

# SPECIAL PURPOSES LEASES ORDINANCE 1953-1956.\*

An Ordinance relating to the Granting of Leases for Special Purposes, the Resumption of those Leases and for other purposes.

Short title.  
Short title amended:  
No. 17, 1938,  
s. 4.  
Commencement.

1. This Ordinance may be cited as the *Special Purposes Leases Ordinance 1953-1956*.\*

2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.†

Definitions.  
Amended by  
No. 35, 1956,  
s. 3.

3. In this Ordinance unless the contrary intention appears—

“ agricultural ” does not include horticultural;

“ association ” means—

(a) an association incorporated under the Associations Incorporation Acts, 1890-1897, as amended by the *Associations Incorporation Ordinance 1953*; or

(b) an incorporated association approved by the Minister;

“ improvements ” means buildings, erections, structures and any works which are suitable to the land and, having been executed, add to the leasing value of the land, but does not include buildings, erections, structures or works paid for by the Commonwealth and in respect of which the Commonwealth has not received, and is not entitled to receive, payment from any person;

\* The *Special Purposes Leases Ordinance 1953-1956* comprises the *Special Purposes Leases Ordinance 1953* as amended. Particulars of the Principal Ordinance and of the amending Ordinances are set out in the following table:—

Ordinance.	Number and Year.	Date of Notification of Governor-General's Assent in <i>Northern Territory Government Gazette</i> .	Date of Commencement.
<i>Special Purposes Leases Ordinance 1953</i>	No. 27, 1953	20th January, 1954	1st October, 1955
<i>Special Purposes Leases Ordinance 1954</i>	No. 3, 1955	30th March, 1955	1st October, 1955
<i>Special Purposes Leases Ordinance 1956</i>	No. 35, 1956	17th October, 1956	1st November, 1956

† The date fixed was 1st October, 1955—see table above.

“ lease ” means a lease granted under this Ordinance;

“ lessee ” includes the person to whom a lease is granted, a person to whom a lease is transferred with the approval of the Administrator and a person to whom a lease passes under a will or an intestacy;

“ special purpose ” means any purpose other than a private residential purpose within a town, or a site for a town, within the meaning of the *Crown Lands Ordinance* 1931-1953, a pastoral, agricultural or mining purpose;

“ the Act ” means the Real Property Act, 1886 of the State of South Australia in its application to the Northern Territory, as amended by the *Real Property Ordinance* 1918-1932;

“ the Board ” means the Appeal Board constituted under this Ordinance.

4.—(1.) Notwithstanding the provisions of any other law in force in the Northern Territory, but subject to this Ordinance, the Minister may, in the name of the Queen, grant a lease for a special purpose of any unleased land belonging to the Crown or the Commonwealth in the Northern Territory, including land reserved under any Ordinance—

Power to grant leases for special purposes.

Sub-section (1.) amended by No. 3, 1955, s. 3; and No. 35, 1956, s. 4.

- (a) to a person not under eighteen years of age;
- (b) to the Government of a country outside the Commonwealth, or to the duly accredited agent of that Government, for a diplomatic, consular or official purpose of that Government, or for the purpose of a residence for an accredited agent of that Government, or for all or any of those purposes;
- (c) to an association if the special purpose is within the objects or purposes of the association; and
- (d) to a company, if the special purpose is within the objects of the company.

(2.) The Minister shall not grant a lease 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.

Amended by No. 35, 1956, s. 4.

5.—(1.) The Minister and the Administrator may, by instrument in writing, delegate to a person or authority all or any of his respective powers, functions and authorities under this Ordinance (except this power of delegation) in relation to a matter or class of matters so that the delegated powers, functions and authorities may be exercised by the delegate with respect to the matter or class of matters specified in the instrument of delegation.

Delegation.

(2.) A delegation under the last preceding sub-section is revocable in writing at will and does not prevent the exercise of a power, function or authority by the Minister or the Administrator, as the case may be.

Lessee may transfer, &c., his lease.  
Substituted by No. 3, 1955, s. 4.

6. Subject to the consent of the Administrator, a lessee may—

- (a) transfer the whole or a part of his lease;
- (b) mortgage his lease;
- (c) sub-let the whole or a part of the land comprised in his lease; and
- (d) surrender the whole or a part of his lease.

Power to hold leases and sub-leases.

Sub-section (1.) substituted by N. 35, 1956, s. 5.

7.—(1.) Except with the approval of the Minister, neither a company which is not incorporated in Australia and registered in accordance with the laws in force in the Northern Territory nor a person who is not a British subject shall be capable of holding—

- (a) a lease as lessee or as mortgagee; or
- (b) a sub-lease of the whole or a part of the land comprised in the lease.

