

CROWN LANDS ORDINANCE (No. 5) 1972

1325

No. 57 of 1972

An Ordinance to amend the *Crown Lands Ordinance* 1931 as amended

[Reserved 31 July, 1972]

[Assented to 12 October, 1972]*

BE it ordained by the Legislative Council for the Northern Territory of Australia as follows:—

1.—(1.) This Ordinance may be cited as the *Crown Lands Ordinance (No. 5) 1972*.

Short title and citation

(2.) The *Crown Lands Ordinance* 1931 as amended 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* 1931-1972.

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

Commencement

* * * * *

Assent to section 3 withheld

4. Section 91 of the Principal Ordinance is amended—

Definitions

(a) by inserting after the definition of “aboriginal reserve” the following definition:—

“ ‘agricultural purposes’ means purposes for which land the subject of an agricultural lease under Division 3 of Part III. may be used;”;

(b) by inserting after the definition of “approved person” the following definition:—

“ ‘general purposes’ means—

* Notified in the *Northern Territory Government Gazette* No. 43 of 25 October, 1972, page 389.
† The date fixed was 15 November, 1972 (see *Northern Territory Government Gazette* No. 46 of 15 November, 1972, page 411).

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- (a) residential, commercial or business (not being mining), educational, cultural, recreational or religious purposes;
- (b) a combination of two or more of the purposes specified in the last preceding paragraph;
- (c) a combination of agricultural purposes with either pastoral purposes or miscellaneous purposes, or with both pastoral purposes and miscellaneous purposes, or a combination of pastoral purposes and miscellaneous purposes; or
- (d) a combination of one or more of the purposes specified in paragraph (a) of this definition with one or more of the purposes specified in paragraph (c) of this definition;"; and

(c) by inserting after the definition of "miscellaneous purposes" the following definition:—

"'pastoral purposes' means purposes for which land the subject of a pastoral lease under Division 2 of Part III. may be used."

Assent to section
5 withheld

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6. Section 96 of the Principal Ordinance is repealed and the following section inserted in its stead:—

Minister
may grant
leases

"96. Subject to this Part, the Minister may grant to an approved person a lease of unleased land within an aboriginal reserve, being a lease for agricultural purposes, for pastoral purposes, for miscellaneous purposes or for general purposes."

Consideration
of applications

7. Section 100 of the Principal Ordinance is amended by adding at the end thereof the following sub-sections:—

"(4.) If an applicant for a lease for general purposes under this Part satisfies the Board that—

- (a) the applicant intends, and is reasonably capable of, carrying out the covenants, conditions and other provisions that are provided for such a lease by section one hundred DA of this Ordinance or are recommended by the Board to be contained in the lease; and
- (b) the lease, if granted, would not be detrimental to the interests and welfare of any aboriginal community or group,

the Board shall, subject to this section, recommend that the lease be granted.

“(5.) If, in respect of a parcel of land for which an application for a lease for general purposes has been made, there are competing claims by an applicant aboriginal community or group, or an aboriginal community or group to which an applicant belongs, and any other aboriginal community or group, the Board shall, in making a recommendation under the last preceding sub-section, regard as paramount the interests and welfare of the aboriginal community or group more or most closely associated by custom and geographically with the parcel of land.

“(6.) The Board may, in making a recommendation that a lease for general purposes be granted, make a recommendation as to the area of the land to be the subject of the lease that it considers appropriate for the carrying out by the applicant of the covenants, conditions and other provisions of the lease.”.

* * * * *

9. Section 100B of the Principal Ordinance is amended by omitting paragraph (h).

Assent to section 8 withheld
Reservations, covenants, &c.

10. After section 100D of the Principal Ordinance the following section is inserted:—

“100DA. A lease under this Part for general purposes shall contain the following reservations, covenants, conditions and provisions:—

Reservations, covenants, &c., of leases for general purposes

- (a) the reservations, covenants, conditions and provisions provided for by section one hundred B of this Ordinance; and
- (b) a reservation in favour of the aboriginal inhabitants of the Northern Territory.”.

