

No. 36 of 1961.

An Ordinance to amend the *Crown Lands Ordinance* 1931-1959.

[Reserved 20th November, 1961.]

[Assented to 8th December, 1961.]*

BE it ordained by the Legislative Council for the Northern Territory of Australia, in pursuance of the powers conferred by the *Northern Territory (Administration) Act* 1910-1959, as follows:—

1.—(1.) This Ordinance may be cited as the *Crown Lands Ordinance* 1961. Short title and citation.

(2.) The *Crown Lands Ordinance* 1931-1959 is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Crown Lands Ordinance* 1931-1961.

2 This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.† Commencement.

3 After section six of the Principal Ordinance the following section is inserted in Part I.:—

“6A.—(1.) Notwithstanding anything contained in this Ordinance, the Administrator may, without inviting applications, by agreement in writing grant a lease of Crown land on which there is a building the property of the Commonwealth. Leases of land on which there are Commonwealth buildings.

“ (2.) A lease may be granted under this section for business or residential purposes or for both business and residential purposes.

“ (3.) A lease may be granted under this section upon a weekly, fortnightly, monthly or quarterly tenancy.

“ (4.) A lease under this section—

(a) shall contain such reservations, covenants, conditions and provisions as are specifically prescribed to be included in a lease under this section and such additional reservations, covenants, conditions and provisions as the Administrator determines; and

(b) shall take effect according to its tenor.

* Assent notified in the *Government Gazette* of the Northern Territory on 28th December, 1961 (see *Gazette* No. 60, 1961, p. 241).

† The date fixed was 10th January, 1962 (see *Government Gazette* No. 2 of 10th January, 1962, p. 3).

“(5.) The provisions of this Ordinance, other than this section and section one hundred and eighteen of this Ordinance, do not apply to or in relation to a lease granted under this section, but the law that would apply to and in relation to a lease of land held for an estate in fee simple shall apply to and in relation to a lease granted under this section as if the land leased were held by the Administrator for an estate in fee simple.

“(6.) The provisions of the Real Property Act, 1886 as amended by the *Real Property Ordinance* 1918-1955 and the provisions of the *Landlord and Tenant (Control of Rents) Ordinance* 1949-1954 do not apply to leases granted under this section.

“(7.) Where on the date of commencement of this section a person is in occupation of land on which there is a building the property of the Commonwealth by virtue of a written agreement that written agreement shall, after the commencement of this section, operate, and have effect, according to its tenor as if it had been granted as a lease of land on conditions contained in the written agreement.”

Leases to be in perpetuity.

4. Section fourteen of the Principal Ordinance is amended by inserting after the word “leases” (second occurring) the words “and leases under section six A of this Ordinance”.

Repeal of section 22A.

5. Section twenty-two A of the Principal Ordinance is repealed.

Improvements in lieu of rental.

6. Section twenty-five B of the Principal Ordinance is amended by omitting the word “Minister” (first occurring) and inserting in its stead the word “Administrator”.

Surrender of lease and grant of new leases on sub-division.

7. Section twenty-five C of the Principal Ordinance is amended by omitting paragraph (a) of sub-section (4.) and inserting in its stead the following paragraph:—

“(a) the reservations, covenants, conditions and provisions to be included in each lease of the land if it is sub-divided; and”

Surrender of lease and grant of consolidated lease.

8. Section twenty-five D of the Principal Ordinance is amended—

(a) by omitting from sub-section (3.) the words “, with the consent of the Minister”; and

(b) by omitting from paragraph (a) of sub-section (4.) the words “which the Minister has directed”.

Improvements on land to be leased.

9. Section thirty-one of the Principal Ordinance is amended—

(a) by omitting from sub-section (6.) the words “recommend to the Minister that the lease be forfeited.” and inserting in their stead the words “forfeit the lease.”; and

(b) by omitting sub-section (7.).

