



Australian Capital Territory

Unit Titles Amendment Act 2005

A2005-25

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Australian Capital Territory

Unit Titles Amendment Act 2005

A2005-25

An Act to amend the *Unit Titles Act 2001*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Unit Titles Amendment Act 2005*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This Act amends the *Unit Titles Act 2001*.

Note This Act also amends the *Land Titles (Unit Titles) Act 1970* (see sch 1).

**4 Provisional building damage order—application
Section 154 (1) (c) and (d)**

after

cancellation authority

insert

or cancellation order

5 Section 160 heading

substitute

**160 Cancellation authority—grant by planning and land
authority**

6 New section 160 (1A)

insert

- (1A) On application for a cancellation authority, the planning and land authority may—
- (a) grant the cancellation authority; or
 - (b) refuse to grant the cancellation authority.

7 Section 160 (2)

omit

if satisfied on reasonable grounds

insert

only if satisfied

8 Section 160 (2) (a)

omit

authorised

substitute

supported

9 Section 160

renumber subsections when Act next republished under Legislation Act

10 Section 161 heading

substitute

161 Cancellation authority—period of effect

11 New division 11.2

insert

Division 11.2 Cancellation orders

161A Cancellation orders—Supreme Court powers

- (1) An owners corporation may apply to the Supreme Court for an order (a *cancellation order*) authorising the cancellation of the units plan.
- (2) On an application for a cancellation order, the Supreme Court may—
 - (a) make a cancellation order; or
 - (b) make a provisional cancellation order under section 161B; or
 - (c) dismiss the application.
- (3) The Supreme Court may make a cancellation order only if satisfied that it is just and equitable to make the order (including any directions, or a declaration, mentioned in subsection (4)) having regard to the interests of everyone with interests in the units.
- (4) A cancellation order may include either or both of the following:
 - (a) directions to be complied with after cancellation of the units plan;
 - (b) a declaration of the provisions that are to govern the new lease arising under section 162 to take account of any variation of a lease of any unit, or the common property, made or applied for since the units plan was registered.

-
- (5) A direction mentioned in subsection (4) (a) may be enforced as if it were a judgment of the Supreme Court obtained by someone for whose benefit the direction was given against the person required to comply with the direction.
 - (6) A cancellation order remains in force for the period stated in the order.

161B Cancellation orders—provisional orders

- (1) On an application for a cancellation order for a units plan, the Supreme Court may make a provisional cancellation order for the units plan imposing conditions or giving directions (or both) to be complied with before the court makes a cancellation order.
- (2) The Supreme Court may make a provisional cancellation order for a units plan only if satisfied that—
 - (a) it is necessary for either or both of the following purposes:
 - (i) to protect the interests of the Territory;
 - (ii) to adjust the rights and duties of everyone who has registered interests in the units, between each other, to the extent that the rights and duties may be affected by the cancellation of the units plan; and
 - (b) it is just and equitable to make the order having regard to the interests of everyone with interests in the units.
- (3) A provisional cancellation order remains in force for the period stated in the order.

161C Cancellation orders—after provisional order is made

- (1) This section applies if—
 - (a) the Supreme Court makes a provisional cancellation order for a units plan on an application under section 161A; and

- (b) the owners corporation subsequently applies for a cancellation order under that section.
- (2) The Supreme Court may make a cancellation order under section 161A if satisfied that the conditions and directions stated in the provisional cancellation order have been complied with.

161D Cancellation orders—right of appearance

- (1) The following have a right to appear on an application for a cancellation order for a units plan:
 - (a) the owners corporation;
 - (b) a unit owner;
 - (c) someone else with an interest in a unit, or the common property, that is recorded on the corporate register;
 - (d) an insurer who has insured a building on the parcel for section 132 (Building insurance by owners corporation);
 - (e) the chief executive, for the Territory.
- (2) An owners corporation that applies for a cancellation order must serve a copy of the application on everyone else who has a right to appear, except the chief executive.

