

# CROWN LANDS ORDINANCE (No. 6) 1972

1355

No. 62 of 1972

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

[Reserved 31 August, 1972]

[Assented to 17 November, 1972]\*

**B**E 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. 6) 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*.<sup>†</sup> Commencement

3. Section 4 of the Principal Ordinance is amended by omitting the words and figures “(Sections 37-59)” and inserting in their stead the words and figures “(Sections 37-59A)”. Parts

4. Section 5 of the Principal Ordinance is amended by inserting after the definition of “The Real Property Act” the following definition:— Definitions

“‘the Registrar-General’ or ‘the Registrar’ means the Registrar-General for the Northern Territory;”.

5. Section 14 of the Principal Ordinance is amended by omitting from sub-section (1.) the word “Leases” and inserting in its stead the words “Except as otherwise provided by this Ordinance, leases”. Leases—how granted, which in perpetuity or subject to rental re-appraisalment

6. Section 23A of the Principal Ordinance is amended by omitting from sub-section (1.) the words “of this Ordinance or on application by the lessee under a lease granted in pursuance Variation of purpose for which land leased

\* Notified in the *Northern Territory Government Gazette* No. 47 of 22 November, 1972, page 421.  
† The date fixed was 29 November, 1972 (see *Northern Territory Government Gazette* No. 48 of 29 November, 1972, page 429).

of Division 4 or” and inserting in their stead the words “or section 25DAA of this Ordinance or on the application by the lessee under a lease granted in pursuance of Division 4 of this Part, other than a lease to which the next succeeding section applies, or a lease granted in pursuance of”.

7. After section 23A of the Principal Ordinance the following section is inserted:—

Variation of  
purpose of  
lease in respect  
of certain  
town lands

“23B.—(1.) This section applies to a lease granted under this Ordinance of Crown lands to which a town plan under the *Town Planning Ordinance* 1964-1971 relates, not being—

- (a) a lease granted under section one hundred and twelve A of this Ordinance for church purposes;
- (b) a miscellaneous lease; or
- (c) an agricultural lease.

“(2.) The lessee under a lease to which this section applies may apply, by instrument in writing, to the Administrator for a variation of a covenant, condition or other provision of the lease in relation to the purpose for which the land the subject of the lease may be used.

“(3.) If there is a proposal to amend the town plan as it relates to the land the subject of a lease to which this section applies, the Administrator shall not vary such a covenant, condition or provision of the lease until the amendment comes into operation.

“(4.) The Administrator shall—

- (a) if he is satisfied that the proposed variation will, in his opinion, accord with the town plan as it relates to the land the subject of the lease—
  - (i) grant the application; or
  - (ii) grant the application subject to the condition that such other variations of the covenants, conditions or provisions of the lease are made as the Administrator considers necessary as a consequence of variation of the covenant, condition or provision in relation to the purpose for which the land the subject of the lease may be used; or
- (b) if he is not so satisfied—refuse the application.

“(5.) Where the Administrator—

- (a) refuses to grant an application to vary a covenant, condition or provision in relation to the purpose for which the land the subject of the lease may be used; or

- (b) approves a variation of such a covenant, condition or provision subject to the condition referred to in sub-paragraph (ii) of paragraph (a) of the last preceding sub-section and the lessee objects to that last-mentioned condition,

the lessee may apply, by instrument in writing lodged with the Registrar of the Tribunal, for an order that the application be granted, or that the application be granted without that last-mentioned condition or with a variation of that condition, as the case may be.

“(6.) An applicant for an order under the last preceding sub-section shall, not less than thirty days before the date fixed for the hearing of the application, give a copy of the application to the Administrator.

“(7.) The Administrator shall be the respondent at the hearing.

“(8.) Subject to this section, the Tribunal, by order, shall—

- (a) if it is satisfied that the proposed variation of the covenant, condition or provision of the lease in relation to the purpose for which the land the subject of the lease may be used will, in its opinion, accord with the town plan as it relates to that land—

- (i) grant the application;
- (ii) grant the application subject to the condition that such other variations of the covenants, conditions or provisions of the lease are made as the Tribunal considers necessary as a consequence of the variation of the covenant, condition or provision in relation to the purpose for which the land the subject of the lease may be used;
- (iii) grant the application without the condition to which the approval by the Administrator was subject; or
- (iv) grant the application with such variations of the condition to which the approval by the Administrator was subject as the Tribunal considers necessary as a consequence of the variation of the covenant, condition or provision in relation to the purpose for which the land the subject of the lease may be used,

as the case requires; or

(b) if it is not so satisfied—refuse the application.