10 Section thirty-two of the Principal Ordinance is amended— Re-appraisal
ment of rent.

(a) by omitting sub-sections (2.) and (3.) and inserting in their stead the following sub-sections:—

“ (2.) The rental payable under a pastoral lease or pastoral homestead lease granted in pursuance of this Ordinance shall be subject to re-appraisal on the date prescribed; or, if no date is prescribed, on the date specified in the lease.

“ (3.) The rental payable under a lease shall not be re-appraised unless notice in writing of the amount proposed to be the rental payable after the re-appraisal has been served on the lessee not earlier than twelve months before the date on which the rental is subject to re-appraisal.

“ (3A.) Where on a date not earlier than six months before the date on which the rental is subject to re-appraisal notice has not been served on a lessee under the last preceding sub-section, the lessee may make application for the rental to be re-appraised at an amount specified in the application.

“ (3B.) The application shall be in writing addressed to and served on the Administrator and shall state the reasons on which the lessee relies in support of the application.

“ (3C.) On receiving an application under the last preceding sub-section, the Administrator—

(a) shall consider the reasons set out in the application;

(b) shall determine the amount he proposes to be the rental payable after the re-appraisal; and

(c) shall serve notice in writing on the lessee specifying that amount to be the amount he proposes to be the rental payable after the re-appraisal.

“ (3D.) Where notice is served on a lessee in accordance with sub-section (3.) of this section or the last preceding sub-section, as the case may be, the lessee may, not later than three months after the notice is served, make application for a reconsideration of the amount proposed by the Administrator to be the rental payable after re-appraisal.

“(3E.) The application shall be in writing addressed to and served on the Administrator and shall state the reasons on which the lessee relies in support of the application.

“(3F.) On receiving an application under the last preceding sub-section, the Administrator—

- (a) shall consider the reasons set out in the application;
- (b) shall determine the rental payable after the re-appraisal to be such amount as he thinks fit, being an amount not greater than the amount specified in the notice served under sub-section (3.) or (3c.) of this section, as the case may be; and
- (c) shall serve notice in writing on the lessee specifying the amount of the rental so determined.

“(3G.) The rental payable after re-appraisal is—

- (a) where the lessee has requested reconsideration of the amount of the rental proposed to be payable after re-appraisal, the amount specified in a notice under the last preceding sub-section; or
- (b) where the lessee has not requested reconsideration of the amount of rental proposed to be payable after re-appraisal the amount specified in a notice under either sub-section (3.) or (3c.) of this section, as the case may be.

“(3H.) The re-appraised rental in respect of the lease is payable on and from the first day of July next succeeding—

- (a) the date on which the rental is subject to re-appraisal in accordance with this section;
- (b) the date on which the notice is served on the lessee—
 - (i) in accordance with sub-section (3.) of this section, if the lessee does not make an application under sub-section (3A.) of this section; or

(ii) in accordance with sub-section (3C.) of this section if the lessee does not make an application under sub-section (3D.) of this section but does make an application under sub-section (3A.) of this section; or

(c) the date on which the lessee makes an application under sub-section (3D.) of this Ordinance, if the lessee makes such an application,

whichever is the latest.

“(3J.) A notice or application under this section may be served by post.”; and

(b) by omitting sub-section (5.) and inserting in its stead the following sub-section:—

“(5.) The rental payable before re-appraisal shall continue to be the rental fixed by the lease or by the last preceding re-appraisal, as the case may be, until the re-appraised rental is payable.”.

11. Section fifty-four of the Principal Ordinance is amended—

Sub-division
by lessee in
lieu of
resumption.

(a) by omitting from sub-section (1.) the word “Minister” (first occurring) and inserting in its stead the word “Administrator”; and

(b) by omitting from sub-section (2.) the word “Minister” (wherever occurring) and inserting in its stead the word “Administrator”.

12. Section fifty-nine J of the Principal Ordinance is amended by omitting sub-paragraphs (i), (ii), (iii) and (iv) of paragraph (c) of sub-section (1.) and inserting in their stead the following sub-paragraphs:—

Consent to
transfer,
mortgage or
sub-lease.