11. Section 100K of the Principal Ordinance is amended—

Report on lease

- (a) by omitting all the words from and including the words “As soon as” to and including the words “the Board shall” and inserting in their stead the words “The Board shall”;
- (b) by inserting after paragraph (a) the following paragraph:—
“(aa) whether the lessee has complied with the reservations, conditions, covenants and other provisions of the lease;”;
- (c) by adding at the end thereof the following sub-sections:—

“(2.) The Board shall make a report as provided by the last preceding sub-section—

- (a) in the case of a lease for pastoral purposes, agricultural purposes or miscellaneous purposes—as soon as practicable after the expiration of the period of two years after the date on which the lease has been granted, as soon as practicable after the expiration of the period of twelve months after the date on which that report was made and as soon as practicable after the expiration of each succeeding period of twelve months; and
- (b) in the case of a lease for general purposes— as soon as practicable after the expiration of the period of two years after the date on which the lease was granted, as soon as practicable after the expiration of the period of three years after the date on which that report was made and as soon as practicable after the expiration of each succeeding period of five years.

“(3.) A report by the Board on a matter under sub-section (1.) of this section may include such recommendations to the Administrator in relation to that matter as the Board considers desirable, including recommendations as to any action that the Board considers necessary to enable the lessee to comply with conditions, covenants and other provisions of the lease.”.

12. After section 100K of the Principal Ordinance the following section is inserted:—

Surrender
of lease
or part
of lease

“100KA.—(1.) A lessee under this Part may, at any time, on payment of the rent due, surrender his lease, or, with the consent of the Administrator, his lease in respect of part of the land the subject of the lease.

Assent to
sub-section (2)
withheld

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13. After section 100L of the Principal Ordinance the following section is inserted:—

Surrender
of lease
for general
purposes

“100LA.—(1.) Where a lessee under a lease for general purposes under this Part applies to surrender the lease, he may, in the application, apply to exchange the lease for—

- (a) a new lease under section ninety-six of this Ordinance or under the *Special Purposes Leases Ordinance 1953-1971* in respect of the whole or a specified part of the land comprised in the surrendered lease; or

(b) new leases under that section or Ordinance in respect of specified parts of that land.

“(2.) An application under the last preceding sub-section shall be treated in the same manner as an application under section ninety-nine of this Ordinance.

“(3.) The applicant may, in the application, set out his proposals and recommendations for the development of, and for improvements to be carried out on, the land in respect of which he has applied for a new lease or leases.

“(4.) The Administrator shall inform the applicant, by notice in writing, whether he approves the granting of a new lease or leases to the applicant.

“(5.) Where the Administrator approves the granting of a new lease or leases to an applicant as provided by this section, the Administrator shall, in the notice under the last preceding sub-section—

(a) set out—

- (i) the description of the land in respect of the new lease or leases;
- (ii) the type and purposes of the new lease or each of the new leases;
- (iii) the term of the new lease or each of the new leases;
- (iv) the amount of rent to be payable in respect of the new lease or each of the new leases and when that rental is to be subject to re-appraisalment; and
- (v) the reservations, covenants, conditions and provisions including a covenant relating to development of the land and minimum improvements to be made to the land, to be contained in each such new lease; and

(b) state that the applicant is entitled, within three months after the date of the notice, to elect in writing addressed to the Administrator to accept a new lease or leases in accordance with the terms specified in the notice.

“(7.) Upon receiving an election in accordance with the notice given under the last preceding sub-section, or within such further time as the Administrator allows, the Administrator shall notify the Minister of particulars of the election.

“(8.) The Minister shall, on the surrender of the existing lease, in accordance with section one hundred KA of this Ordinance, grant to the applicant who so elects a new lease or leases

in accordance with the terms specified in the notice given under sub-section (6.) of this section.”.

Rights to
improvements
on expiry,
&c., of leases

14. Section one hundred M of the Principal Ordinance is repealed and the following section inserted in its stead:—

“100M.—(1.) Where, upon the expiration or surrender of a lease under this Part of land on which there are improvements, the former lessee is granted under this Part or under the *Special Purposes Leases Ordinance 1953-1971* a further lease of that land or of part of that land, he is not liable to make any payment to the Commonwealth in respect of the improvements on the land in respect of which the further lease is granted.

