

No. 40 of 1974

AN ORDINANCE

To Establish the Canberra Commercial Development Authority.

I, THE GOVERNOR-GENERAL of Australia, acting with the advice of the Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1973*.

Dated this first day of October, 1974.

JOHN R. KERR
Governor-General.

By His Excellency's Command,

GORDON M. BRYANT
Minister of State for the Capital Territory.

CANBERRA COMMERCIAL DEVELOPMENT AUTHORITY ORDINANCE 1974

PART I—PRELIMINARY

1. This Ordinance may be cited as the *Canberra Commercial Development Authority Ordinance 1974*.^{*} Short title.

2. In this Ordinance, unless the contrary intention appears— Definitions.

“approved bank” means a bank approved by the Treasurer for the purposes of the provision in which the expression occurs;

“Authority” means the Canberra Commercial Development Authority established by section 3;

“Chairman” means the Chairman of the Authority;

“Deputy Chairman” means the member holding office under sub-section 6 (1);

“lease” includes sub-lease;

“member” means—

(a) the Chairman; or

(b) a member of the Authority other than the Chairman;

“Public Service Board” means the Public Service Board constituted under the *Public Service Act 1922-1973*.

^{*} Notified in the *Australian Government Gazette* on 3 October 1974.

PART II—THE CANBERRA COMMERCIAL DEVELOPMENT AUTHORITY

Establish-
ment of
Authority.

3. (1) There is hereby established a body to be known as the Canberra Commercial Development Authority.

(2) The Authority—

- (a) is a body corporate;
- (b) shall have a seal; and
- (c) may sue and be sued in its corporate name.

(3) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Authority affixed to a document and shall presume that it was duly affixed.

Membership
of
Authority.

4. (1) The Authority shall consist of—

- (a) the Chairman of the Authority; and
- (b) not less than 4 or more than 6 other members.

(2) Of the members other than the Chairman, one member shall be a member of the Legislative Assembly nominated, as occasion requires, by the Assembly.

(3) The members shall be appointed by the Governor-General.

(4) A member other than the member referred to in sub-section (2) holds office for such period, not exceeding 5 years, as is specified in the instrument of his appointment.

(5) The member referred to in sub-section (2) holds office until the first meeting of the Legislative Assembly held after the election of members of the Assembly next following his appointment as a member of the Authority.

(6) A member is eligible for re-appointment.

(7) The performance of the functions, or the exercise of the powers, of the Authority is not affected by reason of there being a vacancy or vacancies in the membership of the Authority.

Remunera-
tion and
allowances.

5. (1) A member shall be paid remuneration at such rate as is prescribed.

(2) A member shall be paid such allowances (not including an annual allowance) as are prescribed.

Deputy
Chairman.

6. (1) The Authority shall appoint a member to be the Deputy Chairman of the Authority.

(2) The member appointed as Deputy Chairman holds office until the expiration of his term of office as a member that is current at the time of his appointment, but ceases to be the Deputy Chairman if he ceases to be a member or resigns his office of Deputy Chairman.

(3) The member appointed as Deputy Chairman may resign his office of Deputy Chairman by writing under his hand delivered to the Chairman or, if the office of Chairman is vacant or the Chairman is absent from the Territory, to the Minister.

(4) A member is eligible to be re-appointed as Deputy Chairman.

7. A member may resign his office of member by writing under his hand delivered to the Governor-General. Resignation of members.

8. (1) The Governor-General may remove a member from office on the ground of misbehaviour or physical or mental incapacity. Dismissal of members.

(2) If a member—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) is absent without leave of the Authority from 3 consecutive meetings of the Authority; or
- (c) without reasonable excuse, fails to comply with his obligations under section 9,

the Governor-General shall remove him from office.

9. (1) A member who is directly or indirectly interested in a contract made or proposed to be made by the Authority, otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Authority. Disclosure of interests in contracts.

(2) A disclosure under sub-section (1) shall be recorded in the minutes of the Authority, and the member—

- (a) shall not take part, after the disclosure, in any deliberation or decision of the Authority with respect to that contract; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Authority for any such deliberation or decision.

10. If the member referred to in sub-section 4 (2) ceases to hold office as a member of the Legislative Assembly, the Governor-General shall remove him from office as a member of the Authority. Vacation of office.