“(i) to the Commonwealth Trading Bank of Australia;

“(ii) to the Commonwealth Savings Bank of Australia;

“(iii) to the Commonwealth Development Bank of Australia;

“(iv) to a body corporate authorized under Part II. of the *Banking Act 1959* to carry on banking business in Australia; or

“(v) to an incorporated company approved for the purposes of this Division by the Administrator by notice in the *Gazette*.”.

Terms and conditions of agricultural leases.

13. Section sixty-four of the Principal Ordinance is amended by omitting from paragraph (a) the words "mixed farming or grazing" and inserting in their stead the words "mixed farming and grazing".

Leases of town lands to be offered at auction.

14. Section sixty-seven of the Principal Ordinance is amended—

(a) by omitting from sub-section (10.) the word "Minister" and inserting in its stead the word "Administrator";

(b) by omitting from sub-section (11.) the word "Minister" (wherever occurring) and inserting in its stead the word "Administrator"; and

(c) by omitting from sub-section (13.) the word "Minister" (wherever occurring) and inserting in its stead the word "Administrator".

Grant of leases to tenants occupying dwelling houses.

15. Section sixty-eight c of the Principal Ordinance is amended by omitting from sub-section (4.) the word "Minister" and inserting in its stead the word "Administrator".

Grant of leases to persons receiving a pension.

16. Section sixty-eight d of the Principal Ordinance is amended by omitting from sub-section (3.) the word "Minister" and inserting in its stead the word "Administrator".

Grant of leases to approved persons.

17. Section sixty-eight e of the Principal Ordinance is amended by omitting from sub-section (4.) the word "Minister" and inserting in its stead the word "Administrator".

Power of Minister to grant lease to Housing Commission.

18. Section sixty-eight f of the Principal Ordinance is amended by omitting from sub-section (2.) the word "Minister" and inserting in its stead the word "Administrator".

Power to grant miscellaneous leases.

19. Section sixty-nine of the Principal Ordinance is amended by omitting from paragraph (b) of sub-section (2.) the words "section one hundred and three A" and inserting in their stead the words "section one hundred and three".

Appointment and powers of trustees of lands reserved for recreation or amusement of the public, &c.

20. Section one hundred and three A of the Principal Ordinance is amended—

(a) by omitting sub-section (7.) and inserting in its stead the following sub-section:—

"(7.) Notwithstanding the provisions of this Ordinance or of any law in force in the Northern Territory, the trustees of land so reserved may use or authorize other persons to use the land for sporting or other functions, and may charge or authorize other persons to charge for the admission of persons and vehicles to the land or any part thereof when the land is so used, whether on Sundays or otherwise."; and

(b) by adding at the end thereof the following sub-sections:—

“(8.) The trustees of any land reserved for the recreation or amusement of the public or for any other public purposes certified by the Administrator in Council to be a like purpose, may make by-laws not inconsistent with this Ordinance, for the control and management of the reserve and, in particular, providing for or in relation to—

- (a) the times at which the reserve or portions of the reserve shall be open and closed;
- (b) the conduct of persons when on the reserve;
- (c) the days on which, and the limits within which, sports and games, or training for sports and games, may be permitted on the reserve and otherwise regulating or prohibiting sports and games, or training for sports and games, on the reserve;
- (d) the prevention or the regulation of the admission of vehicles, horses, dogs, asses, mules, goats, camels, sheep and cattle to the reserve, and for their destruction if trespassing on the reserve;
- (e) the speed of vehicles and the parking of vehicles within the reserve;
- (f) the prohibition or the regulation of the sale or exposal for sale of goods, wares or merchandise on the reserve;
- (g) the prevention of damage or injury to, or destruction of, trees, shrubs, plants and flowers on the reserve;
- (h) the prevention of damage or injury to, or destruction or defacement of, buildings, structures or erections or natural features on the reserve;
- (i) the prevention of nuisances on the reserve;
- (j) the charging of fees by the trustees, or by other persons, for admission to the reserve, or any part of the reserve;

- (k) the authorization of persons to demand the names and places of abode of persons who are believed on reasonable grounds to have contravened or failed to comply with a by-law and requiring persons to comply with such a demand made by a person so authorized;
- (l) the removal from the reserve of persons who are believed on reasonable grounds to have contravened or failed to comply with a by-law; and
- (m) the imposition of penalties, not exceeding Fifty pounds, for the contravention of, or failure to comply with, a by-law.

