

# THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 1 of 1935.

## AN ORDINANCE

To amend the *City Area Leases Ordinance 1924-1929* as amended by the *Seat of Government (Administration) Ordinance 1930*, by the *Seat of Government (Administration) Ordinance 1933*, and by the *City Area Leases Ordinance 1934*, and for other purposes.

BE it ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909* and the *Seat of Government (Administration) Act 1910-1933*, as follows:—

1.—(1.) This Ordinance may be cited as the *City Area Leases Ordinance 1935*. Short title and citation.

(2.) Sub-section (2.) of section one of the *City Area Leases Ordinance 1934* is repealed.

(3.) The *City Area Leases Ordinance 1924-1929*, as amended by the *Seat of Government (Administration) Ordinance 1930*, by the *Seat of Government (Administration) Ordinance 1933*, and by the *City Area Leases Ordinance 1934*, is in this Ordinance referred to as the Principal Ordinance.

(4.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *City Area Leases Ordinance 1924-1935*.

2. The Principal Ordinance is amended as set out in the Schedule to this Ordinance. Amendment of Principal Ordinance.

3. After section eight A of the Principal Ordinance the following section is inserted:— Power to carry on billiard saloon on land leased for shop purposes.

“8B.—(1.) Where in a lease granted under this Ordinance, before or after the commencement of this section, the lessee covenants to use the leased land for shop purposes only or for any purpose incidental thereto, the land shall not be deemed to be

62.—PRICE 5d.

used for any other purpose by reason only of any person duly licensed under the *Billiard Saloon Ordinance* 1926 conducting either as lessee or sub-lessee, in accordance with such conditions relating to the use of the land as the Minister specifies, a billiard saloon on the land.

“(2.) The Minister may approve in writing of any person duly licensed under the *Billiard Saloon Ordinance* 1926 conducting a billiard saloon on the land for such period as the Minister specifies, and may, in the instrument of approval, specify the conditions relating to the use of the land to be observed by that person so conducting the billiard saloon:

Provided that the Minister shall not approve—

- (a) of the doing of any act or thing in connexion with the conducting of the billiard saloon on the land which may become a nuisance to the tenants or occupiers of adjoining lands; or
- (b) of the conducting of a billiard saloon on the land if he is satisfied that it is not in the public interest so to do”.

Auctioning  
of leases.

4. Section ten of the Principal Ordinance is amended—

- (a) by omitting from paragraph (i) of sub-section (2.) the words “(if any)”; and
- (b) by inserting, after sub-section (3.), the following sub-section:—

“(3A.) Where the bidding at the auction is by capital sum representing the unimproved value of the land, the successful bidder shall, at the time of the auction, pay to the Minister a sum representing the difference (if any) between the reserve value placed by the Minister on the parcel of land for which he is the successful bidder and the unimproved value of the parcel as bid by the successful bidder.”.

Power to invite  
applications  
for leases.

5. Section eleven of the Principal Ordinance is amended by inserting, after sub-section (6.), the following sub-section:—

“(6A.) The successful applicant under this section for the lease of a parcel of land on which a reserve value has been placed by the Minister shall, before the lease is granted, pay to the Minister a sum representing the difference (if any) between the reserve value placed by the Minister on the parcel of land and the unimproved value placed on the parcel by the successful applicant in his application.”.

Payment for  
improvements.

6. Section thirteen AA of the Principal Ordinance is amended—

- (a) by adding at the end of sub-section (2.) the words “, and shall be paid in accordance with the provisions of this section”; and

(b) by omitting sub-section (3.) and inserting in its stead the following sub-sections:—

“(3.) Where the right to the lease is offered by auction, the successful bidder may—

- (a) at the time of the auction pay the whole of the amount payable for the improvements;
- (b) subject to such terms and conditions as the Minister thinks fit, pay that amount by such instalments as the Minister determines; or
- (c) at the time of the auction pay part of that amount, and execute in favour of the Commonwealth a mortgage of the leased land, in such form as the Minister thinks fit, for the balance of the purchase money and interest.