“(9.) A variation under this section of a covenant, condition or other provision of a lease does not have effect until—

(a) where the variation is made by the Administrator—notice in writing of the variation, signed by the Administrator, is produced to the Registrar-General; and

(b) where the variation is made by the Tribunal—a copy of the order, signed by the Registrar of the Tribunal, is produced to the Registrar-General.

“(10.) Upon receipt of the notice or copy of an order under the last preceding sub-section, the Registrar-General shall enter in the Register Book of Crown Leases kept under the Real Property Act and on the lessee’s copy of the lease or other instrument evidencing his title to the leased land the date and hour of the production to him of the notice or copy of the order and particulars of the variation made.

“(11.) A covenant, condition or other provision of a lease that is granted under section sixty-eight G of this Ordinance shall not be varied before the expiration of a period of five years after the date on which the lessee acquired the right to the lease.”.

Application to  
submit detailed  
proposals for  
subdivision

**8.** Section 25CD of the Principal Ordinance is amended by omitting from paragraph (c) of sub-section (2.) the words “with the consent of the Minister.”.

**9.** After section 25D of the Principal Ordinance the following section is inserted:—

Grant of lease  
over additional  
Crown land

“25DAA.—(1.) A person holding an estate in fee simple over a parcel of land, not being town lands, may apply in writing to the Administrator for the right to the grant of an agricultural, pastoral or miscellaneous lease under this Ordinance of adjoining or nearby Crown land for the purpose of its conjoint development with the estate in fee simple.

“(2.) A lease granted in pursuance of an application made under this section—

(a) shall contain such reservations, covenants, and other provisions (in addition to those required by this Ordinance in respect of the type of lease) as the Administrator determines and specifies in the lease;

(b) is liable to forfeiture without compensation if the estate or part of the estate in fee simple is alienated without the consent of the Administrator;

- (c) shall not be transferred before the expiration of five years after the date of the grant of the right to the lease except in exceptional circumstances approved by the Administrator; and
- (d) shall not be transferred except to the purchaser of the whole of the estate in fee simple.

“(3.) An application under the last preceding sub-section shall—

- (a) set out the area and a description of the estate in fee simple;
- (b) set out the area and a description of the Crown land in respect of which the application is made;
- (c) specify the type of lease applied for; and
- (d) set out particulars of the proposed development.

“(4.) The Administrator shall reject an application if—

- (a) the adjoining or nearby Crown land is required for a purpose of the Commonwealth;
- (b) the two parcels of land are, in his opinion, beyond a reasonable working distance apart and cannot accordingly be developed as a single unit; or
- (c) the applicant is not, in the opinion of the Administrator, attempting in good faith to develop his estate.

“(5.) Where part only of the adjoining or nearby Crown land is required for a purpose of the Commonwealth, the Administrator shall reject the application in respect of that part of the land only.

“(6.) The Administrator shall give notice in writing of his decision to the applicant.

“(7.) Where the Administrator does not reject an application, or rejects an application in respect of part only of the land applied for, the Administrator shall, in the notice—

- (a) set out the type of lease proposed to be granted, a description of the land the subject of the proposed lease and the conditions under which such a lease may be granted in accordance with sub-section (2.) of this section; and
- (b) require the applicant, within the period of thirty days after the date of the notice, to elect, in writing addressed to the Administrator, to accept or reject the decision of the Administrator.

“(8.) Where the applicant so elects to accept the decision of the Administrator, the Administrator shall forward the application and a copy of the notice under sub-section (6.) of

this section to the Board for its consideration in accordance with section ten or seventy-three, as the case may be, of this Ordinance.

“(9.) For the purposes of making a recommendation on the grant of a lease under this section, the Board shall, in its consideration in accordance with section ten or seventy-three, as the case may be, of this Ordinance, only consider an application forwarded to the Board under the last preceding sub-section.”.

Lessees may  
transfer, &c.,  
leases

**10.** Section 26 of the Principal Ordinance is amended by omitting from sub-section (4.) the word “section” and inserting in its stead the word “Ordinance”.

