

AUSTRALIAN CAPITAL TERRITORY

LAND RENT (VALIDATION AND RE-APPRAISEMENT) ORDINANCE 1970

EXPLANATORY MEMORANDUM

No. 44 of 1970

Section 25 of the City Area Leases Ordinance 1936-1969 requires the unimproved value of land included in the leases under the Ordinance to be re-appraised during each twentieth year of the lease. It further requires the lessee to pay as rent 5% of the re-appraised value.

The re-appraisements are to be made by “the prescribed authority”. Regulation 9 of the City Area Leases Regulations specifies the Minister as the prescribed authority.

The High Court of Australia in *Esmonde Motors Pty. Ltd. v. the Commonwealth of Australia* held that regulation invalid.

The effect of the decision is that numerous re-appraisements that have been made are invalid and part of the amount demanded as rent is not legally payable.

The purpose of the Ordinance is to validate those re-appraisements and to make payable rent appropriate to them.

The Ordinance does this by specifying an amount in respect of each relevant parcel of land and providing that that amount is the value for the purpose of calculating rent. The Ordinance makes the lessee liable to pay rent on the basis of the values specified.

The Schedule to the Ordinance sets out in respect of each relevant parcel of land the re-appraised value and the date from which rent on the basis of that value is payable.

Provision for appeals to the Appeal Board and the Supreme Court have been included in the Ordinance.

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(Minister’s Initials).