11. The Authority may grant leave of absence to a member upon such terms and conditions as the Authority determines. Leave of absence.

12. (1) Where a member is, or is expected to be, unable (whether on account of illness or otherwise) to attend meetings of the Authority, or a member has ceased to hold office before the expiration of his term of office, the Governor-General may appoint a person to act as a member during that inability or until a person is appointed to that office, and the person so appointed to act has all the powers and functions of a member. Acting appointments.

(2) The Governor-General may, at any time, terminate an appointment made under this section.

(3) The validity of an act or decision of the Authority shall not be questioned in any proceedings on a ground arising from the fact that the occasion for the appointment of a person purporting to be appointed under this section had not arisen or that an appointment under this section had ceased to have effect.

(4) A person shall not be appointed under this section to act as the member referred to in sub-section 4 (2) unless he is a member of the Legislative Assembly.

**Meetings of
Authority.**

13. (1) The Authority shall hold such meetings as are necessary for the performance of its functions but so that not more than 3 months elapse between any 2 successive meetings.

(2) The Chairman, or if for any reason the Chairman is not available, the Deputy Chairman—

- (a) may convene meetings of the Authority; and
- (b) shall, on receipt of a written request signed by 2 members, convene a meeting of the Authority.

(3) The Chairman and Deputy Chairman shall comply with any directions of the Authority with respect to the convening of meetings.

(4) The Chairman shall preside at all meetings of the Authority at which he is present.

(5) At a meeting of the Authority at which the Chairman is not present the Deputy Chairman shall preside.

(6) At a meeting of the Authority—

- (a) if the number of persons holding office as members is 7—4 members, of whom one is the Chairman or the Deputy Chairman, constitute a quorum; and
- (b) if the number of persons holding office as members is less than 7—3 members, of whom one is the Chairman or the Deputy Chairman, constitute a quorum.

(7) Questions arising at a meeting of the Authority shall be determined by a majority of the votes of the members present and voting.

(8) At a meeting of the Authority, the member presiding has a deliberative vote and, in the event of equality of votes, also has a casting vote.

PART III—FUNCTIONS, POWERS AND DUTIES OF THE AUTHORITY

**Functions of
Authority.**

14. The functions of the Authority are—

- (a) to construct and conduct a shopping centre in the District of Belconnen;
- (b) to carry on such other undertakings related to that shopping centre as the Minister approves; and
- (c) to provide community facilities related to the conduct of that shopping centre.

15. (1) Subject to this Ordinance, the Authority has power to do all things necessary or convenient to be done for or in connexion with, or as incidental to, the performance of its functions under this Ordinance and, in particular, has power—

Powers of Authority.

- (a) to acquire, hold and dispose of real or personal property;
- (b) to enter into contracts;
- (c) to erect buildings;
- (d) to give security for the purpose of a borrowing by the Authority; and
- (e) to grant leases.

(2) The Authority shall not carry out, or join in carrying out, works on land other than land of which the Authority is the lessee, except with the permission in writing of the Minister.

16. It is the duty of the Authority to carry out its functions in accordance with the principles of sound commercial practice in so far as those principles are not inconsistent with the public interest.

Duties of Authority.

PART IV—STAFF

17. (1) The Authority may employ such persons as it thinks necessary for the purposes of this Ordinance.

Employment of staff.

(2) The terms and conditions of employment of persons employed under sub-section (1) shall be as determined by the Authority with the approval of the Public Service Board.

PART V—FINANCE

18. The capital of the Authority at any time is the sum of the amounts paid to the Authority by the Treasurer for the purpose of providing capital for the Authority, less the sum of any amounts of capital repaid to Australia by the Authority.

Capital of Authority.

19. (1) The Authority shall pay to Australia, out of the profits for a financial year, such amount as the Minister, in consultation with the Treasurer, determines.

Payments to Australia.

(2) The Authority shall repay the capital of the Authority to Australia at such times and in such amounts as the Minister, in consultation with the Treasurer, determines.

(3) In the making of a determination under sub-section (1) or sub-section (2), regard shall be had to any advice that the Authority has furnished to the Minister in relation to the financial affairs of the Authority.

20. (1) The Authority may, with the approval of the Treasurer, borrow moneys from time to time in such amounts as the Minister certifies are, in his opinion, necessary for the exercise of its powers or the performance of its duties or functions under this Ordinance.

Borrowing by the Authority.