“(2.) Where a lessee on the expiration of a lease under this Part of land upon which there are improvements the property of the lessee applies under this Part for a further lease of that land, but is not so granted a further lease or is so granted a further lease of part only of that land, the Administrator shall require the Valuer-General, in accordance with section thirty-six of this Ordinance, to determine the value of the improvements the property of the lessee, if any, on that land, or on the part of that land, as the case may be, in respect of which the lessee is not granted a further lease.

“(3.) Upon the determination by the Valuer-General of the value of improvements the property of the lessee under the last preceding sub-section, the Commonwealth shall pay to the lessee an amount equal to that value or, if that value is varied under this Ordinance, an amount equal to the value of the improvements the property of the lessee as finally determined under this Ordinance.

“(4.) Where—

- (a) a former lessee under an expired lease of land granted under this Part does not apply under this Part for a grant of a further lease of that land; or
- (b) a lease under this Part is forfeited or surrendered, and a new lease of that land, or part of the land, is not granted to the former lessee under this Part or under the *Special Purposes Leases Ordinance 1953-1971*,

the former lessee may, within fourteen days after the expiry, forfeiture or surrender, as the case may be, elect either to remove any improvements the property of the former lessee from the land or part of the land or not to remove them and apply for compensation in respect of leaving them on that land or part of the land.

“(5.) Upon application by a former lessee for compensation in accordance with an election under the last preceding sub-section, the Commonwealth is liable to pay to him such amount as is, in the opinion of the Administrator, the value to the Commonwealth of the improvements that are the property of the former lessee.

“(6.) The election to remove improvements made under sub-section (4.) of this section confers on the former lessee a right to enter upon the land and to remove the improvements, but that right subsists only for a period of six months after the date of the election or for such longer period as the Administrator allows.”.

15. Section 103 of the Principal Ordinance is amended by inserting after sub-section (2A.) the following sub-sections:—

Resumption
and reservation
of Crown land

* * * * *

Assent to
sub-section (2B)
withheld

“(2C.) The purpose specified in sub-paragraph (i) of paragraph (a) of sub-section (i) of this section for which land may be reserved under this section includes (but without limiting the generality of the expression of that purpose in that sub-paragraph)—

- (a) the use by aboriginals of the natural waters and springs on any unleased land within the reserved land;
- (b) subject to any other law of the Territory, the taking or killing for food by aboriginals of fish, birds and animals *ferae naturae* on any such unleased land or in those waters or springs; and
- (c) the taking by aboriginals for food of any vegetable matter growing naturally on any such unleased land or in those waters or springs.”.

16. Section 107 of the Principal Ordinance is amended—

Grazing
licences

- (a) by omitting from paragraph (b) of sub-section (2.) the words “of reserved” and inserting in their stead the word “reserved”;
- (b) by adding at the end of paragraph (c) of that sub-section the words “except to an approved person who has obtained the right to, or is a lessee of, a lease for pastoral purposes under Part IIIA.”; and
- (c) by adding at the end thereof the following sub-section:—

“(3.) An application for a licence under this section by a lessee of a lease for pastoral

purposes granted under Part IIIA. in relation to lands reserved for the use and benefit of the aboriginal inhabitants of the Northern Territory shall be treated in the same manner as an application under section ninety-nine of this Ordinance.”.

Improvements
on land in
respect of
which grazing
licence held

17. Section 107A of the Principal Ordinance is amended—

- (a) by omitting from paragraph (a) of sub-section (4.) the words “specified in the licence” and inserting in their stead the words “other than land reserved for the use and benefit of the aboriginal inhabitants of the Northern Territory”; and
- (b) by adding at the end thereof the following sub-section:—

“(5.) The provisions of sections one hundred J and one hundred M of this Ordinance apply, so far as applicable, in relation to improvements permitted under this section on land reserved for the use and benefit of the aboriginal inhabitants of the Northern Territory and the subject of a licence to graze stock granted under this Part as if they were improvements on land the subject of a lease under Part IIIA.”.
