



Australian Capital Territory

# Unit Titles Legislation Amendment Act 2020

A2020-4

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J2019-534

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Australian Capital Territory

# Unit Titles Legislation Amendment Act 2020

A2020-4

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An Act to amend the *Unit Titles (Management) Act 2011*, and for other purposes

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

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Unit Titles Legislation Amendment Act 2020*.

### 2 Commencement

- (1) This Act commences on a day fixed by the Minister by written notice.

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

*Note 2* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).

- (2) If this Act has not commenced before 1 July 2021, it automatically commences on that day.
- (3) The [Legislation Act](#), section 79 (Automatic commencement of postponed law) does not apply to this Act.

### 3 Legislation amended

This Act amends the following legislation:

- [Civil Law \(Property\) Act 2006](#)
- [Civil Law \(Sale of Residential Property\) Act 2003](#)
- [Community Title Act 2001](#)
- [Land Titles Act 1925](#)
- [Land Titles Regulation 2015](#)
- [Land Titles \(Unit Titles\) Act 1970](#)
- [Legislation Act 2001](#)
- [Planning and Development Act 2007](#)
- [Residential Tenancies Act 1997](#)

- *Unit Titles Act 2001*
- *Unit Titles (Management) Act 2011*
- *Unit Titles (Management) Regulation 2011.*

#### **4 New Civil Law (Property) Regulation—sch 1**

- (1) The provisions set out in schedule 1 are taken, on the commencement of this section, to be a regulation made under the *Civil Law (Property) Act 2006*, section 503.
- (2) The regulation—
  - (a) is taken to be notified under the *Legislation Act* on the day this Act is notified; and
  - (b) commences on the commencement of this section; and
  - (c) is not required to be presented to the Legislative Assembly under the *Legislation Act*, section 64 (1); and
  - (d) may be amended or repealed as if it had been made under the *Civil Law (Property) Act 2006*, section 503.
- (3) This Act is taken to be an amending law for the *Legislation Act*, section 89 (Automatic repeal of certain laws and provisions) despite this section not being a provision mentioned in section 89 (12), definition of *amending law*.

## Part 2 Civil Law (Property) Act 2006

### 5 Division 2.9.1

*substitute*

#### Division 2.9.1 Important concepts

##### 259 Definitions—pt 2.9

In this part:

***buyer action period***, for a disclosure update notice, means the period of 21 days from the day the buyer is given the disclosure update notice.

***common property***—see the *Unit Titles Act 2001*, section 13.

***developer***—see the *Unit Titles Act 2001*, dictionary.

***disclosure statement***—see section 260 (1).

***disclosure update notice***—see section 260B (2).

***excluded change***—see section 259A (3).

***material change***, to a matter in a disclosure statement, means—

- (a) a type 1 matter; or
- (b) a type 2 matter.

***off-the-plan contract*** means a contract for the sale of a unit in a units plan before the units plan is registered.

***owners corporation***—see the *Unit Titles (Management) Act 2011*, dictionary.

***registered*** means registered with the registrar-general under the *Land Titles Act 1925* or the *Land Titles (Unit Titles) Act 1970*.

*unit*—see the *Unit Titles Act 2001*, section 9.

*units plan*—see the *Unit Titles Act 2001*, dictionary.

### **259A Meaning of *type 1 matter* and *type 2 matter***

- (1) For this Act, a change to a matter in a disclosure statement for an off-the-plan contract—
  - (a) is a ***type 1 matter*** if the change (other than an excluded change) is 1 of the following:
    - (i) a decrease in overall floor area of the unit (excluding any unit subsidiary) of 5% or more;
    - (ii) a decrease or increase in the unit entitlement estimate of 5% or more;
    - (iii) a decrease of 10% or more of a courtyard area or balcony area for the unit (whether or not the courtyard or balcony is part of the unit or a unit subsidiary);
    - (iv) any other prescribed matter; and
  - (b) is a ***type 2 matter*** if the change (other than an excluded change) will, or is likely to, affect the use or enjoyment of the unit and includes a change to the following:
    - (i) the plan mentioned in section 260 (1) (a) if the change will, or is likely to, affect the use or enjoyment of the unit or the common property;
    - (ii) the proposed rules for the owners corporation;
    - (iii) the developer's estimate of the buyer's contribution to the general fund if the change is more than the prescribed amount;

