

DARWIN TOWN AREA LEASES (TEMPORARY PROVISIONS) ORDINANCE 1969

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No. 18 of 1969

An Ordinance to make temporary provision for
the valuation of certain lands in or near Darwin
and for related purposes

[Reserved 11 April, 1969]

[Assented to 22 May, 1969]*

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

1. This Ordinance may be cited as the *Darwin Town Area Leases (Temporary Provisions) Ordinance 1969*. Short title

2.—(1.) This Ordinance shall continue in operation until and including the thirtieth day of June, One thousand nine hundred and seventy-one. Operation

(2.) When this Ordinance ceases to be in operation, section 8 of the *Acts Interpretation Act 1901-1966*, in its application to Ordinances of the Territory, applies to and in relation to this Ordinance as if it had been repealed by another Ordinance on the first day of July, One thousand nine hundred and seventy-one.

3. In this Ordinance, unless the contrary intention appears— Definitions

“lease” means a lease under the *Darwin Town Area Leases Ordinance 1947-1966* or that Ordinance as amended;

“the Valuer-General” means the person for the time being holding, or performing the duties of, the office of Valuer-General under the *Valuation of Land Ordinance 1963-1968*;

“unimproved capital value”, in relation to land, has the same meaning as it has for the purpose of the *Valuation of Land Ordinance 1963-1968* in relation to prescribed land within the meaning of that Ordinance.

4.—(1.) Where—

(a) the lease of a parcel of land is to be offered for auction, or applications for the lease of a parcel

Value of
land

* Notified in the *Northern Territory Government Gazette* No. 26A of 30 June, 1969, page 175.

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of land are to be invited, under the *Darwin Town Area Leases Ordinance* 1947-1968 while this Ordinance is in operation; or

- (b) the Minister proposes to grant a lease of a parcel of land under section 15, 16, 16A, 16B, 16C or 17 of the *Darwin Town Area Leases Ordinance* 1947-1968 while this Ordinance is in operation,

this section applies to and in relation to the parcel of land.

(2.) Where the unimproved capital value of a parcel of land to which this section applies is to be determined in pursuance of a requirement or request by the Administrator under the *Darwin Town Area Leases Ordinance* 1947-1968, the Valuer-General shall, by virtue of this Ordinance, be taken for all purposes to be required to determine the unimproved capital value of the parcel in accordance with section 9 of this Ordinance.

Value of land
at present leased

5. Where the unimproved capital value of a parcel of land is, while this Ordinance is in operation, to be determined—

- (a) in pursuance of a requirement by the Administrator under sub-section (2.) of section 11A of the *Darwin Town Area Leases Ordinance* 1947-1968; or

- (b) in pursuance of section 10 of the *Valuation of Land Ordinance* 1963-1968,

and the parcel is the subject of a lease, the Valuer-General shall, by virtue of this Ordinance, be taken for all purposes to be required to determine the unimproved capital value of the parcel in accordance with section 9 of this Ordinance.

Effect of
valuation

6.—(1.) The unimproved capital value of a parcel of land determined in accordance with section 9 of this Ordinance in pursuance of either of the last two preceding sections—

- (a) shall be taken to be the unimproved capital value of the parcel for all the purposes of the *Darwin Town Area Leases Ordinance* 1947-1968 and, for the purpose of section 18 of that Ordinance, to have been determined under that Ordinance; and

- (b) shall be taken to be the unimproved capital value of the parcel for all the purposes of the *Valuation of Land Ordinance* 1963-1968,

until a new valuation of the unimproved capital value of the parcel is made under either of those Ordinances.

(2.) Where an unimproved capital value of a parcel of land is determined in accordance with section 9 of this Ordinance—

- (a) a sub-lease of land held under a lease from the Commonwealth of Australia which is held at a rental calculated by reference to an unimproved capital value determined by the Valuer-General

- prior to the commencement of this Ordinance shall be held at a commensurate rental calculated by reference to the substituted unimproved capital value;
- (b) a payment which was made by a person in accordance with a contract made between that person and the Administrator, the Commonwealth of Australia or a servant or agent of the Commonwealth of Australia and which was calculated or assessed having regard to the unimproved capital value of a parcel of land determined by the Valuer-General shall be so adjusted that—
- (i) any amount paid by that person in excess of the commensurate amount payable by reference to the substituted unimproved capital value shall be repaid to that person by the person to whom the payment was made; and
 - (ii) that person shall pay to the person to whom the payment was made the amount by which the commensurate amount payable by reference to the substituted unimproved capital value of the land exceeds the amount of the payment;
- (c) a contract between parties, containing a reference to a rental or to an unimproved capital value determined by the Valuer-General prior to the commencement of this Ordinance, shall be applied and interpreted as if the rental or value ascertained by reference to the substituted value were the rental or value referred to until a new valuation of the unimproved capital value of the parcel is made under the *Darwin Town Area Leases Ordinance 1947-1968* or the *Valuation of Land Ordinance 1963-1968*; and
- (d) a liability to make a payment of money the amount of which was calculated or assessed with reference to the unimproved capital value of a parcel of land becomes a liability to pay an amount of money calculated or assessed with reference to the substituted unimproved capital value.