(2) The Authority may borrow from Australia, at such rate of interest and on such other terms and conditions as the Treasurer determines, moneys that the Authority is authorized to borrow under subsection (1).

(3) The Authority may give security over the whole or any part of its assets for the repayment of amounts borrowed under this section and the payment of interest on amounts so borrowed.

(4) The Treasurer may, on behalf of Australia, guarantee the repayment by the Authority of amounts borrowed under this section otherwise than from Australia and the payment of interest on amounts so borrowed.

Bank
accounts.

21. (1) The Authority may open and maintain an account or accounts with an approved bank or approved banks and shall maintain at all times at least one such account.

(2) The Authority shall pay all moneys of the Authority, including moneys borrowed by the Authority, into an account referred to in this section.

Application
of moneys.

22. (1) The moneys of the Authority may be applied by the Authority—

- (a) in payment or discharge of the costs, expenses or other obligations incurred by the Authority in connexion with the performance by the Authority of its functions under this Ordinance;
- (b) in payment of remuneration and allowances payable to members and employees of the Authority; and
- (c) in making payments in accordance with this Ordinance, but not otherwise.

(2) Moneys of the Authority not immediately required for the purposes of the Authority may be invested—

- (a) on fixed deposit with an approved bank;
- (b) in securities of Australia; or
- (c) in any other manner approved by the Treasurer.

Proper
accounts to
be kept.

23. The Authority shall cause to be kept proper accounts and records of the transactions and affairs of the Authority in accordance with the accounting principles generally applied in commercial practice and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Authority and over the incurring of liabilities by the Authority.

Annual
report.

24. (1) The Authority shall, as soon as practicable after the end of each financial year, prepare and furnish to the Minister a report of the operations of the Authority during that year, together with financial statements in respect of that year in such form as the Treasurer approves.

(2) Before furnishing the financial statements to the Minister, the Authority shall submit them to an auditor appointed by the Treasurer who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with those accounts and records and show fairly the financial transactions and the state of affairs of the Authority;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Authority during the year have been in accordance with this Ordinance; and
- (d) as to such other matters arising out of the statements as the auditor considers should be reported to the Minister.

25. (1) The auditor referred to in sub-section 24 (2) shall inspect Audit. and audit the accounts and records of the financial transactions and affairs of the Authority and the records relating to assets of, or in the custody of, the Authority and shall forthwith draw the attention of the Minister to any irregularity disclosed by the inspection that is, in the opinion of the auditor, of sufficient importance to justify his so doing.

(2) The auditor referred to in sub-section 24 (2) shall report to the Minister the results of the inspection and audit carried out under sub-section (1).

(3) The auditor referred to in sub-section 24 (2) is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Authority relating directly or indirectly to the receipt or payment of moneys by the Authority or to the acquisition, receipt, custody or disposal of assets by the Authority.

(4) The auditor may make copies of, or take extracts from, any such accounts, records, documents or papers.

(5) The auditor may require any person to furnish him with such information in the possession of the person or to which the person has access as the auditor considers necessary for the purposes of this section, and the person shall comply with the requirement.

(6) A person who contravenes sub-section (5) is guilty of an offence punishable, upon conviction, by a fine not exceeding \$200.

26. The Authority shall pursue a policy directed towards securing Financial
policy of
Authority. revenue sufficient to meet all its expenditure properly chargeable against revenue, and to permit the payment to Australia of a reasonable return on the capital of the Authority.

27. (1) For the purposes of this Ordinance, the profits of the Profits of
Authority. Authority for a financial year are the amount (if any) remaining after deducting from the revenue received or receivable in respect of that financial year the expenditure, and provision for expenditure, properly chargeable against that revenue.

(2) The profits of the Authority for a financial year shall be applied in the first place in payment of the amount determined under sub-section 19 (1) and the balance (if any) shall be applied in such manner as the Minister, in consultation with the Treasurer, determines.

Liability of
Authority
to pay rates,
&c.

28. The Authority shall pay all rates, taxes and charges under any law of the Territory.

PART VI—MISCELLANEOUS

Reports to
Minister.

29. The Authority shall—

- (a) from time to time inform the Minister concerning the general conduct of its operations; and
- (b) furnish to the Minister such information relating to those operations as the Minister requires.

Regulations.

30. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters that are required or permitted by this Ordinance to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.