- (iv) the location of an easement or inclusion of a new easement, that will, or is likely to, affect the use or enjoyment of the unit (other than an easement mentioned in the *Unit Titles Act 2001*, section 34 and section 35 or the *Land Titles Act 1925*, section 123D (5));
  - (v) a development statement for the units plan that will, or is likely to, affect the use or enjoyment of the unit;
  - (vi) any other prescribed matter.
- (2) Subject to any disallowance or amendment under the [Legislation Act](#), chapter 7, a regulation prescribing a matter for subsection (1) (a) (iv) commences—
- (a) if there is a motion to disallow the regulation and the motion is negated by the Legislative Assembly—the day after the day the disallowance motion is negated; or
  - (b) the day after the 6th sitting day after the day it is presented to the Legislative Assembly under that chapter; or
  - (c) if the regulation provides for a later date or time of commencement—on that date or at that time.
- (3) In this section:
- excluded change***, in a disclosure statement for an off-the-plan contract means a change to a development statement for the units plan in the disclosure statement—
- (a) because the planning and land authority has amended a development statement under the *Unit Titles Act 2001*, section 30; and
  - (b) that the buyer has agreed to under the *Unit Titles Act 2001*, section 30 (2) or (4).

**6 Division 2.9.2 heading**

*substitute*

**Division 2.9.2 Off-the-plan contracts—disclosure****7 Section 260**

*substitute*

**260 Contract for sale of unit before registration of units plan**

- (1) Before the buyer and seller enter an off-the-plan contract, the seller must give the buyer a statement (the *disclosure statement*) including the following matters:
- (a) a plan that shows—
    - (i) the proposed location and dimensions of the unit in relation to other units and the common property in the units plan; and
    - (ii) the internal floor plan of the unit; and
    - (iii) anything else prescribed by regulation;
  - (b) if a building management statement is required or is proposed for a building, or part of a building, subdivided by the units plan—the building management statement;

*Note* A building management statement is required for a unit title application if the units plan subdivides part of a building that includes a lease additional to the units plan lease (see *Unit Titles Act 2001*, s 17B).

- (c) a statement about the proposed use of each unit in the units plan showing—
  - (i) the full list of potential authorised uses under the lease for the unit; and

(ii) if the developer proposes to restrict the use of a unit to a subset of the potential uses mentioned in subparagraph (i)—

(A) the proposed subset of uses that applies to the unit; and

(B) the conditions (if any) applying to a stated use;

*Note* A unit title application under the *Unit Titles Act 2001* may include proposed restrictions on use (see that Act, s 17 (5A)).

- (d) the proposed schedule of unit entitlement for the units plan;
- (e) details of each proposed unit subsidiary in the units plan, including the potential uses of the subsidiary;
- (f) a statement about the potential for, and type of, easements that may be required for the units plan;
- (g) the proposed rules for the owners corporation for the units plan including any special privilege rule;
- (h) details of any contract the developer intends the owners corporation to enter, including—
- (i) the amount of the buyer's general fund contribution that will be used to service the contract; and
  - (ii) any personal or business relationship between the developer and another party to the contract;
- (i) the developer's estimate, based on reasonable grounds, of the buyer's general fund contribution for 2 years after the units plan is registered;
- (j) the method proposed for working out the contribution to be paid into the general fund by each unit;
- (k) the method proposed for working out the contribution to be paid into the sinking fund by each unit;



- (l) if a staged development of the units is proposed—the proposed development statement and any amendment to the statement;
- (m) any other matter prescribed by regulation in relation to the following:
  - (i) development approval for the building the subject of the proposed units plan under the *Planning and Development Act 2007*;
  - (ii) design and construction (including the identity of the developer, licensed builder or design architect);
  - (iii) sustainability infrastructure;
  - (iv) provision of utility services.

