

# SPECIAL PURPOSES LEASES ORDINANCE (No. 3) 1968

495

No. 32 of 1970

An Ordinance to amend the *Special Purposes Leases Ordinance 1953-1965*, as amended by the *Special Purposes Leases Ordinance 1968* and the *Special Purposes Leases Ordinance (No. 2) 1968*

[Reserved 1 October, 1968]

[Assented to 16 July, 1970]\*

**B**E 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. 3) 1968*.

Short title  
and citation

(2.) The *Special Purposes Leases Ordinance 1953-1965*, as amended by the *Special Purposes Leases Ordinance 1968* and the *Special Purposes Leases Ordinance (No. 2) 1968*, is in this Ordinance referred to as the Principal Ordinance.

(3.) Section 1 of the *Special Purposes Leases Ordinance (No. 2) 1968* is amended by omitting sub-section (4.).

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

2. This Ordinance shall come into operation on the date on which the *Crown Lands Ordinance (No. 4) 1968* comes into operation.†

Commencement

3. Section 3 of the Principal Ordinance is amended—

Definitions

(a) by inserting, before the definition of "agricultural", the following definition:—

" 'aboriginal reserve' means a reserve as defined in section seven of the *Social Welfare Ordinance 1964-1967* and includes land which is reserved under a law in force in the Territory for the use and benefit of the aboriginal inhabitants of the Territory; "

(b) by inserting after the definition of "agricultural" the following definition:—

\* Notified in the *Northern Territory Government Gazette* No. 36 of 9 September, 1970, page 247.

† That date was 31 December, 1970.

*Special Purposes Leases (No. 3)*

“‘approved person’ means—

- (a) an aboriginal of or over the age of eighteen years; or
- (b) a company or a co-operative trading society registered under the *Co-operative Trading Societies Ordinance 1945-1963* all the shares in which are beneficially owned by aboriginals;” and
- (c) by inserting, after the definition of “the Act”, the following definition:—

“‘the Board’ means the Land Board constituted under the *Crown Lands Ordinance 1931-1968*.”

Power to grant leases for special purposes

4. Section 4 of the Principal Ordinance is amended by inserting in sub-section (2.) after the words “the first year’s rent and” the words “, subject to section four c of this Ordinance,”.

5. After section 4 of the Principal Ordinance the following sections are inserted:—

Restriction on granting of leases on aboriginal reserves

“4A.—(1.) The Minister shall not grant a lease, other than a lease for purposes ancillary to mining, of land within an aboriginal reserve unless—

- (a) the application for the lease has been submitted to the Board for consideration and report;
- (b) the Board has considered the application and has returned it to the Administrator together with a report containing—
  - (i) any advice which it sees fit to give; and
  - (ii) any recommendation which it sees fit to make,
 in relation to the application;
- (c) the Administrator has forwarded the application and the report, together with his own recommendations, to the Minister; and
- (d) the Minister has considered the report and the Administrator’s recommendations.

“(2.) In considering the application the Board shall consult with the aboriginals residing within reasonable proximity to the land the subject of the application who intimate that they wish to make representations in relation to or otherwise discuss the application and with any church or missionary society or organization or like body which—

- (a) conducts an establishment or activities for the benefit of aboriginals on the aboriginal reserve in which the land the subject of the application is situated; and
- (b) is, in the opinion of the Board, able to furnish it with relevant information or advice.

"4B.—(1.) Notwithstanding anything contained in this Ordinance or in any other law in force in the Northern Territory, a lease of land within an aboriginal reserve may be granted before the boundaries of the land the subject of the proposed lease have been surveyed.

Survey of  
lease on  
aboriginal  
reserve

"(2.) Where such a lease is granted before the boundaries of the land are surveyed—

- (a) the lease instrument shall indicate how the boundaries can be determined; and
- (b) the Minister shall, as soon as is practicable after the lease is granted, cause the boundaries to be surveyed.

"4C. A survey fee is not payable by the lessee in respect of a lease of land within an aboriginal reserve, whether the survey is made before or after the lease is granted.

