

No. 56 of 1974

An Ordinance to amend the *Housing Ordinance* 1959 as amended

[Assented to 30 September 1974]

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

1. This Ordinance may be cited as the *Housing Ordinance* Short title
(No. 4) 1974.
2. The *Housing Ordinance* 1959 as amended is in this Ordinance referred to as the Principal Ordinance. Principal Ordinance
3. After section 39 of the Principal Ordinance the following sections are inserted:
 - “39A.(1) A notice under section 39 shall not be given except on one or more of the prescribed grounds, and upon no other ground. Grounds for eviction
 - “(2) The notice shall specify the ground or grounds relied upon and, in proceedings for a warrant to evict, the Commission is not entitled to rely upon any ground not so specified.
 - “(3) The prescribed grounds are—
 - (a) that the person in occupation of the dwelling has failed to pay the rent in respect of a period of not less than 28 days;
 - (b) that that person has failed to perform or observe some other term or condition under which the dwelling was let and the performance or observance of that other term or condition has not been waived or excused by the Commission;
 - (c) that that person has failed to take reasonable care of the premises;
 - (d) that that person has been guilty of conduct that is a nuisance or annoyance to adjoining or neighbouring occupiers;

- (e) that that person or another person has during the period during which the first-mentioned person was in occupation of the dwelling, been convicted of an offence arising out of the use of the dwelling for an illegal purpose or that a court has found that, during that period, the dwelling has been used for an illegal purpose;
- (f) that that person has wilfully or negligently damaged or permitted damage to be caused to the dwelling;
- (g) that that person—
 - (i) has purported to become a sub-lessee of the dwelling or part of the dwelling under a sub-lease from the person to whom the dwelling is let and the Commission has not consented to the sub-lessee;
 - (ii) has purported to become the lessee of the dwelling or part of the dwelling under an assignment, transfer or agreement to assign or transfer the lease by the person to whom the dwelling is let and the Commission has not consented to or approved the assignment or transfer; or
 - (iii) has, without the knowledge, consent or approval of the Commission, otherwise become the person occupying the dwelling or part of the dwelling as if he were the person to whom the dwelling or part of the dwelling was let under this Ordinance; and
- (h) that the dwelling is reasonably required by the Commission for reconstruction or demolition.

“39B(1) Where the person to whom a dwelling is let purports to sub-let or assign or transfer the lease, or agrees so to sub-let, assign or transfer, the lease to that person shall, thereupon be deemed to be terminated.

“(2) Upon the date on which a warrant issued under section 40 is to be executed in accordance with the warrant, the lease shall be deemed to be terminated.

“(3) Where a notice under section 39 has been given—

- (a) any demand by the Commission for payment of rent, or of a sum of money as rent, in respect of any period within 6 months after the giving of the notice;
- (b) the commencement of proceedings by the Commission for the recovery of rent, or of a sum of money as rent, in respect of such a period; or

- (c) the acceptance of rent, or of a sum of money as rent, by the Commission in respect of such a period,

does not of itself constitute evidence of a new lease or tenancy or operate as waiver of the notice.”.

4. Section 40 of the Principal Ordinance is amended—

- (a) by omitting sub-sections (1) and (2) and substituting the following sub-sections:

Hearing of complaint of failure to comply with notice to vacate

“(1) Upon the hearing of a complaint under section 39, the court shall, if it finds that the ground relied upon has been established, take into consideration, in addition to all other relevant matters—

- (a) any hardship that would be caused to the person summoned or to his family by the issue of the warrant;
- (b) whether any reasonably suitable alternative accommodation, temporary or otherwise, in lieu of the dwelling, is available for the occupation of the person summoned and his family; and
- (c) any other act, omission or failure of the person summoned during the period of 6 months immediately preceding the date of the summons.

“(2) The court may, in its discretion, issue a warrant in accordance with Form 3 or may, on such conditions, if any, as it thinks just, refuse to issue the warrant notwithstanding that one or more of the prescribed grounds has been established.

“(2A) On the hearing of a complaint made on a ground referred to in section 39A(3)(g), the person to whom the dwelling was let and any person who purports to be the assignee or transferee of the lease or the sub-lessee or person in occupation of the dwelling or part of the dwelling is entitled to be heard.

“(2B) Notwithstanding sub-sections (1) and (2), where the complaint is made on a ground specified in section 39A(3)(g), the court shall not refuse to issue the warrant unless it is satisfied that special circumstances exist by reason of which the warrant should not so issue.”; and

(b) by omitting from sub-section (3) "Subject to sub-section (2) the" and substituting "The".

Schedule—
Form 1

5. The Schedule to the Principal Ordinance is amended by omitting from Form 1 "pursuant to section 39 of the *Housing Ordinance* 1959-1965 to vacate that dwelling" and substituting "by a notice given under section 39 of the *Housing Ordinance* to vacate that dwelling on the following ground (*or grounds*):".