**Examples—par (j) and par (k)**

- 1 the user pays principle
- 2 unit entitlement value based on the market value of each unit
- 3 fixed cost for each unit regardless of unit value

- (2) For subsection (1), the seller may give the disclosure statement by including some or all of the disclosure statement in the contract.
- (3) However, a seller does not contravene subsection (1) only because of a matter included in the disclosure statement is inaccurate or incomplete.

*Note* A seller who becomes aware of an inaccurate or incomplete matter in a disclosure statement is required to notify the buyer of the matter (see s 260B).

- (4) In this section:

*alternative rules*, for an owners corporation—see the *Unit Titles (Management) Act 2011*, dictionary.

*building management statement*—see the *Land Titles Act 1925*, section 123D.

*default rules*—see the *Unit Titles (Management) Act 2011*, dictionary.

*development statement*—see the *Unit Titles Act 2001*, dictionary.

*general fund*—see the *Unit Titles (Management) Act 2011*, section 72.

*general fund contribution*—see the *Unit Titles (Management) Act 2011*, section 78 (1).

*proposed rules* means—

- (a) if the developer proposes to register the units plan with alternative rules—the alternative rules; or
- (b) in any other case—the default rules.

*sinking fund*—see the *Unit Titles (Management) Act 2011*, section 81.

*special privilege rule*—see the *Unit Titles (Management) Act 2011*, section 112A (1).

*staged development*—see the *Unit Titles Act 2001*, section 17 (4).

*unit subsidiary*—see the *Unit Titles Act 2001*, section 12.

## **8 New sections 260A to 260H**

*in division 2.9.2, insert*

### **260A Disclosure statement provided late or not at all**

- (1) This section applies if—
  - (a) 2 parties have entered into an off-the-plan contract; and
  - (b) the seller did not give the buyer a disclosure statement as required under section 260 (1) before the parties entered into the contract.

- (2) The buyer may, by written notice, rescind the contract—
  - (a) if the seller has not given the buyer the disclosure statement—at any time before the contract is completed; or
  - (b) if the seller gives the buyer the disclosure statement after the contract is signed—within 21 days after the day the disclosure statement is given to the buyer.

**260B Seller to notify material change to matter in disclosure statement**

- (1) This section applies if—
  - (a) a seller under an off-the-plan contract gives the buyer a disclosure statement under section 260; and
  - (b) the seller becomes aware of a material change to a matter set out in the disclosure statement.
- (2) The seller must give the buyer a notice setting out the details of the material change (a *disclosure update notice*), in writing—
  - (a) no later than 10 working days after the end of the calendar quarter in which the seller first becomes aware of the material change; but
  - (b) at least 21 days before the day the buyer is required to complete the contract.
- (3) The disclosure update notice must contain reasonably sufficient information to enable the buyer to work out whether the buyer will suffer significant prejudice because of the material change.
- (4) For this section, a seller is taken to be aware of a material change to a matter in the disclosure statement if the seller has actual knowledge, or ought reasonably to have knowledge, of the change.

- (5) In this section:

*calendar quarter* means a 3-month period ending on the last day of March, June, September or December.

**260C Effect of disclosure update provided in time—type 1 matter**

- (1) This section applies if—
- (a) a seller under an off-the-plan contract gives the buyer a disclosure update notice within the period required under section 260B (2); and
  - (b) the material change in the disclosure update notice is a type 1 matter; and
  - (c) the buyer is significantly prejudiced because of the material change.
- (2) The buyer may, by written notice, given to the seller before the end of the buyer action period—
- (a) rescind the contract; or
  - (b) tell the seller that the buyer will complete the contract and claim compensation for the change.
- (3) The buyer must include in the written notice to the seller under subsection (2) a summary of the significant prejudice suffered by the buyer because of the material change.
- (4) If, at the end of the buyer action period, the buyer has not taken action under subsection (2), the disclosure statement is taken to be amended by agreement to incorporate the material change in the disclosure update notice.

