

# THE NORTHERN TERRITORY OF AUSTRALIA

No. 49 of 1979

## AN ACT

To amend the Darwin Town Area Leases Act  
consequent upon the Planning Act 1979

[Assented to 14 May 1979]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

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| 1. This Act may be cited as the <u>Darwin Town Area Leases Act 1979</u> .   | Short title  |
| 2. This Act shall come into operation on a date to be fixed by the Administrator by notice published in the <u>Gazette</u> .  | Commencement                                       |
| 3. The <u>Darwin Town Area Leases Act</u> is in this Act referred to as the Principal Act.  | Principal Act                                      |
| 4. Section 2 of the Principal Act is amended by inserting after the definition of "right to lease" the following definition:<br><br>"subdivision' means subdivision within the meaning of the <u>Planning Act</u> ";".                              |  |
| 5. Section 4 of the Principal Act is amended by omitting "for business or residential purposes or for both business and residential purposes".  | Power of Minister to grant leases                  |
| 6. Section 7 of the Principal Act is repealed and the following section substituted:<br><br>"7. A lease granted under this Act may contain provisions, covenants and conditions in relation to the purposes for which the leased land may be used." | Use of leased land                                 |
| 7. Section 8 of the Principal Act is amended by omitting "The" and substituting "Where a lease under this Act specifies the purpose for which the leased land may be used, the".  | Land only to be used for purposes for which leased |
| 8.(1) Section 12 of the Principal Act is amended by omitting sub-section (2).   | Variation of purposes, &c.                         |

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(2) Section 12(3) of the Principal Act is amended by omitting "the Darwin Town Plan" and substituting "a planning instrument under the Planning Act applying to the leased land".

(3) Section 12 of the Principal Act is amended by omitting sub-section (4) and substituting the following sub-section:

"(4) A provision, covenant or condition of a lease in relation to the purpose for which the leased land may be used shall not be varied so that the provision, covenant or condition permits the land to be used or developed in contravention of a planning instrument under the Planning Act applying to the land."

(4) Section 12(10) of the Principal Act is amended by omitting "the Darwin Town Plan" and substituting "a planning instrument under the Planning Act applying to the leased land".

(5) Section 12 of the Principal Act is amended by omitting sub-section (11).

Refund on  
surrender

9.(1) Section 12B(1) of the Principal Act is amended by omitting the definition of "residential".

(2) Section 12B(3) of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

"(a) the lease contained a provision, covenant or condition that the leased land be developed by the erection and use of -

(i) houses; or

(ii) a building containing not more than 2 storeys and containing not more than 6 flats; and"

(3) Section 12B(5) of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

"(a) the right to a lease was a right to a lease which would contain a provision, covenant or condition that the leased land be developed by the erection and use of -

(i) houses; or

(ii) a building containing not more than 2 storeys and containing not more than 6 flats;".

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10. Section 16D of the Principal Act is amended by omitting sub-section (6) and substituting the following sub-section:

Grant for leases for industrial purposes

"(6) Nothing in this section authorizes the grant of a lease -

- (a) to a person who has previously been granted a lease under this section; or
- (b) of land where the use or development of that land in accordance with the terms of the lease for industrial purposes would be in contravention of a planning instrument under the Planning Act applying to that land."

11. Section 28B(3) of the Principal Act is amended by omitting paragraph (j) and substituting the following paragraph:

"(j) the transfer or assignment of -

- (i) a lease; or
- (ii) an interest in a lease,

the right to which was acquired before or during a marriage between persons who are or were at any time parties to that marriage."

12. Sections 29, 29A, 29AA, 29AB, 29AC, 29AD, 29AE, 29AF and 29B of the Principal Act are repealed and the following sections substituted:

"29.(1) This section applies to land within the Darwin Town Area which is the subject of -

Applications for new leases after subdivision

- (a) a lease under this Act; or
- (b) an agricultural lease or town lands lease under the Crown Lands Act.

"(2) The lessee of any land may apply to the Minister for the issue of a new lease in respect of each lot created in a subdivision of the land.

"(3) The Minister shall, upon receiving an application under sub-section (2), by notice in writing advise the lessee of the amount payable in respect of the issue of each new lease under that sub-section.

"(4) The amount payable under sub-section (3) shall not exceed the cost to the Territory of providing a water service or water and sewerage services to the land that is the subject of the new lease.

"29A.(1) Where all rent due under a lease referred to in section 29(1) has been paid, the lessee may surrender the lease to the Minister.

Grant of new leases after subdivision

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"(2) The Minister shall -

(a) if he is satisfied that -

- (i) the terms and conditions of the lease have been complied with;
- (ii) any conditions to which the grant of the subdivision consent under Part V of the Planning Act was subject have been complied with; and
- (iii) the plans of authorized survey in relation to the subdivision have been deposited in the office of the Surveyor-General under section 12(3) of the Licensed Surveyors Act; and

(b) if the amounts, if any, payable in respect of the issue of new leases under section 29(3) have been paid,

grant a new lease in respect of each lot to the applicant in the subdivision so registered.

"(3) A new lease granted under this section -

- (a) shall preserve the lessee's rights, if any, in respect of improvements on any land included in the new lease; and
- (b) shall contain such reservations, covenants, conditions and provisions as the Minister thinks fit.

Subdivision  
permitted

"29B. A lessee is not in breach of any covenant in a lease referred to in section 29(1) by reason only that the leased land is subdivided in accordance with Part V of the Planning Act.

"29C. Subject to this and any other Act, land subject to a lease may be sublet, and the lease and any interest therein may be assigned, transferred or mortgaged."

Savings

13.(1) The repeals effected by section 12 do not apply to or in relation to an application to the Minister made under section 29A of the Principal Act as in force immediately before the commencement of this Act for approval to subdivide land the subject of a lease under the Principal Act.

(2) For the purposes of sub-section (1), a reference in section 29AA as in force immediately before the commencement of this Act to "the Board" is a reference to the Northern Territory Planning Authority constituted under the Planning Act.