

No. 20 of 1972

## AN ORDINANCE

### To amend the *Trespass on Commonwealth Lands Ordinance* 1932-1966.

I, THE ADMINISTRATOR of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act* 1910-1972.

Dated this Thirtieth day of June, 1972.

ROHAN DELACOMBE  
Administrator.

By His Excellency's Command,

RALPH J. HUNT  
Minister of State for the Interior.

#### TRESPASS ON COMMONWEALTH LANDS ORDINANCE 1972

1.—(1.) This Ordinance may be cited as the *Trespass on Commonwealth Lands Ordinance* 1972.\* Short title and citation.

(2.) The *Trespass on Commonwealth Lands Ordinance* 1932-1966† is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Trespass on Commonwealth Lands Ordinance* 1932-1972.

2. Section 3 of the Principal Ordinance is amended— Definitions.

(a) by omitting the definition of "City Area" and inserting in its stead the following definitions:—

" 'carriageway', in relation to a public street, has the same meaning as in the Motor Traffic Ordinance;

'off-street parking area' has the same meaning as in the Motor Traffic Ordinance;

'public street' has the same meaning as in the Motor Traffic Ordinance;"; and

\* Notified in the *Commonwealth Gazette* on 20 July 1972.

† Ordinance No. 20, 1932, as amended by Ordinance No. 10, 1937; No. 6, 1939; No. 15, 1940; No. 20, 1942; No. 6, 1943; Nos. 2 and 5, 1944; and No. 19, 1966.

- (b) by adding at the end thereof the following definitions:—
- “ ‘ the Commissioner of Police ’ means the Commissioner of Police holding office under the Police Ordinance;
  - ‘ the Motor Traffic Ordinance ’ means the *Motor Traffic Ordinance 1936-1972*;
  - ‘ the Police Ordinance ’ means the *Police Ordinance 1927-1970*;
  - ‘ vehicle ’ has the same meaning as in the Motor Traffic Ordinance.”.

3. After section 8 of the Principal Ordinance the following sections are inserted:—

Camping, &c.,  
on unleased  
Common-  
wealth land  
in City Area.

“ 8A.—(1.) In this section—

- ‘ immobilized vehicle ’ means a vehicle that has been rendered incapable, whether or not by the removal of parts, of being moved as a vehicle;
- ‘ structure ’ includes a tent, booth, stall and an immobilized vehicle;
- ‘ unleased land ’ means unleased land that—
  - (a) belongs to the Commonwealth;
  - (b) is within the City Area; and
  - (c) is not within an area for the time being declared by the Minister, by notice published in the *Gazette*, to be, for the purposes of this Ordinance, a camping area.

“ (2.) A person shall not—

- (a) camp, whether under cover or in the open, on unleased land;
- (b) erect a structure on unleased land; or
- (c) occupy or be in a structure on unleased land, not being a structure that belongs to the Commonwealth and is for the time being open to the public,

unless—

- (d) that land is land specified in a permit issued under the next succeeding section, the person is the person to whom the permit has been granted or is a person to whom the permit is expressed to apply and the permit is in force; or
- (e) that person camps, or erects, occupies or is in a structure, on that land in the performance of his duties as an officer or employee of the Commonwealth or an authority established by an Act or an Ordinance or in the discharge of an obligation on his part, or on the part of his employer, to the Commonwealth or such an authority.

Penalty: Fifty dollars.

“(3.) A person shall not park or leave a vehicle on unleased land that is within an area of unleased land that is specified by the Minister, by notice in the *Gazette*, to be an area of unleased land to which this sub-section applies unless—

- (a) that land is specified in a permit issued under the next succeeding section, the person is the person to whom the permit has been issued or a person to whom the permit is expressed to apply and the permit is in force;
- (b) that person parks or leaves the vehicle on part of the carriageway of a public street or in an off-street parking area, and the parking or leaving does not constitute an offence against any other law in force in the Territory;
- (c) that person parks or leaves the vehicle on that land in the performance of his duties as an officer or employee of the Commonwealth or an authority established by an Act or an Ordinance or in the discharge of an obligation on his part, or on the part of his employer, to the Commonwealth or such an authority; or
- (d) the parking or the leaving of the vehicle on that land could not have been avoided by any reasonable efforts on the part of that person.