**260D Effect of disclosure update provided out of time—type 1 matter**

- (1) This section applies if—
  - (a) a seller under an off-the-plan contract gives the buyer a disclosure update notice later than the period required under section 260B (2); and
  - (b) the material change in the disclosure update notice is a type 1 matter.
- (2) The buyer may, by written notice, given to the seller before the end of the buyer action period—
  - (a) rescind the contract; or
  - (b) tell the seller that the buyer will complete the contract and claim compensation for the change.
- (3) If, at the end of the buyer action period, the buyer has not taken action under subsection (2), the disclosure statement is taken to be amended by agreement to incorporate the material change in the disclosure update notice.

**260E Effect of disclosure update—type 2 matter**

- (1) This section applies if—
  - (a) a seller under an off-the-plan contract gives the buyer a disclosure update notice (whether or not in the period required under section 260B (2)); and
  - (b) the material change in the disclosure update notice is a type 2 matter; and
  - (c) the buyer is significantly prejudiced because of the material change.

- (2) The buyer may, by written notice, given to the seller before the end of the buyer action period—
  - (a) rescind the contract; or
  - (b) tell the seller that the buyer will complete the contract and claim compensation for the change.
- (3) The buyer must include in the written notice to the seller under subsection (2) a summary of the significant prejudice suffered by the buyer because of the material change.
- (4) If, at the end of the buyer action period, the buyer has not taken action under subsection (2), the disclosure statement is taken to be amended by agreement to incorporate the material change in the disclosure update notice.

**260F Buyer action if no disclosure update notice**

- (1) This section applies if a seller under an off-the-plan contract—
  - (a) is required under section 260B to provide a disclosure update notice to a buyer; and
  - (b) does not provide the notice.
- (2) The buyer may rescind the contract by written notice given to the seller at any time before the contract is completed.
- (3) However, if the requirement mentioned in subsection (1) (a) relates to a material change that is a type 2 matter, the buyer—
  - (a) may only take action under subsection (2) if the buyer is significantly prejudiced because of the material change; and
  - (b) if taking action under subsection (2)—must include in the written notice to the seller a summary of the significant prejudice suffered by the buyer because of the material change.

**260G Seller to notify buyer of registration of units plan**

- (1) The seller must, before an off-the-plan contract for a unit is completed, give the buyer of the unit a copy of—
  - (a) the registered units plan; and
  - (b) if there are alternative rules for the owners corporation registered under the *Land Titles (Unit Titles) Act 1970*, section 27—the alternative rules.
- (2) The buyer is not required to complete the contract earlier than 21 days after the day the seller gives the buyer a copy of the documents mentioned in subsection (1).

**260H Evidentiary burden—notices**

In a legal proceeding arising out of, or connected with, an off-the-plan contract, the seller bears the onus of proving that a notice required to be given to a buyer under this division, including a disclosure statement, was given to the buyer.

**9 Meaning of *implied warranties*—div 2.9.3  
Section 261, definition of *implied warranties***

*substitute*

*implied warranties*—see section 264.

**10 Purpose—div 2.9.3  
Section 262 (a)**

*omit*

division of a contract

*substitute*

part of a contract

**11 Section 262 (b)**

*omit*

cancel

*substitute*

rescind

**12 Implied warranties and right to cancel—effect  
Section 263**

*omit*

**13 Implied warranties  
New section 264 (2A)**

*insert*

- (2A) The seller of a unit who enters an off-the-plan contract warrants that the information in the disclosure statement, including any matter incorporated in the disclosure statement by a disclosure update notice, is accurate.