Note The applicant may serve the application on a person who has a right to appear at the person's address for correspondence shown on the corporate register. Other forms of service are also permitted. See s 80.

- (3) A person who has a right to appear may be represented by a lawyer or someone else.
- (4) The registrar of the Supreme Court must give a copy of an application for a cancellation order to the chief executive.

12 Division 11.2 heading

substitute

Division 11.3 Effects of cancellation

**13 Cancellation of units plan—effects
Section 162**

after

cancellation authority

insert

or cancellation order

**14 Cancellation of units plan—new lease over parcel
Section 163 (1) (c)**

omit

(Cancellation authority—grant)

insert

(Cancellation authority—grant by planning and land authority) or
any declaration of the Supreme Court under section 161A (4) (b)
(Cancellation orders—Supreme Court powers)

15 Section 165 heading

substitute

**165 Dissolution of owners corporation—Supreme Court
powers**

16 Section 165 (1)

omit

Magistrates Court

substitute

Supreme Court

17 Section 165 (3) (b)

substitute

(b) a unit owner;

(ba) someone else with an interest in a unit, or the common property, that is recorded on the corporate register;

18 Section 165 (3)

renumber paragraphs when Act next republished under Legislation Act

19 Section 165 (6)

omit

Magistrates Court

substitute

Supreme Court

20 Section 169 heading

substitute

**169 Dissolution of owners corporation on lease expiry—
Supreme Court powers**

21 Section 169 (1)

omit

Magistrates Court

substitute

Supreme Court

22 Section 169 (3) (b)

substitute

(b) a unit owner;

(ba) someone else with an interest in a unit, or the common property, that is recorded on the corporate register;

23 Section 169 (3)

renumber paragraphs when Act next republished under Legislation Act

24 Section 169 (6)

omit

Magistrates Court

substitute

Supreme Court

25 Dictionary, definition of *cancellation dissolution order*

substitute

cancellation dissolution order—see section 165 (Dissolution of owners corporation—Supreme Court powers).

26 Dictionary, new definition of *cancellation order*

insert

cancellation order—see section 161A (Cancellation orders—Supreme Court powers).

27 Dictionary, definition of *expiry dissolution order*

substitute

expiry dissolution order—see section 169 (Dissolution of owners corporation on lease expiry—Supreme Court powers).

Schedule 1 Consequential amendments— Land Titles (Unit Titles) Act 1970

(see s 3)

[1.1] Section 16

substitute

16 Cancellation of units plans—registration

The registrar-general must register a cancellation authority or cancellation order on the lodgment of the authority or order while it is stated to remain in force.

Note A **cancellation authority** is an authority granted by the planning and land authority for the cancellation of a units plan (see *Unit Titles Act 2001*, s 160). A **cancellation order** is a Supreme Court order authorising the cancellation of a units plan (see *Unit Titles Act 2001*, s 161A).

[1.2] Section 17 (1), (2) and (3)

after

cancellation authority

insert

or cancellation order

[1.3] Section 17 (1) and (2)

after

registration of the authority

insert

or order

[1.4] Section 18 (1)

after

cancellation authority

insert

or cancellation order

[1.5] Section 19 heading

substitute

19 Amendment of units plans—registration of authorities

[1.6] Section 19 (1)

omit

ministerial

[1.7] Section 19 (1), notes

omit

a ministerial authority

substitute

an authority

[1.8] Section 19 (2)

omit

a ministerial authority

substitute

an authority

[1.9] Section 31 (2)*after*

cancellation authority

insert

or cancellation order

[1.10] Section 31 (2)*after*

registration of the authority

insert

or order

Endnotes**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 10 March 2005.

2 Notification

Notified under the Legislation Act on 11 May 2005.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Unit Titles Amendment Bill 2005, which was passed by the Legislative Assembly on 6 May 2005.

Clerk of the Legislative Assembly

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