

SPECIAL PURPOSES LEASES ORDINANCE (No. 2) 1968

393

No. 75 of 1968

An Ordinance to amend the *Special Purposes Leases Ordinance 1953-1965*, as amended by the *Special Purposes Leases Ordinance 1968*

[Reserved 1 October, 1968]

[Assented to 13 December, 1968]*

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 1910-1968*, as follows:—

1.—(1.) This Ordinance may be cited as the *Special Purposes Leases Ordinance (No. 2) 1968*. Short title and citation

(2.) The *Special Purposes Leases Ordinance 1953-1965*, as amended by the *Special Purposes Leases Ordinance 1968*, is in this Ordinance referred to as the Principal Ordinance.

(3.) Section 1 of the *Special Purposes Leases Ordinance 1968* is amended by omitting sub-section (2.).

(4.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Special Purposes Leases Ordinance 1953-1968*.

2 Section 3 of the Principal Ordinance is amended by inserting after the definition of “the Act” the following definition:— Definitions

“‘the *Gazette*’ means the *Northern Territory Government Gazette*.”

3 Section 5A of the Principal Ordinance is amended by omitting from sub-section (1.) the words “of the Northern Territory”. Power to invite applications for leases

4. After section 5A of the Principal Ordinance the following section is inserted:—

“5AB.—(1.) Subject to this section, the Administrator may offer by auction the right to a lease of any unleased land in respect of which a lease may be granted under section four of this Ordinance. Auctioning of leases

* Notified in *Northern Territory Government Gazette* dated 3 January, 1969.

“(2.) The Administrator shall require the Valuer-General to determine—

- (a) for the purpose of payment of rent, the unimproved capital value of each parcel of land the right to a lease of which is offered by auction under this section; and
- (b) the value of the improvements, if any, on each parcel of land.

“(3.) Bidding at the auction shall be by capital sum representing the unimproved capital value of the land or the value of the improvements (if any) on the land, as the Administrator thinks fit.

“(4.) The reserve value at the auction shall be—

- (a) where the bidding is to be by capital sum representing the unimproved capital value of the land—the unimproved capital value as determined by the Valuer-General for the purpose of payment of rent;
- (b) where the bidding is to be by capital sum representing the value of the improvements—the value of the improvements as determined by the Valuer-General.

“(5.) The Administrator shall cause notice of the auction to be published in the *Gazette* not less than thirty days or more than ninety days prior to the date of the auction and shall specify in the notice—

- (a) the date, time and place of the auction;
- (b) the situation and description of the land offered for lease;
- (c) the purposes for which the land may be used;
- (d) the term of the lease;
- (e) the annual rent payable in respect of each parcel of land;
- (f) that a lease will not be granted until the proposed lessee has deposited with the Administrator the first year's rent and such amount as the Administrator determines to be the cost of surveying the land proposed to be leased;
- (g) a description of the improvements (if any) on the land;
- (h) if the bidding at auction is to be by capital sum representing the unimproved capital value of the land, the amount payable for any improvements on the land;

- (j) if the bidding at auction is to be by capital sum representing the value of the improvements on the land, the unimproved capital value of the land as determined by the Valuer-General for the purpose of payment of rent;
- (k) the period within which, and the terms, including interest, upon which, the successful bidder shall pay for any improvements on the land;
- (l) the reserve value of each parcel of land, or of the improvements on each parcel of land, to be offered; and
- (m) the nature of the bidding at auction.

“(6.) Where the bidding at the auction is by capital sum representing the unimproved capital value of the land, the successful bidder shall, at the time of the auction, pay to the Administrator a sum representing the difference (if any) between the reserve value of the land and the unimproved capital value of the land as bid by the successful bidder.

“(7.) The successful bidder shall be entitled to, and shall accept, sign and seal, a lease of the parcel of land for which he is the successful bidder.

“(8.) Where the successful bidder has failed to accept, sign and seal, within three months after the date of the auction, a lease of the land for which he is the successful bidder, the Administrator may, at any time during which the failure continues, by notice in the *Gazette*, after at least three months’ notice (given in accordance with the provisions of this section) of his intention so to do, determine the right of the successful bidder to a lease.

“(9.) The notice of the intention of the Administrator to determine the right of the successful bidder to the lease shall be given in writing and signed by the Administrator and shall be deemed to have been duly given to the successful bidder if it is delivered to him or sent by registered letter addressed to him at his last known place of abode or his address given by him to the Administrator at the auction, or if it is posted in a conspicuous place on the land to which it relates.

“(10.) Where the notice of intention is sent by registered letter, it shall be deemed to have been received by the successful bidder on the date on which in ordinary course of post it would have been delivered in accordance with the address on the letter.

“(11.) Where a successful bid has been made by a person purporting to bid as the agent of another person and the secondly mentioned person has not acknowledged to the Administrator

the authority in that behalf of the person bidding or has not ratified the bid, the notice of the intention of the Administrator to determine the right of the successful bidder to the lease may be given in accordance with the provisions of this section as if either of the persons mentioned in this sub-section were the successful bidder.