**14 Section 264 (3)**

*omit*

materially

*substitute*

significantly



**15 Section 265***substitute***265 Rescission of contract for sale of unit**

- (1) The buyer of a unit may, by written notice given to the seller, rescind the contract for the sale of the unit if—
  - (a) in relation to the implied warranty mentioned in section 264 (2A)—
    - (i) there would be a breach of the implied warranty were the contract completed at the time it is rescinded; and
    - (ii) the buyer is significantly prejudiced by the breach; or
  - (b) in relation to any other implied warranty—there would be a breach of the implied warranty were the contract completed at the time it is rescinded.
- (2) A written notice under subsection (1) must be given to the seller—
  - (a) for an off-the-plan contract—
    - (i) for a breach of an implied warranty mentioned in section 264 (2A)—at any time before the buyer is required to complete the contract; or
    - (ii) in any other case—not later than 3 days before the buyer is required to complete the contract; or
  - (b) in any other case—not longer than 14 days after the later of the following happens:
    - (i) the buyer and seller exchange contracts;
    - (ii) another period agreed between the buyer and seller ends.
- (3) However, the buyer may not rescind the contract under this section only because of the breach of an implied warranty related to an amendment to the development statement that is an excluded change.

**16 Claim for compensation  
Section 266 (1)**

*substitute*

- (1) This section applies if, before completion of a contract for the sale of a unit, the buyer reasonably believes there would be a breach of an implied warranty were the contract to be completed.

**17 New section 266 (4)**

*insert*

- (4) The buyer may not claim compensation under this section only because the breach of the implied warranty relates to an amendment to the development statement that is an excluded change.

**18 New division 2.9.4**

*insert*

**Division 2.9.4 Miscellaneous****267 Operation of part cannot be excluded etc**

- (1) A provision of a contract for the sale of a unit, or any other agreement or arrangement, is void if it would, apart from this subsection, have the effect of excluding, changing or restricting the operation of this part.
- (2) This part does not affect any right or remedy available otherwise than under this part.

**268 Rescission—effect**

If the buyer rescinds a contract under this part, the seller must repay any amount paid by the buyer to the seller under the contract.

**19 Regulation-making power  
New section 503 (2)**

*after the note, insert*

- (2) A regulation may make provision in relation to the following:
- (a) requirements about the way plans for section 260 (1) (a) are prepared;
  - (b) format requirements for plans required under section 260 (1) (a).

**20 New part 5.6**

*insert*

## **Part 5.6 Transitional—Unit Titles Legislation Amendment Act 2020**

**510 Meaning of *commencement day*—pt 5.6**

In this part:

*commencement day* means the day the *Unit Titles Legislation Amendment Act 2020*, section 20 commences.

**511 Application to certain existing off-the-plan contracts—  
amendments made by Unit Titles Legislation Amendment  
Act 2020**

- (1) This section applies to an off-the-plan contract if—
- (a) the contract—
    - (i) was entered into before 1 July 2021; or
    - (ii) is for the sale of a unit in a units plan in relation to which another off-the-plan contract (a *related contract*) was entered into before 1 July 2021; and

- (b) the contract or the related contract has not been completed.
- (2) The following provisions apply to the off-the-plan contract and the rights and obligations of the parties under the contract:
  - (a) division 2.9.2 as in force immediately before the commencement day;
  - (b) section 260G.
- (3) However, if the seller gives the buyer a disclosure statement that complies with the requirements of section 260 (1), as amended by the *Unit Titles Legislation Amendment Act 2020*, from the day the disclosure statement is given to the buyer—
  - (a) division 2.9.2 applies to the contract and the rights and obligations of the parties under the contract; and
  - (b) to remove any doubt, section 260A (2) (b) applies to the contract.

## 512 Expiry—pt 5.6

This part expires 3 years after the day it commences.

*Note* Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

## 21 Dictionary, new definitions

*insert*

***buyer action period***, for part 2.9 (Unit titles)—see section 259.

***developer***, for part 2.9 (Unit titles)—see the [Unit Titles Act 2001](#), dictionary.

***disclosure statement***, for part 2.9 (Unit titles)—see section 260 (1).

***disclosure update notice***, for part 2.9 (Unit titles)—see section 260B (2).

*excluded change*, for part 2.9 (Unit titles)—see section 259A (3).

*implied warranties*, for division 2.9.3 (Implied warranties)—see section 264.

*material change*, for part 2.9 (Unit titles)—see section 259.

*off-the-plan contract*, for part 2.9 (Unit titles)—see section 259.