Amended by No. 35, 1956, s. 5.

(2.) A lease or sub-lease which is held with the approval of the Minister by a person who is not a British subject, whether that person holds as lessee, mortgagee or sub-lessee of the whole or a part of the land comprised in the lease, shall become void and of no effect upon the expiration of eight years from and including the date of the transfer, mortgage or sub-lease, as the case may be, unless within that time that person has become a naturalized British subject.

(3.) The last preceding sub-section does not apply in the case of a lease granted to a person in pursuance of paragraph (b) of sub-section (1.) of section four of this Ordinance.

Period, &c., of lease.

Amended by No. 35, 1956, s. 6.

8. A lease—

- (a) shall be for such period, not exceeding ninety-nine years, as the Minister sees fit; and
- (b) shall include such covenants, reservations and conditions as to rent and otherwise as are prescribed or as the Minister considers to be necessary in the particular case.

Land not to be used for other than specified purposes.

Amended by No. 35, 1956, s. 7.

9. The land comprised in a lease granted under this Ordinance shall not be used for any purpose other than the purpose, or a purpose ancillary to the purpose, for which the lease was granted.

Procedure on application for further lease. Substituted by No. 3, 1955, s. 6; and by No. 35, 1956, s. 8.

10.—(1.) At any time during six months immediately before the expiration of a lease, the lessee may make application in writing for a further lease of the land comprised in the lease for the purpose for which the expiring lease was granted.

(2.) On receipt of an application under the last preceding sub-section, the Minister may—

- (a) grant to the lessee a further lease of the land;
- (b) inform the lessee that he intends to sub-divide the land into blocks and make the blocks available for leasing; or
- (c) reject the application.

(3.) If the Minister informs the lessee in accordance with the last preceding sub-section that he intends to sub-divide the land, the lessee shall be entitled to the grant of a lease of such one of the blocks into which the land is sub-divided as the lessee elects.

(4.) An election under the last preceding sub-section shall be in writing and served by post on the Minister.

(5.) A lease granted under this section—

- (a) shall be for such period, not exceeding ninety-nine years, as the Minister sees fit; and
- (b) shall include such covenants, reservations and conditions as to rent and otherwise as are prescribed or as the Minister considers to be necessary in the particular case.

(6.) If the Minister rejects an application made under sub-section (1.) of this section he shall not, before or within three years after the expiration of the lease, grant to a person other than the lessee a lease of the land or a part of the land in respect of which the application is made unless the lease has first been offered in writing to the lessee and the lessee has either refused the offer or failed to accept the offer within three months after the date on which the offer was made.

(7.) Nothing in this section shall limit the power of the Minister—

- (a) to make all or part of any land in respect of which an application is made under sub-section (1.) of this section available for leasing under an Ordinance other than this Ordinance; or
- (b) to grant at any time, under an Ordinance other than this Ordinance, a lease to any person of land in respect of which a lease under this Ordinance has expired.

Rent for church sites, &c., not subject to re-appraisal.

Amended by N. 3, 1955, s. 7.

11. The rent for land leased for the purpose of being used solely as—

- (a) a site for a church;
- (b) a residence for clergy, ministers of religion or members of a religious order; or
- (c) a charitable institution,

or for more than one of those purposes, or for a purpose ancillary to those purposes, shall not be subject to re-appraisal.

Appeal Board.

12.—(1.) For the purposes of this Ordinance there shall be a board to be known as the Appeal Board.

(2.) The Board shall consist of three persons appointed by the Administrator, one of whom shall be appointed Chairman of the Board.

(3.) The Chairman and one other member shall form a quorum.

(4.) At meetings of the Board, all questions shall be decided by a majority of votes.

(5.) The Chairman shall have a deliberative vote only.

Appeals.

Sub-section (1.) amended by No. 3, 1955, s. 8.

13.—(1.) A person may, within such time and in such manner as is prescribed, appeal to the Board against—

- (a) a re-appraisal of the rent payable under his lease;
- (b) a determination, made under section nineteen of this Ordinance, of the value of improvements on land of which he was formerly the lessee;
- (c) a determination, made under section twenty-one of this Ordinance, of the fair rental for improvements on land of which he was formerly the lessee;
- (d) a determination, made under section thirty-two of this Ordinance, of the amount of compensation to be paid to him arising out of a resumption made under this Ordinance; or
- (e) the forfeiture of his lease.

(2.) The Board shall hear an appeal under the last preceding sub-section and shall determine—

- (a) the rent to be paid in any period of the lease;
- (b) the value of improvements for which compensation is to be paid;
- (c) the fair rental for improvements on land previously included in the lease;

Amended by No. 3, 1955, s. 8.

