

No. 61 of 1964.

An Ordinance to amend the *Crown Lands Ordinance* 1931-1963, as amended by the *Crown Lands Ordinance* 1964.

[Reserved 8th October, 1964.]

[Assented to 4th November, 1964.]*

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* 1910-1962, as follows:—

1.—(1.) This Ordinance may be cited as the *Crown Lands Ordinance* (No. 2) 1964. Short title and citation.

(2.) The *Crown Lands Ordinance* 1931-1963, as amended by the *Crown Lands Ordinance* 1964, is in this Ordinance referred to as the Principal Ordinance.

(3.) Section one of the *Crown Lands Ordinance* 1964 is amended by omitting sub-section (3.).

(4.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Crown Lands Ordinance* 1931-1964.

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

3. Section four of the Principal Ordinance is amended by inserting after the words— Parts.

“Division 1.—Leases Generally (Sections 14-36).”,
the words—

“Division 1A.—Easements (Sections 36A-36L).”.

4. Section five of the Principal Ordinance is amended by inserting, after the definition of “District”, the following definition:— Definitions.

“ ‘experimental farm’ means an area of land that has been determined to be an experimental farm by the Administrator in Council under section sixteen A of this Ordinance;”.

Assent notified in the *Government Gazette* of the Northern Territory on 12th November, 1964 (see *Gazette* No. 45B, 1964, p. 176B).

† The date fixed was 17th November, 1964 (see *Government Gazette* No. 45C of 17th November, 1964, p. 176C).

Procedure on
application
for leases.

5. Section ten of the Principal Ordinance is amended—

(a) by inserting after sub-section (2.) the following sub-sections:—

“(2A.) Where the Chairman of the Board receives applications for an agricultural lease of an experimental farm, the Board shall examine the applications and—

(a) if it is satisfied that none of the applicants is a suitable person to be the lessee of that agricultural lease, it shall recommend to the Administrator in Council that no agricultural lease be granted to any of the applicants; or

(b) in any other case it shall recommend to the Administrator in Council that an agricultural lease of the experimental farm be granted to the applicant who, having been interviewed by the Board, is, in the opinion of the Board, the most suitable of the applicants to be the lessee of that agricultural lease;

“(2B.) In the performance of its duties under the last preceding sub-section, the Board may consult such experts and interview such applicants as it thinks fit.”;

(b) by omitting from sub-section (3.) the words “The Board shall examine the applications” and inserting in their stead the words “Where the Board receives applications for a pastoral or pastoral homestead lease or an agricultural lease that is not an agricultural lease of an experimental farm, the Board shall examine the applications”; and

(c) by inserting in sub-section (16.) after the word “shall” (second occurring) the words “, except where its first recommendation was made under sub-section (2A.) of this section,”.

6. After section sixteen of the Principal Ordinance the following section is inserted:—

Notice as to
experimental
farms.

“16A.—(1.) Where land is made available for leasing under an agricultural lease the Administrator in Council may determine that the land shall be an experimental farm.

“(2.) Where a notice under the last preceding section relates to an agricultural lease of land that has been determined by the Administrator in Council to be an experimental farm, the notice shall include the following information:—

- (a) that the land available for leasing is an experimental farm; and
- (b) that an agricultural lease of the land shall be subject to a covenant in accordance with paragraph (f) of section sixty-four of this Ordinance.”.

7. After section thirty-six of the Principal Ordinance insert the following Division:—

“ *Division 1A.—Easements.*

“ 36A.—(1.) In this Division—

Definitions.

- ‘ Crown lease ’ means a lease granted by the Minister or the Administrator under a law of the Territory relating to the leasing of Crown land;
- ‘ easement ’ means a right annexed to land, whether the subject of a Crown lease or not, to use other land, whether the subject of another Crown lease or not, in a particular manner or to prevent land, whether the subject of another Crown lease or not, from being used in a particular manner but does not include a right to take any part of the soil or the produce of other land;
- ‘ easement in gross ’ means a right of the Commonwealth in the nature of an easement which is not annexed to particular land of the Crown or the Commonwealth;
- ‘ servient tenement ’ means land the use of which is authorized or restricted by an easement or an easement in gross.

“ 36B.—(1.) A power conferred on the Minister or the Administrator by a law of the Territory to grant a lease of any Crown land or reserved or dedicated land includes a power to grant an easement annexed to the land leased or to reserve an easement in gross.

**Power of
Minister or
Administrator
to grant
easements.**

“(2.) The power of the Minister or the Administrator to grant an easement annexed to leased land or to reserve an easement in gross may be exercised when the lease is granted or at any time during the term of the lease.

Power of freeholder or lessee to grant easement.

“ 36C. An easement annexed to land comprised in a Crown lease may be granted to the lessee of that Crown lease by—

- (a) a registered proprietor of an estate in fee simple, over land comprised in that estate; or
- (b) the lessee of any other Crown lease, over land comprised in that Crown lease.