## Part 3 Civil Law (Sale of Residential Property) Act 2003

### 22 Meaning of *required documents* New section 9 (1) (g) (i) (C)

*insert*

- (C) if the owners corporation for the units plan is a party to a building management statement under the [Land Titles Act 1925](#), section 123E (1) (a)—the building management statement; and

### 23 Section 9 (1) (g) (ii)

*substitute*

- (ii) if there is no registered units plan—the disclosure statement required under the [Civil Law \(Property\) Act 2006](#), section 260; and

### 24 New section 9 (1) (g) (iv)

*insert*

- (iv) if the unit is an adaptable housing dwelling—drawings and plans demonstrating compliance with Australian Standard AS 4299-1995 (Adaptable Housing);

### 25 Section 9 (1) (h) (v)

*omit*

class A

**26 New section 9 (2) (aa)**

*insert*

- (aa) a document mentioned in subsection (1) (g) (iv) is not required for a unit that is an off-the-plan purchase; and

**27 Certain conditions to be included in contract  
New section 11 (2A)**

*insert*

- (2A) Also, the condition mentioned in subsection (1) (h) is not required to be included in a contract if the contract is for the sale of a unit in a units plan before the units plan is registered.

*Note* The *Civil Law (Property) Act 2006*, division 2.9.3 incorporates a number of implied warranties into a contract for the sale of a unit in a units plan before the units plan is registered.

**28 New part 3A**

*insert*

**Part 3A Adaptable housing****23A Meaning of *adaptable housing dwelling***

In this Act:

*adaptable housing dwelling* means a dwelling that complies with Australian Standard AS 4299-1995 (Adaptable Housing).

**23B Adaptable housing—advertising**

- (1) A person commits an offence if—
- (a) the person publishes an advertisement for the sale of a unit; and
  - (b) the unit is an adaptable housing dwelling; and

(c) the advertisement does not contain a statement that the unit is an adaptable housing dwelling.

Maximum penalty: 5 penalty units.

(2) An offence against subsection (1) is a strict liability offence.

**29 Dictionary, new definition of *adaptable housing dwelling***

*insert*

*adaptable housing dwelling*—see section 23A.

**30 Dictionary, new definition of *building management statement***

*insert*

*building management statement*—see the [Land Titles Act 1925](#), section 123D.



## Part 4 Community Title Act 2001

### 31 Section 9 heading

*substitute*

### 9 Power of authority to require changes to scheme proposal

### 32 Community title scheme proposal—approval New section 10 (1A) and (1B)

*insert*

- (1A) The planning and land authority may refuse to approve a community title scheme proposal if the authority considers the proposal relates to a single building or single set of physically related buildings with no, or limited, external open space.
- (1B) For subsection (1A), the authority must take into account whether—
- (a) the proposed lots correspond to attached or semi-detached buildings; and
  - (b) the proposed lots are limited wholly or partly by height or depth; and
  - (c) the common property is above or below another proposed lot; and
  - (d) if the community title scheme proposal relates to a single set of physically related buildings—
    - (i) the buildings are physically integrated, for example, through underground car parking or physical overpasses; and
    - (ii) the buildings make use of physically integrated common facilities, for example, lifts and underground car parking; and

- (e) the amount of open space is limited relative to the buildings in the community title scheme proposal.

**Examples—open space**

- 1 lawns and gardens
- 2 internal roads

## Part 5 Land Titles Act 1925

### 33 New part 11A

*insert*

## Part 11A Building management statements

### 123C Definitions—pt 11A

In this part:

*approved* means approved by the planning and land authority under section 123I.

*building management committee* means a building management committee mentioned in section 123F (1) (a).

*building management statement*—see section 123D (2).

*parties*, to a building management statement—see section 123E (1).

*registered building management statement* means a building management statement registered by the registrar-general under section 123D.

### 123D Building management statement may be registered

- (1) This section applies if there is more than 1 Crown lease granted for a building.
- (2) The registrar-general may register a statement about how the building as a whole and the common facilities of the building will be managed between the lessees under each Crown lease (a *building management statement*).