(d) the amount of compensation to be paid by the Commonwealth arising out of a resumption made under this Ordinance; or

(e) whether the lease should be forfeited.

(3.) The appellant and the Administrator may appear personally or by counsel or agent on the hearing of an appeal under this section.

(4.) A determination made by the Board under this section is binding on the lessee, on the Commonwealth and on the Administrator and is not subject to any appeal.

14.—(1.) For the purposes of this Ordinance, the Board may, by notice in writing under the hand of the Chairman, summon a person to attend before the Board at a time and place specified in the notice and then and there to give evidence and to produce such books, documents or writings in his custody or control as are likely to be relevant for the purposes of the business of the Board, or as are specified in the notice.

Powers of the Board.

(2.) The Board may, in its discretion, on the application of a party to proceedings before the Board, summon a person to appear as a witness before the Board.

15. The person presiding at a meeting of the Board may administer an oath to a person appearing as a witness before the Board whether the witness has been summoned or appears without being summoned and may examine the witness upon that oath.

Power to examine upon oath.

16.—(1.) When a person appearing as a witness before the Board conscientiously objects to take an oath, he may, instead of taking the oath, make an affirmation that he conscientiously objects to take an oath and that he will state the truth, the whole truth and nothing but the truth, to all questions that may be asked of him.

Affirmation in lieu of oath.

(2.) An affirmation made under the last preceding subsection shall be of the same force and effect, and shall entail the same liabilities, as an oath.

17. A person who has been served personally with a notice to attend the Board, and whose reasonable expenses of attendance have been paid or tendered to him, shall not fail without reasonable excuse, proof whereof shall lie upon him, to attend the Board at the time and place specified in the notice and to produce such books, documents or writings in his custody or control as are likely to be relevant for the purposes of the business of the Board or as are specified in the notice.

Penalty for failing to attend, &c.

Penalty: Fifty pounds.

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Penalty for refusing to be sworn or to answer questions.

18 A person who appears as a witness before the Board shall not—

(a) refuse or fail to take an oath or to make an affirmation in accordance with the provisions of sub-section (1.) of section sixteen of this Ordinance; or

(b) refuse or fail to answer a question lawfully put to him.

Penalty: Fifty pounds.

Lessee's rights in improvements. Substituted by N. 3, 1955, s. 9; and by No. 35, 1956, s. 9.

19.—(1.) At any time before, or within three months after, the expiration of a lease or its sooner determination (whether by forfeiture, surrender or otherwise), the Administrator may, in his absolute discretion, grant permission to the lessee to take down, remove and carry away, either before the expiration or sooner determination of the lease or before such date after that expiration or determination as the Administrator considers reasonable, any fixtures or erections which the lessee has erected or set up upon the land comprised in the lease during the term of the lease.

(2.) If the Administrator does not, in accordance with the last preceding sub-section, grant permission to the lessee to take down, remove and carry away any fixtures or erections referred to in that sub-section, the Administrator shall, out of moneys appropriated by the Parliament and available for the purpose, pay to the lessee the value of those fixtures or erections as determined by the Administrator.

(3.) The Administrator shall not pay to a lessee the value of an improvement which, in the opinion of the Administrator, is not capable of being taken down, removed and carried away.

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Section 20 repealed by No. 3, 1955, s. 10.

21. Where the Commonwealth, under section nineteen of this Ordinance, is required to pay for improvements and, between the date of expiration of the lease and the date upon which it pays for those improvements in accordance with the last preceding section, the Commonwealth uses, or permits a person to use, those improvements, or some of them, it shall pay to the former lessee a fair rental, as determined by the Administrator, for the improvements so used, less the amount of such expenditure as has been incurred by the Commonwealth by way of maintenance of, or in connexion with, those improvements.

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Section 22 repealed by No. 3, 1955, s. 11.

23.—(1.) Where—

Forfeiture.  
Sub-section (1.)  
amended by  
No. 3, 1955,  
s. 12; and  
No. 35, 1956,  
s. 10.

- (a) the land comprised in a lease is being used for a purpose other than the purpose, or a purpose ancillary to the purpose, for which the lease was granted;
- (b) the purpose for which the lease was granted has been fulfilled or the purpose is no longer capable of fulfilment;
- (c) a lessee has failed to comply with a covenant or condition of a lease;
- (d) a person who is not a British subject holds, without the approval of the Minister—
  - (i) a lease, as lessee or mortgagee; or
  - (ii) a sub-lease of the whole or a part of the land comprised in the lease;
- (da) a company which is not incorporated in Australia and registered in accordance with the laws in force in the Northern Territory holds, without the approval of the Minister—
  - (i) a lease, as lessee or mortgagee; or
  - (ii) a sub-lease of the whole or a part of the land comprised in the lease; or
- (e) rent in respect of the lease, or any sum of money which, in accordance with the provisions of the lease is deemed to be or to be recoverable as rent, has remained unpaid for at least one year without the Administrator's consent,

the Administrator may by notice in the *Gazette* forfeit the lease.