Cost of  
survey of  
lease on  
aboriginal  
reserve

"4D. Where a lease, other than a lease for purposes ancillary to mining, of land within an aboriginal reserve is granted or transferred to an approved person, as soon as practicable after the expiration of a period of two years after the lease has been granted or transferred, as the case may be, and thereafter as soon as is practicable after twelve months have elapsed since the date on which the last report under this section was made, the Board shall make a report to the Administrator on the following matters:—

Report on  
aboriginal  
lease

- (a) the extent to which the lessee has used the land for the purposes for which the lease was granted;
- (b) the nature and value of improvements erected on the leased land; and
- (c) such other matters as the Board thinks fit."

6. Section 6 of the Principal Ordinance is amended by adding at the end thereof the following sub-sections:—

Lessee may  
transfer, &c.,  
his lease

"(2.) The Administrator shall not consent to—

- (a) the transfer of the whole or a part of a lease;
- (b) the mortgage of a lease; or
- (c) the sub-letting of the whole or a part of the land comprised in a lease,

(not being a lease for purposes ancillary to mining) of land within an aboriginal reserve unless—

- (d) the proposed transfer, mortgage or sub-lease has been submitted to the Board for consideration and report;
- (e) the Board has considered the proposed transfer, mortgage or sub-lease and has forwarded to the Administrator a report containing—
  - (i) any advice which it sees fit to give; and
  - (ii) any recommendation which it sees fit to make,

*Special Purposes Leases (No. 3)*

in relation to the proposed transfer, mortgage or sub-lease; and

(f) the Administrator has considered the report.

“(3.) In considering the proposed transfer, mortgage or sub-lease the Board shall consult with the aboriginals residing within reasonable proximity to the land the subject of the proposed transfer, mortgage or sub-lease who intimate that they wish to make representations in relation to or otherwise discuss the proposed transfer, mortgage or sub-lease and with any church or missionary society or organization or like body which—

- (a) conducts an establishment or activities for the benefit of aboriginals on the aboriginal reserve in which the land the subject of the proposed transfer, mortgage or sub-lease is situated; and
- (b) is, in the opinion of the Board, able to furnish it with relevant information or advice.”.

7. After section 6 of the Principal Ordinance the following sections are inserted:—

Acquisition of  
land in a  
reserve by a  
non-approved  
person

“6A.—(1.) Where a lease, other than a lease for purposes ancillary to mining, of land within an aboriginal reserve is held by an approved person and that lease passes by devolution or by operation of law to a person who is not an approved person—

- (a) the person who acquires it shall notify the Administrator forthwith that he has acquired it; and
- (b) the Administrator shall either—
  - (i) submit the matter to the Board for its opinion as to whether the person should be permitted to hold the lease; or
  - (ii) serve notice on the person requiring him to dispose of it.

“(2.) Where the Administrator submits a matter to the Board under the last preceding sub-section and the opinion of the Board is that the person should not be permitted to hold the lease, the Administrator shall serve notice on the person requiring him to dispose of the lease.

“(3.) Where a person is served with a notice under sub-section (1.) or sub-section (2.) of this section, he shall forthwith take, and continue to take, all steps reasonably necessary to dispose of the lease satisfactorily to the Commonwealth or to an approved person in the shortest practicable time.

“(4.) At any time after the expiration of one year from the date on which a person is served with a notice under sub-section (1.) or sub-section (2.) of this section, the Administrator may serve on him notice of his intention to recommend that the lease be resumed.

“(5.) If, at the expiration of one year from the date on which the Administrator serves a notice under sub-section (4.) of this section, the lease is still held by the person upon whom

that notice was served, the Administrator shall recommend that the lease be resumed.

“6B.—(1.) Where a lease, other than a lease for purposes ancillary to mining, of land within an aboriginal reserve is held by an approved person and that lease is mortgaged otherwise than to an approved person, the mortgagee shall, before he exercises any of his powers as mortgagee, give to the Administrator reasonable notice of his intention so to do.

Exercise of  
powers of  
mortgagee

“(2.) Where a lease, other than a lease for purposes ancillary to mining, of land within an aboriginal reserve is held by an approved person and that lease is mortgaged otherwise than to an approved person, the Administrator may, on behalf of the Commonwealth at any time—

- (a) pay to the mortgagee the amount owing under the mortgage; and
  - (b) require the mortgagee to execute a transfer of the mortgage to the Commonwealth.”
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