- (3) The registrar-general may only register a building management statement, or an amendment to the statement, if the statement or the amendment is approved.
- (4) If the registrar-general registers a building management statement, the registrar-general must register the statement, and any amendment to the statement, for each Crown lease to which the statement applies.
- (5) On registration of the building management statement for 2 or more Crown leases, the owner of a lease (a *benefited lease*) has against the owner of another lease (the *burdened lease*) the following easement rights that are necessary for the reasonable use and enjoyment of the benefited lease:
  - (a) rights of support, shelter and protection (including rights for shelter provided by encroaching eaves, awnings or similar structures)—
    - (i) provided by the burdened lease at the time of the registration of the building management statement, or at the time of the latest amendment (if any) of the building management statement after its registration; and
    - (ii) that will be provided by the burdened lease on compliance by its owner with a building and development provision (if any) in the lease of the burdened lease;
  - (b) rights to utility services, and to their provision by any reasonable form of utility conduit (including rights for the collection, passage and drainage of rainwater by encroaching eaves, gutters, downpipes or similar structures);
  - (c) all ancillary rights necessary to make the rights mentioned in paragraphs (a) and (b) effective, including a right of entry by the owner of the benefited lease at all reasonable times on the burdened lease for the inspection and maintenance of—
    - (i) any structure on the burdened lease; and
    - (ii) facilities for any utility service on the burdened lease; and

- (iii) any utility conduit on the burdened lease.

### **123E Effect of building management statement**

- (1) A registered building management statement, as amended from time to time, has effect as an agreement under seal containing the covenants mentioned in subsection (2) between the following (the *parties*):
  - (a) if a part of the building is subject to a units plan under the *Unit Titles Act 2001*—the owners corporation for the units plan;
  - (b) each lessee (who is not a lessee under the units plan mentioned in paragraph (a)) of any part of the building or its site affected by the statement;
  - (c) any mortgagee in possession or sublessee of any part of the building, or site of the building, the subject of the statement.
- (2) The covenants for an agreement mentioned in subsection (1) are covenants by the parties to jointly and severally—
  - (a) carry out their obligations under the building management statement; and
  - (b) permit the carrying out of those obligations.
- (3) The agreement no longer has a binding effect on a person if the person is no longer a person mentioned in subsection (1).
- (4) Subsection (3) does not prejudice or affect any obligation incurred by a person, or any right that accrued to a person, under the agreement while the agreement had effect in relation to the person.
- (5) A registered building management statement has no effect so far as it is inconsistent with—
  - (a) a condition imposed, before the registration of the statement, on any development approval under the *Planning and Development Act 2007* relating to the building or its site affected by the statement; or

- (b) an environmental authorisation or environmental protection order under the *Environment Protection Act 1997* relating to the building or its site affected by the statement; or
- (c) this or any other territory law.

### **123F Formal requirements for building management statement**

- (1) A building management statement must set out the following:
  - (a) the establishment of a committee (the *building management committee*) consisting of each party to the statement;
  - (b) the establishment and appointment of office holders for the implementation of the statement;
  - (c) the functions of the building management committee and the office holders;
  - (d) a process for resolving disputes between the parties to the statement;
  - (e) a process for amending the statement;
  - (f) the allocation of the costs of shared expenses relating to parts of the building, including the basis for that allocation on a user pays, lease value or other basis;
  - (g) a process for reviewing the allocation of the costs mentioned in paragraph (f) to ensure that the allocation of costs remains fair, including as a minimum—
    - (i) at least 1 review every 5 years; and
    - (ii) a review as soon as practicable after any change in the shared facilities or services or the use of the shared facilities or services;
  - (h) if a party to the statement is an owners corporation mentioned in section 123E (1) (a)—an arrangement to insure the building in accordance with the requirements prescribed by regulation;