(2.) At least fourteen days before the Administrator forfeits a lease under the last preceding sub-section, he shall cause notice to be given to every person who is registered under the Act as having an interest in that lease.

(3.) A notice required to be given under the last preceding sub-section—

- (a) may be served by post addressed to the address entered in the Register Book kept in accordance with the Act; and
- (b) shall state the reasons why the Administrator proposes to forfeit the lease.

24. A notice in the *Gazette* signed, or purporting to be signed, by the Administrator in accordance with the provisions

Publication of  
notice of  
forfeiture.



of the last preceding section stating that from and including a date specified in the notice a lease has been forfeited in pursuance of that section—

- (a) shall be conclusive proof that the lease has been forfeited; and
- (b) shall be equivalent to a re-entry and recovery of possession of the land comprised in the lease by or on behalf of the Crown.

Copy of notice to be forwarded to Registrar.

**25.**—(1.) The Administrator shall forward a copy of the notice published in accordance with section twenty-three of this Ordinance to the Registrar-General for the Northern Territory.

(2.) Upon receipt of the copy of the notice referred to in the last preceding sub-section, the Registrar-General shall—

- (a) note the forfeiture in the Register Book kept pursuant to the Act; and
- (b) call in the lessee's copy of the lease for cancellation.

Section 26 repealed by N. 3, 1955, s. 13.

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Administrator may postpone or remit rent.

**27.** On application by a lessee, the Administrator may, on such terms as are prescribed and as he thinks fit—

- (a) postpone the payment of rent due by that lessee; or
- (b) if he is satisfied that payment of the full amount of the rent due by that lessee would impose a serious hardship on him, remit the whole or a portion of that rent.

Resumption and reservation.

**28.** Subject to this Ordinance, the Governor-General may, by Proclamation—

- (a) resume any land comprising, or included in, a lease—
  - (i) for a forest reserve or for the purposes of afforestation or silviculture;
  - (ii) for a travelling-stock reserve;
  - (iii) for a reserve for the recreation or amusement of the public;
  - (iv) for the purposes of water conservation;
  - (v) for cultivation purposes;
  - (vi) for commonage purposes; or
  - (vii) for any other public purpose which he thinks fit; and
- (b) reserve, for the purpose for which it is resumed, the whole or any part of the land so resumed.

29.—(1.) Before the Governor-General makes a Proclamation under the last preceding section, the Administrator shall give not less than six months' notice in writing, of an intended resumption to a lessee whose land, or a portion of whose land, it is intended to resume.

Notice of intended resumption.

(2.) A notice under this section may be given by registered post.

30. The Governor-General shall not, under section twenty-eight of this Ordinance, resume for a travelling-stock reserve, for cultivation purposes or for commonage purposes, land which is within one-quarter of a mile of a residence which has been erected, or a watering place for stock which has been made, since the date upon which the lease was granted.

Certain land not to be resumed. Amended by No. 3, 1955, s. 14.

31. A Proclamation made under section twenty-eight of this Ordinance—

Effect of Proclamation.

- (a) is conclusive evidence of the resumption; and
- (b) from and including the date of publication of the Proclamation—
  - (i) cancels the lease as regards the land resumed; and
  - (ii) reduces the rent payable under a lease, in respect of land comprised in the lease which is not resumed, in proportion to the extent of the resumption.

32.—(1.) Where land is resumed under section twenty-eight of this Ordinance, the Commonwealth shall pay to the former lessee of the land such amount as is determined by the Administrator as compensation—

Commonwealth to pay compensation.

- (a) for improvements on the resumed land, the property of the lessee;
- (b) for depreciation, by reason of the resumption, in the value of land comprised in the lease which is not resumed; and
- (c) where the whole of the land comprised in a lease is resumed, for the loss of the lease.

(2.) In determining the amount of compensation to be paid under the last preceding sub-section—

- (a) regard shall not be had to any increased value of the land by reason of the construction, or proposed construction, of public works since the date when the lease was granted; and

- (b) any increase, by reason of the construction or proposed construction, of public works since the date when the lease was granted, in the value of land comprised in the lease, which is not resumed, shall be offset against any compensation for depreciation.

**Regulations.**

**33.** The Administrator may make regulations not inconsistent with this Ordinance, prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance and in particular—

- (a) for prescribing covenants and conditions to be included in leases;
  - (b) for prescribing the method of recovering moneys due and unpaid under leases; and
  - (c) for prescribing fees payable in respect of leases.
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