Improvements on  
lands to be  
leased

**11.** Section 31 of the Principal Ordinance is amended—

(a) by omitting from paragraph (d) of sub-section (3.) the words “at the rate of five per centum per annum or at such lesser rate” and inserting in their stead the words “at such rate”; and

(b) by omitting from paragraph (e) of that sub-section the words “at the rate of five per centum per annum” and inserting in their stead the words “at such rate as the Administrator, from time to time, determines and notifies in writing to the lessee”.

Re-appraisal  
of rent

**12.** Section 32 of the Principal Ordinance is amended—

(a) by omitting sub-sections (1.) and (1A.) and inserting in their stead the following sub-sections:—

“(1.) This section applies to leases specified in sub-section (3.) of section fourteen of this Ordinance as being leases subject to re-appraisal of rent.

“(2.) The rental payable under a lease to which this section applies shall, subject to this and the next succeeding section, be re-appraised by the Administrator—

(a) in the case of a lease of town lands to which this section applies—during the fourteenth year of the term of the lease, and during each fourteenth year thereafter; and

(b) in the case of any other lease to which this section applies—during the tenth year of the term of the lease, and during each tenth year thereafter.

“(2A.) Unless the lessee has made an application under sub-section (3A.) of this section, the Minister may, by instrument in writing under his hand, defer a re-appraisal of rental payable under a lease to which this section applies.

“(2B.) Where the Minister has deferred a re-appraisal, the Administrator shall give notice in writing to the lessee accordingly.

“(2C.) Where the Minister has deferred a re-appraisal, the Administrator shall not carry out the re-appraisal until the deferment has been revoked.

“(2D.) When the deferment of the re-appraisal has been revoked, the Administrator shall re-appraise the rental payable under the lease during the year of the term of the lease next after the date of the revocation,

\* \* \* \* \*

Assent to  
words withheld

“(2E.) The rental payable under a lease to which this section applies is subject to re-appraisal under this section notwithstanding that a re-appraisal that should previously have been made has not been made.”;

- (b) by omitting from sub-section (3.) the words “twelve months before the date on which the rental is subject to re-appraisal” and inserting in their stead the words “the first day of July in the year in which the rental is to be re-appraised under this section”;
- (c) by omitting from sub-section (3A.) the words “a date not earlier than six months before the date on which the rental is subject to re-appraisal” and inserting in their stead the words “on the thirty-first day of December in the year in which the rental is to be re-appraised under this section”;
- (d) by omitting paragraph (a) of sub-section (3E.) and inserting in its stead the following paragraph—  
“(a) the year of the term of the lease during which the rental is re-appraised in accordance with this section;” and
- (e) by adding at the end thereof the following sub-section:—  
“(7.) In this section, ‘year’ means a period of twelve months.”.

**13.** After section 32 of the Principal Ordinance the following section is inserted:—

Re-appraisal of rental based on unimproved capital value

“32A. Where the rental payable under a lease to which the last preceding section applies is based on the unimproved capital value of the leased land, the Administrator shall require the Valuer-General to re-appraise the unimproved capital value of the land.”.

Surrender of pastoral lease in exchange for new pastoral lease

**14.** Section 48 of the Principal Ordinance is amended—

- (a) by omitting from paragraphs (a) and (b) of sub-section (5.) the word “Minister” (wherever occurring) and inserting in its stead the word “Administrator”;
- (b) by omitting sub-section (7.);
- (c) by omitting from sub-section (8.) the words “the Minister has been notified by the Administrator that”; and
- (d) by omitting from sub-section (8.) the word “Minister” (second occurring) and inserting in its stead the word “Administrator”.

Compensation for improvements on surrendered land

**15.** Section 49 of the Principal Ordinance is amended by omitting from paragraph (a) the words “the last preceding section” and inserting in their stead the words “section forty-eight of this Ordinance”.

**16.** After section 59 of the Principal Ordinance the following section is inserted in Division 2 of Part III. of the Principal Ordinance:—

Agreement for exchange of part of pastoral lease

“59A.—(1.) A lessee under a pastoral lease granted under this Ordinance may apply in writing to the Administrator for permission to surrender a part of his lease in respect of part of the land included in the lease, being a part of that land that adjoins a part of the land included in another pastoral lease held by another lessee.