Penalty: Fifty dollars.

“(4.) A person who has been convicted of an offence against either of the last two preceding sub-sections is guilty of a further offence if, after having been charged with the first-mentioned offence, he has continued to act in contravention of that sub-section, and is liable, upon conviction, to a penalty of not more than Ten dollars for each day after the day on which he was charged with the first-mentioned offence during which the contravention so continues.

“(5.) Where an Inspector appointed under this Ordinance or a member of the Police Force of the Territory has requested a person who is in occupation of, or has apparent control of—

- (a) a structure that is on unleased land; or
- (b) a vehicle that is on unleased land that is within an area of unleased land to which sub-section (3.) of this section applies,

to remove the structure and all articles in, about, attached to, or apparently being used in connexion with, the structure, or to remove the vehicle, to a place that is not unleased land and—

- (c) immediate steps are not taken to comply with the request; or
- (d) the structure and the articles or the vehicle, as the case requires, are not removed within a reasonable time after the making of the request,

an Inspector appointed under this Ordinance or a member of the Police Force of the Territory may remove the structure and all articles in, about, attached to, or apparently being used in connexion with, the structure, or the vehicle, as the case requires.

“ (6.) Where—

(a) a structure is on unleased land and, for a period of not less than two hours—

(i) the structure has remained unoccupied; and

(ii) there has been no person in apparent control of the structure; or

(b) a vehicle is on unleased land that is within an area of unleased land to which sub-section (3.) of this section applies and, for a period of not less than two hours, there has been no person in apparent control of the vehicle,

an Inspector appointed under this Ordinance or a member of the Police Force of the Territory may remove the structure and all articles in, about, attached to, or apparently being used in connexion with, the structure, or the vehicle, as the case requires.

“ (7.) A structure, article or vehicle removed by an Inspector or a member of the Police Force under either of the last two preceding sub-sections shall be retained in such custody as the Commissioner of Police directs.

“ (8.) Where a structure, article or vehicle is retained in accordance with the last preceding sub-section, a person who, but for that sub-section, would be entitled to the custody of the structure, article or vehicle may request the Commissioner of Police to deliver up that article to him, and, subject to the next succeeding sub-section, the Commissioner of Police shall, as soon as practicable, comply with that request.

“ (9.) Where a request is made under the last preceding sub-section for the delivery to a person of an article retained under sub-section (7.) of this section and that article is required by the prosecution to be tendered in evidence in proceedings for an offence against this section, the Commissioner of Police shall give to the person making the request notice in writing to that effect specifying the proceedings in relation to which the article is so required, and may retain that article until the conclusion of the proceedings specified in the notice.

“ (10.) If, after the expiration of a period of three months after the date on which a structure, article or vehicle has been removed from unleased land in pursuance of sub-section (5.) or sub-section (6.) of this section, no person who, but for sub-section (7.) of this section, would be entitled to the custody of the structure, article or vehicle has made a request under the last preceding sub-section, the Commissioner of Police shall deal with that structure, article or vehicle in accordance with section twenty-six of the Police Ordinance.

“ 8B.—(1.) An officer of the Department of the Interior authorized in writing by the Minister may, on an application by a person who wishes to conduct a festival, show, fair, circus or carnival, grant to that person a permit to occupy for that purpose a specified area of unleased land belonging to the Commonwealth that is in the City Area, and the permit applies to that person and to all other persons to whom the permit is expressed to apply.

Permits  
to occupy  
unleased  
land.

“(2.) A permit shall be in force for such period, and subject to such conditions, as are specified in the permit.

“8C.—(1.) An officer of the Department of the Interior authorized in writing by the Minister may, by instrument in writing under his hand, certify that land described in the instrument or by reference to a plan on or annexed to the instrument is unleased land that— Evidence.

- (a) belongs to the Commonwealth;
- (b) is within the City Area; and
- (c) is not within an area for the time being declared by the Minister, by notice published in the *Gazette*, to be, for the purposes of this Ordinance, a camping area.

“(2.) In proceedings for an offence against this Ordinance, a document that purports to be an instrument referred to in the last preceding sub-section shall, unless the contrary is proved, be deemed to be such an instrument and is evidence of the matters stated in the instrument.”.