“(4.) Where—

- (a) applications are invited for the grant of the lease; or
- (b) a person has entered into an agreement with the Minister for the grant of a lease under section eleven A, thirteen or thirteen A of this Ordinance, or has offered to accept a lease under any of those sections and has paid rent or other moneys to the Minister in respect of the land to which the offer relates,

the successful applicant or that person, as the case may be, may—

- (i) on or before the date of the grant of the lease pay the whole of the amount payable for the improvements;
- (ii) subject to such terms and conditions as the Minister thinks fit, pay that amount by such instalments as the Minister determines; or
- (iii) on or before the date of the grant of the lease, pay part of that amount, and execute in favour of the Commonwealth a mortgage of the leased land, in such form as the Minister thinks fit, for the balance of the purchase money and interest.

“(5.) Any mortgage executed in pursuance of this section shall contain such covenants as the Minister thinks fit.

“(6.) The Minister may, in the name of the Commonwealth, take any such mortgage, and may, in relation to any mortgage so taken, do, for or on behalf of the Commonwealth, any or all of the acts or things which the Commonwealth as mortgagee is empowered, permitted or required to do.”

7. After section thirteen c of the Principal Ordinance the following section is inserted:—

Notice to be given to persons interested before determination of lease.

“13CA.—(1.) Where, by virtue of any provision contained in any lease granted under this Ordinance, the Commonwealth may determine the lease, the lease shall not be determined until fourteen days’ notice that the Commonwealth intends, in pursuance of the powers contained in the lease, to determine the lease has been given to the following persons:—

- (a) Where the leased land is subject to a mortgage or other encumbrance registered under the *Real Property Ordinance* 1924-1934—the mortgagee or encumbrancee;
- (b) Where any person has any interest in the lease or the leased land registered under that Ordinance—that person; and
- (c) Where a caveat lodged under that Ordinance is in force in respect of the leased land—the caveator.

“(2.) Any notice by the last preceding sub-section required to be given may be served or given personally or by being sent by a registered letter posted to the person to whom notice is so required to be given at his address as entered in the Register Book kept under the *Real Property Ordinance* 1925-1934 or appointed in the caveat as the place at which notices relating to the caveat may be served, as the case may be, and shall set out fully the conditions for failure to comply with which the lease may be determined.”

Re-appraisal of value of land.

8. Section fourteen of the Principal Ordinance is amended—
- (a) by omitting the word “tenth” and inserting in its stead the word “twentieth”; and
  - (b) by omitting from sub-section (2.) the word “ten” and inserting in its stead the word “twenty”.

Fences.

9. Section eighteen of the Principal Ordinance is amended—
- (a) by omitting sub-section (5.) and inserting in its stead the following sub-sections:—

“(5.) Where, in any plan or design approved by the Minister for buildings or other structures to be erected on land subject to this Ordinance, a fence is shown or provided for on the common boundary or portion of the common boundary between two parcels of land leased, or which may be leased, under this Ordinance, the lessee of either of the parcels of land shall have the right, power and authority to erect, maintain and use a fence in the position

shown upon the plan or design, and the lessee, who has erected a fence on the common boundary or portion of the common boundary between the parcel of land leased by him and another parcel of land leased by another lessee under this Ordinance, may recover in any Court of competent jurisdiction from such other lessee, within six months after commencing the erection of the fence, half the cost of the erection of the fence.

“(6.) The lessees of two parcels of adjoining land leased under this Ordinance may agree as to the lessee by whom a fence shall be erected on the common boundary or portion of the common boundary between the two parcels of land, and in what proportion the cost of erection shall be borne by them.

“(7.) In default of agreement between the lessees as to the apportionment of the cost of erecting a fence, the Minister may, at the request of either lessee, determine the cost of erecting the fence and the proportion of the cost to be borne by each lessee.

“(8.) The amount agreed upon or determined by the Minister as payable by one lessee to another lessee under this section shall be a debt due and recoverable by the other lessee in any Court of competent jurisdiction.

“(9.) Where, after the commencement of this section, a building is erected by or for the Commonwealth on a parcel of land adjoining a parcel of land held by a lessee under this Ordinance, the Commonwealth shall, upon application by that lessee within six months after the commencement of the erection of that building, pay to that lessee half the cost of any approved fence which has been erected by him on the common boundary or portion of the common boundary between the two parcels of land, less depreciation (if any) to the time of the commencement of the erection of the building.”.