“(12.) A person whose right to a lease of land has been determined under this section shall not have any claim for compensation in respect of the determination or for the recovery of any rent or other moneys paid to the Commonwealth in respect of the land.”

Grant of lease
without
applications
being called

5. Section 5B of the Principal Ordinance is amended—

(a) by omitting from sub-section (1.) the words “the last preceding section” and inserting in their stead the words “section five A of this Ordinance and that the right to the lease has not been offered by auction under section five AB of this Ordinance”; and

(b) by inserting in paragraph (c) of sub-section (1.) after the words “inviting applications for” the words “or offering by auction the right to”.

6. After section 5B of the Principal Ordinance the following section is inserted:—

Payment for
improvements

“5c.—(1.) The grant of a lease may be subject to payment to the Commonwealth by the lessee for the improvements (if any) on the land at the commencement of the lease.

“(2.) The amount payable to the Commonwealth for the improvements shall be—

(a) where the right to the lease is offered by auction—

(i) the amount determined as the value of the improvements by the Valuer-General under section five AB of this Ordinance; or

(ii) the amount bid by the successful bidder, as specified in the notice of the auction;

(b) where applications are invited for the grant of the lease—

(i) the amount determined as the value of the improvements by the Valuer-General under section five A of this Ordinance; or

(ii) the value placed upon the improvements by the successful applicant,

as specified in the notice inviting the applications; and

(c) where the lease is granted in pursuance of section five B of this Ordinance—the amount determined by the Administrator.

and shall be paid in accordance with the provisions of this section.

“(3.) Where the right of the lease is offered by auction, the successful bidder may—

- (a) at the time of the auction pay the whole of the amount payable for the improvements;
- (b) subject to such terms and conditions as the Administrator thinks fit, pay that amount (together with interest thereon at the rate specified in the notice of the auction) by such instalments as the Administrator determines; or
- (c) at the time of the auction pay part of that amount, and execute in favour of the Commonwealth a mortgage of the land included in the lease, in such form as the Administrator thinks fit, to secure the payment of the balance of the purchase money and such interest as is provided for in the mortgage.

“(4.) Where—

- (a) applications are invited for the grant of the lease; or
- (b) a person has entered into an agreement with the Minister for the grant of a lease under section five B of this Ordinance, or has offered to accept a lease under that section and has paid rent or other moneys to the Commonwealth in respect of the land to which the offer relates,

the successful applicant or that person, as the case may be, may—

- (i) on or before the date of the grant of the lease pay to the Commonwealth the whole of the amount payable for the improvements;
- (ii) subject to such terms and conditions as the Administrator thinks fit (pay to the Commonwealth that amount (together with the prescribed interest thereon) by such instalments as the Administrator determines; or
- (iii) on or before the date of the grant of the lease, pay to the Commonwealth part of that amount, and execute in favour of the Commonwealth a mortgage of the land included in the lease, in such form as the Administrator thinks fit, to secure the payment of the balance of the purchase money and such interest as is provided for in the mortgage.

“(5.) A mortgage executed in pursuance of this section may contain such covenants as the Administrator thinks fit.

“(6.) The Administrator may, in the name of the Commonwealth, take any such mortgage, and may, in relation to any mortgage so taken, do, for or on behalf of the Commonwealth, any or all of the acts or things which the Commonwealth as mortgagee is empowered, permitted or required to do.”

Lessee's
rights in
improvements

7. Section 19 of the Principal Ordinance is amended by adding at the end thereof the following sub-section:—

“(6.) For the purposes of this section, “value of the improvements” means—

- (a) where a lease of any land or any part thereof is granted to the successful bidder at an auction of the right to the lease (held within six months after the expiration or determination of the previous lease) at which the bidding was by capital sum representing the value of the improvements—the amount payable for the improvements on that land or part in accordance with the provisions of section five c of this Ordinance; and
- (b) in all other cases—such amount as is agreed upon by the Administrator and the lessee, or, in default of agreement, such amount as is determined by the Land and Valuation Review Tribunal upon a reference to the Tribunal by the Administrator.”

Notice of
forfeiture
of leases

8. Section 24 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1.) the words “and in the *Government Gazette* of the Northern Territory”;
- (b) by omitting from sub-section (2.) the words “the *Government Gazette* of the Northern Territory” and inserting in their stead the words “the *Gazette*”; and
- (c) by omitting from sub-section (3.) the words “the *Government Gazette* of the Northern Territory” and inserting in their stead the words “the *Gazette*”.

Regulations

9. Section 33 of the Principal Ordinance is amended by omitting the words “The Administrator” and inserting in their stead the words “The Administrator in Council”.

REGULATIONS
1967 and 1968

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(am) signifies amending Regulations

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(am) signifies Amending Regulations.

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