

# AUSTRALIAN CAPITAL TERRITORY.

No. 16 of 1940.

## AN ORDINANCE

To amend the Real Property Ordinance 1925-1938 and for other purposes.\*

**B**E it ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909-1938* and the *Seat of Government (Administration) Act 1910-1940*, as follows:—

1.—(1.) This Ordinance may be cited as the *Real Property Ordinance 1940*. Short title and citation.

(2.) The *Real Property Ordinance 1925-1938* is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Real Property Ordinance 1925-1940*.

2. Section forty-seven A of the Principal Ordinance is amended— Registration of dealings with mortgages, leases, &c.

(a) by inserting in sub-section (1.), after the word “sub-lease” (first occurring), the words “, or a sub-lease granted by a lessee other than a Crown lessee, or by a sub-lessee,”; and

(b) by omitting from that sub-section the words “respectively so transferred or mortgaged”, and inserting in their stead the words “so dealt with”.

3. After section seventy-two of the Principal Ordinance the following section is inserted in Part IX.:—

“72A.—(1.) Notwithstanding anything contained in any Ordinance, in any case where it would be lawful for the Minister, whether with the consent of any other person or not, upon the surrender of an existing Crown lease, to grant to the former lessee a Crown lease of the same land for purposes different from those specified in the surrendered lease, the Minister may issue a certificate of variation of the purposes of the lease in accordance with the form in the Twenty-first Schedule. Variation of purposes for which land may be used

“(2.) Upon lodgment with the Registrar of a certificate issued under the last preceding sub-section—

(a) signed by the lessee, and by every person appearing from the Register Book to have any estate or interest in the land, as evidence of acceptance of the variation; and

\* Notified in the *Commonwealth Gazette* on 8th August, 1940.

- (b) if the case is one in which the consent of any person would be necessary to the issue of a new lease in the manner described in the last preceding sub-section, signed by that person as evidence of his consent to the variation,

together with the duplicate lease or certificate of title, the Registrar shall endorse on the folium of the Register Book constituted by the lease or the certificate of title relating to the land, and on the duplicate lease or certificate of title, a memorandum stating, in accordance with the certificate, the variation which has been made in the purposes for which the land may be used.

“(3.) Upon the entry in the Register Book of the memorandum referred to in the last preceding sub-section, the purposes for which the leased land may be used shall be deemed to have been varied in accordance with the memorandum.

“(4.) For the purposes of this section ‘Minister’ means the Minister of State for the time being administering the Ordinance in pursuance of which the lease was granted, and includes any person duly authorized to exercise the powers and functions of the Minister under that Ordinance.”.

Lease may be surrendered by endorsement signed by lessee and lessor.

4. Section eighty-six of the Principal Ordinance is amended by omitting the proviso to sub-section (2.) and inserting in its stead the following proviso:—

“Provided that, where the Commonwealth is the lessor, the endorsement may be signed by the Minister of State for the time being administering the Ordinances relating to the leasing of Crown land in the Territory, and that signature shall constitute and be evidence of the acceptance by the Commonwealth of the surrender.”.

Amendment of the Eighteenth Schedule.

5. The Eighteenth Schedule to the Principal Ordinance is amended by inserting, after the item beginning “Registering memorandum of lease” the following item:—

“Entering memorandum of variation of purposes of lease .. .. . 0 10 0”

The Twentieth Schedule.

6. After the Twentieth Schedule to the Principal Ordinance, the following Schedule is added:—

“THE TWENTY-FIRST SCHEDULE.

Section 72A.

AUSTRALIAN CAPITAL TERRITORY.

Real Property Ordinance 1925-1940.

CERTIFICATE OF VARIATION OF PURPOSES OF LEASE.

I, \_\_\_\_\_, the Minister of State for the time being administering the \_\_\_\_\_ Ordinance (or a person duly authorized to exercise the powers and functions of the Minister administering the \_\_\_\_\_ Ordinance, as the case may be) hereby certify that I have

agreed to the variations specified hereunder in the purposes for which the land comprised in the lease specified hereunder (or part thereof) may be used by the lessee:—

Name of Registered Proprietor	
Register Book Vol.	Fol.
Short Description of Land affected	
Purposes for which land could formerly be used	
Purposes for which land may hereafter be used	

Signed by the said \_\_\_\_\_ }  
 in the presence of— (Signature of Minister or authorized person.)

I \_\_\_\_\_, the lessee above-mentioned,\* hereby certify that I agree to the variations set out above.

Signed at \_\_\_\_\_, in my presence, by the said \_\_\_\_\_, who is personally known to me.

(The instrument must be signed or acknowledged by the lessee in the manner required in the case of a transferor in a memorandum of transfer of lease in accordance with the Fifth Schedule.)”

\* A similar form of consent should be added in respect of every person appearing from the Register Book to have any estate or interest in the land, or whose consent would be necessary to the issue of a new lease for the varied purposes.

7. Where, prior to the commencement of this Ordinance, an endorsement upon a lease granted by the Commonwealth, or upon the counterpart thereof, indicating the surrender of the lease, has been signed by a Minister of State as evidence of the acceptance of the surrender, the endorsement shall be deemed to have been signed by the lessor as evidence of the acceptance of the surrender, and any memorandum made by the Registrar of Titles in the Register Book recording the date of the surrender shall be deemed to have been duly made and to have been effective to revest the land in the Federal Capital Commission (if the Federal Capital Commission was subsisting at the date on which the entry of the memorandum was made) or in the Commonwealth.

Validation of acceptance of surrender of Crown leases.

8. Section seven of the *Seat of Government (Administration)* Repeal Ordinance 1930-1939 is repealed.

Dated this seventh day of August, 1940.

GOWRIE  
 Governor-General.

By His Excellency's Command,  
 W. M. HUGHES  
 for and on behalf of Minister of State for  
 the Interior.

By Authority: L. F. JOHNSTON, Commonwealth Government Printer, Canberra.