“ (9.) When the trustees of any land so reserved make by-laws under the last preceding sub-section—

(a) the by-laws shall be—

- (i) signed by the Chairman of the trustees; and
- (ii) published in the *Gazette*;

and

(b) a copy of the by-laws shall be forwarded forthwith to the Administrator.

“ (10.) The Administrator shall cause a copy so forwarded to be laid before the Legislative Council for the Northern Territory at its first meeting after the date on which he receives the copy.

“ (11.) By-laws made under this Ordinance take effect from the date on which they are notified in the *Gazette*, but if the Legislative Council passes a resolution, of which notice has been given at any time within fifteen sitting days after the copy specified in the last preceding sub-section is laid before the Council, disallowing any by-law, that by-law shall thereupon cease to have effect.

“ (12.) For the purposes of the *Regulations Publication Ordinance* 1940-1952, other than sub-section (3.) of section four of that Ordinance, all by-laws made by the trustees shall be deemed to be regulations.

“ (13.) Where—

(a) a by-law has been made in relation to any reserve under this section and is in force; and

(b) there is an inconsistency between the provisions of that by-law and of the Crown Lands (Recreation Reserve) Regulations in force at the date of commencement of this subsection or any regulations made under this Ordinance amending or in substitution for those Regulations,

the provisions of the by-law prevail.”.

21. Section one hundred and six v is amended—

Right of appeal.

(a) by adding at the end of paragraph (a) of subsection (1.) the words “or pastoral homestead lease”; and

(b) by adding at the end thereof the following subsection:—

“ (3.) The Land Court shall not hear an appeal made on the re-appraisal of the rent of a pastoral lease or a pastoral homestead lease unless it is satisfied that the lessee has made an application to the Administrator in accordance with sub-section (3D.) of section thirty-two of this Ordinance.”.

22. Section one hundred and seven of the Principal Ordinance is amended by omitting from paragraph (b) of subsection (2.) the words “section one hundred and three A” and inserting in their stead the words “section one hundred and three”.

Grazing licences.

23.—(1.) Section one hundred and nine of the Principal Ordinance is amended—

Miscellaneous leases.

(a) by omitting from sub-section (1.) paragraphs (b), (c), (d) and (f) and inserting in their stead the following paragraphs:—

“ (a) live or dead timber or wood;

“ (b) stone, shell, sand, gravel, clay, or earth, not being or supposed to be metalliferous;

“ (c) salt;

“ (d) seaweed;

“ (e) bark; and

“ (f) any other substance or article the property of the Crown.”;

and

- (b) by omitting from sub-section (4.) of the section the words "one hundred and three A" and inserting in their stead the words "one hundred and three".

(2.) The amendment effected by paragraph (a) of sub-section (1.) of this section shall be deemed to have come into operation on the date of commencement of the *Crown Lands Ordinance (No. 2) 1959*.

Regulations.

24. Section one hundred and thirty-one of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1.) the word "Minister" and inserting in its stead the words "Administrator in Council";
- (b) by omitting from paragraph (b) of sub-section (2.) the words "*Commonwealth of Australia*";
- (c) by omitting paragraph (c) of sub-section (2.) and inserting in its stead the following paragraph:—
 "(c) be laid before the Legislative Council on the first sitting day of that Council after the making of the regulations."; and
- (d) by omitting sub-section (3.) and inserting in its stead the following sub-section:—
 "(3.) If the Legislative Council for the Northern Territory passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before the Council disallowing any regulation, that regulation shall thereupon cease to have effect.".