**10.** Section eighteen A of the Principal Ordinance is amended Party walls. by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) In this section ‘party wall’ means a wall or structure designed for the common use of two or more buildings and erected or to be erected upon a common boundary or portion of a common boundary between two parcels of land, leased or which may be leased under this Ordinance, and extending laterally into each of such parcels of land, and includes any wall, wholly or partly used for the support of two or more buildings and erected in connexion with a building in respect of which a certificate of completion has been issued under the provisions of the Canberra Building Regulations made under the *Building and Services Ordinance* 1924, or under that Ordinance as subsequently amended, and in force at the time of the issue of the certificate.”.

Reduction of  
rent and  
unimproved  
value of  
certain lands.

11. Notwithstanding anything contained in the Principal Ordinance, or in the conditions and covenants subject to which any lease is or has been granted under the *City Area Leases Ordinance* 1924, or under that Ordinance as subsequently amended, but without prejudice to the operation of section thirteen D of the Principal Ordinance or to the effect of anything done under that section—

- (a) the rate at which any lessee under any such lease has covenanted or covenants to pay rent shall, in respect of any portion of the term of the lease which fell or falls within the period commencing on the first day of July, One thousand nine hundred and thirty-one and ending on a date to be fixed by the Minister by notice published in the *Gazette*, be reduced and be deemed at all times to have been reduced by Twenty per centum of that rate;
- (b) the Minister may, in respect of a period not exceeding five years from the first day of January, One thousand nine hundred and thirty-three, reduce the unimproved capital value of any parcel of land leased under the *City Area Leases Ordinance* 1924 or under that Ordinance as subsequently amended, and the unimproved capital value as so reduced shall, in respect of that period, be deemed to be and at all times to have been the unimproved capital value of the parcel of land for the purposes of the Principal Ordinance or of that Ordinance as subsequently amended; and
- (c) where, prior to the commencement of this Ordinance the Minister has purported to reduce the unimproved capital value of any parcel of land referred to in the last preceding paragraph, that reduction shall be as valid and effectual as if this Ordinance had been in force when the Minister purported to make the reduction.

Validation of  
mortgages.

12. Where, prior to the commencement of this Ordinance, the Minister or any other authority or person has purported to take a mortgage of land leased under the *City Area Leases Ordinance* 1924 or under that Ordinance as subsequently amended to secure to the Commonwealth or any authority under the Commonwealth the payment of any part of the amount payable for the improvements on the leased land, that mortgage shall be deemed to be and at all times to have been as valid and effectual for all purposes as if this Ordinance had been in force when the Minister, authority or person purported to take it, and as if it had been taken by the Minister in pursuance of section thirteen AA of the *City Area Leases Ordinance* 1924-1934.

## THE SCHEDULE.

## AMENDMENTS OF PRINCIPAL ORDINANCE.

Section.	Extent of Amendment.
8A	Omit "Federal Capital Commission" (wherever occurring) insert "Minister". Omit "it" (first occurring) in paragraph (c) of sub-section (2) insert "he".
10	Omit "Federal Capital Commission" (wherever occurring) insert "Minister".
11	Omit "its" insert "his".
12	Omit "Federal Capital Commission" (wherever occurring) insert "Minister".
13	Omit "Federal Capital Commission" (wherever occurring) insert "Minister".
13A	Omit "or the Federal Capital Commission, the Federal Capital Commission" insert ", the Minister".
13AA	Omit "Federal Capital Commission" (wherever occurring) insert "Minister".
13B	Omit "Federal Capital Commission" (wherever occurring) insert "Minister".
13C	Omit "Federal Capital Commission" (wherever occurring) insert "Minister".
14A	Omit "its" insert "his".
16	Omit "Federal Capital Commission" (wherever occurring) insert "Minister".
17A	Omit "it" (wherever occurring) insert "he".
18A	Omit "Commission" insert "Minister".
18B	Omit "Federal Capital Commission" (wherever occurring) insert "Minister".
22	Omit "Federal Capital Commission may, at its discretion" insert "Minister may, at his discretion".
	Omit "Federal Capital Commission" (first occurring) insert "Minister".
	Omit sub-sections (2.), (3.) and (4.).

Dated this third day of January, 1935.

ISAAC A. ISAACS

Governor-General.

By His Excellency's Command,

T. PATERSON

Minister of State for the Interior.

By Authority: L. F. JOHNSTON, Commonwealth Government Printer, Canberra.