Power of freeholder or lessee to grant easement in gross.

“ 36D. An easement in gross may be granted to the Commonwealth, the council of a municipality constituted under the *Local Government Ordinance* 1954-1964 or any prescribed statutory public authority by—

- (a) a registered proprietor of an estate in fee simple, over land comprised in that estate; or
- (b) the lessee of a Crown lease, over land comprised in that Crown lease.

Manner of granting easements and easements in gross.

“ 36E.—(1.) An easement may be—

- (a) granted or reserved under section thirty-six B of this Ordinance by the instrument of lease or by a separate instrument in writing; or
- (b) granted under section thirty-six C of this Ordinance, by an instrument in writing.

“ (2.) An easement in gross may be granted by an instrument in writing.

“ (3.) An easement or easement in gross shall describe the servient tenement and shall describe the land to which it is annexed or, in the case of an easement in gross, the person who is entitled to it.

Rights and duties run with the land.

“ 36F.—(1.) The rights conferred by an easement pass to the transferee of the land or of the lease of the land to which it is annexed.

“ (2.) The duties imposed by an easement or an easement in gross pass to the transferee of the land or of the lease of the land which is the servient tenement.

Conditions as to easements.

“ 36G. The enjoyment of the rights conferred by an easement is subject to any conditions specified in the grant.

Extinction of easements.

“ 36H. An easement is extinguished—

- (a) by the expiry or sooner determination of the lease to which it is annexed;
- (b) by the expiry or sooner determination of the lease of the servient tenement; or
- (c) by a deed of revocation made by the lessee of, or the registered proprietor of an estate in fee

simple in, the land to which it is annexed and the lessee of, or the registered proprietor of an estate in fee simple in, the servient tenement.

“ 36J. An easement in gross is extinguished only—

(a) when it is surrendered—

(i) by the Commonwealth; or

(ii) by the grantee (not being the Commonwealth) or his successor in title; or

(b) in the case of an easement in gross granted over land comprised in a Crown lease, by the expiry or sooner determination of the lease of the servient tenement.

Extinction of easements in gross.

“ 36K. Where the Registrar-General is satisfied that an instrument produced to him has the effect of extinguishing an easement or easement in gross, he shall enter a memorial of the instrument in the Register Book or the Register Book of Crown Leases, as the case requires, and take such consequential action as is prescribed by the Real Property Act and Ordinance 1886 to 1955.

Registration of extinction of easement in gross.

“ 36L. The provisions of this Division are in addition to the law relating to easements which was in force in the Territory before the commencement of this Division and are not in substitution or derogation of that law except where it is in conflict with those provisions.”

Saving of existing law relating to easements.

8 Section sixty-four of the Principal Ordinance is amended—

Terms and conditions of agricultural leases.

(a) by omitting from paragraph (d) of sub-section (1.) the word “ and ”; and

(b) by adding at the end of sub-section (1.) the following word and paragraph:—

“; and (f) in the case of an agricultural lease of an experimental farm, a covenant that the lessee will, during such period as is specified in the lease, develop, cultivate and stock the land in accordance with such directions as are given by the Administrator from time to time before the end of that period.”

9. After section sixty-five B of the Principal Ordinance the following section is inserted in Division 3 of Part III.:—

“ 65c.—(1.) In this section, ‘ appropriate lease ’ means—

(a) a lease of town lands under this Ordinance;

Conversion of agricultural leases.

- (b) a miscellaneous lease under this Ordinance;
- (c) a lease under the *Darwin Town Area Leases Ordinance* 1947-1963; or
- (d) a lease under the *Special Purposes Leases Ordinance* 1953-1963;

or two or more of any such leases.

“(2.) A lessee under an agricultural lease may apply in writing to the Administrator for the grant to him, in exchange for the agricultural lease, of an appropriate lease or of appropriate leases.

“(3.) Subject to the next succeeding sub-section, where an application is made under the last preceding sub-section the Administrator may, with the approval of the Minister—

- (a) reject the application; or
- (b) offer to the lessee of the agricultural lease an appropriate lease or appropriate leases and inform the lessee of the agricultural lease of the terms and conditions of the lease or leases that the Minister is prepared to grant to the lessee.

“(4.) The Administrator shall reject the application—

- (a) if land included in the agricultural lease has, under section five of the *Freehold Titles Ordinance* 1962-1963, been declared to be agricultural land; or
- (b) if the Administrator in Council has considered—
 - (i) a report by the Director of Lands on whether the farming of the land is commercially practicable; and
 - (ii) such other relevant evidence as the Administrator in Council thinks fit, and is satisfied after considering the report and other relevant evidence (if any) that the farming of the land included in the agricultural lease is commercially practicable.

“(5.) A lease which is offered to the lessee of an agricultural lease may relate to all or to part of the land to which the agricultural lease relates.

“(6.) A lessee of an agricultural lease may, within thirty days, accept an offer made by the Administrator under sub-section (3.) of this section and if he does so shall surrender his agricultural lease.”