be used for an unauthorized purpose;
- new sections 9B and 9C stipulate who may apply to the Supreme Court and who the parties are to be on an application;
- new section 9CA provides for practical presumptions where it is alleged that someone other than the lessee or his sub-lessee is using the land for an unauthorized purpose;
- new section 9CB allows the joining of the sub-lessee as a party where application is made for an order under section 9A against the lessee;
- new section 9CC allows the Supreme Court to declare void a provision in a sub-lease which purports to authorize an unauthorized purpose and, in doing so, to make any other order that appears to the Court to do justice between the lessee and sub-lessee;
- new section 9CD imposes certain constraints on the Court in relation to the ordering of costs.