“(2.) An application under the last preceding sub-section shall be accompanied by—

- (a) a plan showing the land included in the part of the lease to be surrendered and the land comprised in the adjoining pastoral lease;
- (b) a written statement of the other lessee that he desires, and is prepared to accept, for inclusion in his pastoral lease, the land included in the part of the lease to be surrendered; and
- (c) reasons in writing why the surrender and inclusion are desired.



“(3.) Subject to the next succeeding sub-section, the Administrator may grant permission or refuse permission for a surrender of a part of the lease under this section.

“(4.) The Administrator shall refuse permission if the area of the part of the land under the part of the lease sought to be surrendered exceeds five per cent of the total area of the land under that lease.

“(5.) The Administrator shall give notice in writing of his decision under this section each to the applicant and to the lessee of the adjoining pastoral lease.

“(6.) Where the Administrator grants permission under this section, the notice under the last preceding sub-section shall specify what variations of the reservations, covenants, conditions and other provisions of the existing leases he will require.

“(7.) If, within sixty days after his receipt of a notice under sub-section (5.) of this section, the applicant and the lessee of the adjoining pastoral lease inform the Administrator in writing of their acceptance of the variations of the reservations, covenants, conditions and other provisions specified in the notice, the Administrator shall, by notice in writing to them, grant permission to the surrender and inclusion subject to those variations.

“(8.) Upon the surrender of a part of a pastoral lease under this section, the Administrator shall cause to be lodged with the Registrar-General a memorandum describing—

- (a) the part of the land to be excised from a lease of land and added to an adjoining lease of land; and
- (b) any variations of the reservations, covenants, conditions and other provisions of the leases and specified in the notice given under sub-section (5.) of this section.

“(9.) Upon the lodging of a memorandum under the last preceding sub-section, the Registrar-General shall—

- (a) register the memorandum; and
- (b) endorse the original of each lease with a note—
  - (i) referring to the memorandum;
  - (ii) stating that the reservations, covenants, conditions and other provisions are varied as set out in the memorandum; and
  - (iii) setting out the changes of addition and excision, as the case may be, of land the subject of the lease.

“(10.) Where a part of a lease is surrendered in accordance with this section, the amount of rent payable after the surrender

on the unsurrendered part of the lease is an amount equal to the amount that bears the same proportion to the rent payable immediately before the surrender as the area of the land included in the unsurrendered part of the lease bears to the area of the land included in the lease immediately before the surrender.”.

Surrender of agricultural lease in exchange for new agricultural lease

**17.** Section 65B of the Principal Ordinance is amended—

(a) by omitting from sub-section (4.) the words “the Minister is” and inserting in their stead the words “he is”; and

(b) by omitting from sub-section (6.) the word “Minister” and inserting in its stead the word “Administrator”.

Allotment of right to lease of town lands not sold at public auction

**18.** Section 68 of the Principal Ordinance is amended by inserting in sub-section (1.), after the word “payment”, the words “, subject to sub-section (5.) of section sixty-eight GA of this Ordinance,”.

Reserve prices for rights to certain leases

**19.** Section 68GA of the Principal Ordinance is amended by inserting in sub-section (5.), after the words “under section”, the words “sixty-eight of this Ordinance, being a parcel of town lands included in a direction under sub-section (2A.) of section sixty-seven A of this Ordinance, or an applicant for a lease of any other parcel of town lands within a municipality under section”.

Restrictions on transfer, &c., of certain leases

**20.** Section 68K of the Principal Ordinance is amended by adding at the end of sub-section (1.) the words “and in relation to the lease of town lands granted to the applicant to whom the right to the grant of the lease has been allotted under sub-section (1.) of section sixty-eight of this Ordinance”.

Grazing licences

**21.** Section 107 of the Principal Ordinance is amended by omitting from sub-section (1.) the words “or any person thereto authorized by the Administrator”.

Occupation licences

**22.** Section 108 of the Principal Ordinance is amended by omitting from sub-section (1.) the words “or any person thereto authorized by the Administrator”.

Miscellaneous licences

**23.** Section 109 of the Principal Ordinance is amended by omitting from sub-section (1.) the words “, or any person authorized by the regulations,”.

Licences in respect of reserved land

**24.** Section 109A of the Principal Ordinance is amended by omitting from sub-section (1.) the words “or a person authorized by him”.