(3.) In the last preceding sub-section "the substituted unimproved capital value" means the unimproved capital value determined in accordance with section 9 of this Ordinance.

7.—(1.) Where the unimproved capital value of a parcel of land was determined after the thirtieth day of June, One thousand nine hundred and sixty-seven, and before the commencement of this Ordinance and—

Re-valuation of
certain land

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(a) a lease of that parcel was granted during that period; or

(b) the valuation was made in pursuance of section 10 of the *Valuation of Land Ordinance 1963-1965*, or of that Ordinance as amended, and the parcel was, on the date on which the valuation was made, the subject of a lease,

the Valuer-General shall, as soon as practicable after the commencement of this Ordinance, determine the unimproved capital value of the parcel in accordance with section 9 of this Ordinance.

(2.) Where the Valuer-General determines the unimproved capital value of a parcel of land in accordance with sub-section (1.) of this section, the rent payable under a lease of the parcel granted during the period specified in that sub-section, notwithstanding the terms of the lease—

(a) shall, while this Ordinance remains in operation, be taken to be; and

(b) shall, as from the date on which the lease was granted, be taken to have been,

rent at the rate of five per centum per annum of the unimproved capital value of the land as so determined.

(3.) Where the lessee of a lease granted during the period specified in sub-section (1.) of this section pays or has paid, for a period in respect of which the last preceding sub-section applies in relation to the lease, rent at the rate provided for in that sub-section, the lessee shall be taken to have duly complied with the covenant in the lease to pay rent for that period.

(4.) Where a valuation of the unimproved capital value of a parcel of land made by the Valuer-General in pursuance of sub-section (1.) of this section is less than the valuation of the unimproved capital value of the parcel specified in the valuation list or supplementary valuation list furnished to the council for the municipality in which the land is situated, the Valuer-General shall, as soon as practicable after making that valuation, cause a supplementary valuation list containing particulars of the variation to be furnished to the council.

(5.) The supplementary valuation list furnished in accordance with the last preceding sub-section has effect and shall be taken to have had effect for all purposes as if the unimproved capital value of the parcel of land specified in it is, and at all times since the lease of the parcel was granted or, if the previous valuation had been made in pursuance of section 10 of the *Valuation of Land Ordinance 1963-1965*, or of that Ordinance as amended, since the date on which the previous valuation was made, had been, the unimproved capital value of the land specified in the relevant valuation list or supplementary valuation list.

8.—(1.) Where the amount paid by a lessee as rent, not being an amount paid on account of the rent due under section 36 of the *Darwin Town Area Leases Ordinance* 1947-1966 or of that Ordinance as amended, in respect of a period for which the rate at which rent under his lease is payable is fixed by sub-section (3.) of the last preceding section, exceeds the amount of rent payable under the lease in respect of the period by virtue of that sub-section, the Commonwealth is liable to refund to the lessee an amount equal to the excess.

Refund of rent
or rates

(2.) Where the person liable to pay rates or any charge that is fixed by reference to the unimproved capital value of a parcel of land has paid an amount on account of the rates or charge that exceeds the amount that would have been payable if the valuation of the unimproved capital value of the parcel made by the Valuer-General in pursuance of sub-section (1.) of the last preceding section had operated in accordance with sub-section (6.) of that section, the person is entitled to be paid by the body to whom the rates were or charge was paid an amount equal to the excess.

9. Where the unimproved capital value of a parcel of land is to be valued in accordance with this section, the value shall be determined—

Method of
valuation

- (a) as if, on the thirtieth day of June, One thousand nine hundred and sixty-seven (hereinafter referred to as the relevant date), the parcel of land had been in the same physical state as it was or is on the date as at which the value is to be determined (hereinafter referred to as the effective date);
- (b) as if the services that affected the value of the parcel on the effective date affected the value of the parcel on the relevant date and were the only services that affected that value on the relevant date; and
- (c) as if, subject to the last two preceding paragraphs the land was being valued on and as at the relevant date.

10. This Ordinance does not affect any reduction or remission of rent approved by the Administrator in relation to a lease under section 24 of the *Darwin Town Area Leases Ordinance* 1947-1966 or of that Ordinance as amended.

Application