- (i) an address and process for serving documents on the building management committee;
  - (j) any other matter relating to the content of the statement prescribed by regulation.
- (2) A building management statement may also include provision for any of the following:
- (a) safety and security measures for the building;
  - (b) the appointment of a managing agent for the building as a whole;
  - (c) measures for the control of unacceptable noise levels consistent with the terms of the leases in relation to which the statement is registered and any noise management plan;
  - (d) service contracts for waste and other services;
  - (e) an architectural maintenance code to preserve the appearance of the building;
  - (f) easements for the building;
  - (g) the operation, maintenance or renovation of the building structure as a whole including lift wells and utility conduits;
  - (h) the operation, maintenance or renovation of the common facilities of the building;
  - (i) access to the common facilities of the building;
  - (j) insurance for the building in addition to the insurance arrangement mentioned in subsection (1) (h);
  - (k) any other matter related to the management of the building.
- (3) For subsection (1) (h), all parties to the building management statement are taken to have an insurable interest in the building to the extent of the replacement value of the building.

**123G Building management committee—procedure**

Unless the building management statement explicitly provides otherwise, a building management committee must comply with the following:

- (a) the committee must meet at least once a year;
- (b) each committee member must be given at least 7 days notice of the scheduled meeting of the committee;
- (c) a meeting of the committee must not proceed without a majority of members being present;
- (d) a decision of the committee is valid only if it is a decision of the majority of members present and voting at the meeting where the decision is made;
- (e) any other committee procedure prescribed by regulation.

**123H Amendment of building management statement**

- (1) A registered building management statement may be amended only if the amendment is—
  - (a) supported by each of the parties to the statement; or
  - (b) required by an order of a court or the ACAT.
- (2) An amendment to a registered building management statement is not binding on the parties unless it is registered under section 123D.



**1231 Planning and land authority approval of building management statement**

- (1) The parties to a building management statement may make an application to the planning and land authority for approval of the statement or an amendment to the statement.
- (2) The planning and land authority must approve the building management statement or the amendment to the statement if satisfied that—
  - (a) the statement, or the statement as amended, complies with the requirements of this part; and
  - (b) the application relates to a single building or single set of physically related buildings with no, or limited, external open space.
- (3) For subsection (2) (b), the planning and land authority must take into account whether—
  - (a) the leases correspond to attached or semi-detached buildings; and
  - (b) the leases are limited wholly or partly by height or depth; and
  - (c) the common property is above or below a separate lease; and
  - (d) if the application relates to a single set of physically related buildings—
    - (i) the buildings are physically integrated, for example, through underground car parking or physical overpasses or similar building structures; and
    - (ii) the buildings make use of physically integrated common facilities, for example, lifts and underground car parking; and

- (e) the amount of open space is limited relative to the building or set of buildings.

**Examples—open space**

- lawns and gardens
- internal roads

---

**34 New part 18**

*insert*

## **Part 18 Notification and review of decisions**

### **163 Definitions—pt 18**

In this part:

*applicant* means a party making an application under section 123I (Planning and land authority approval of building management statement).

*reviewable decision* means a decision of the planning and land authority to refuse to approve a building management statement, or an amendment to a statement, under section 123I.

### **163A Reviewable decision notices**

If the planning and land authority makes a reviewable decision, the authority must give a reviewable decision notice to the applicant in relation to the decision.

*Note 1* The planning and land authority must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see [ACT Civil and Administrative Tribunal Act 2008](#), s 67A).

*Note 2* The requirements for reviewable decision notices are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](#).

**164 Applications for review**

The following may apply to the ACAT for review of a reviewable decision:

- (a) the applicant;
- (b) any other person whose interests are affected by the decision.

*Note* If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

**35 Dictionary, new definitions**

*insert*

***applicant***, for part 18 (Notification and review of decisions)—see section 163.

***approved***, for part 11A (Building management statements)—see section 123C.

***building management committee***, for part 11A (Building management statements)—see section 123F (1) (a).

***building management statement***, for part 11A (Building management statements)—see section 123D (2).

***parties***, to a building management statement, for part 11A (Building management statements)—see section 123E (1).

***registered building management statement***, for part 11A (Building management statements)—see section 123C.

***reviewable decision***, for part 18 (Notification and review of decisions)—see section 163.

## Part 6 Land Titles Regulation 2015

### 36 New section 2A

*insert*

#### 2A Building management statement insurance requirements—Act, s 123F (1) (h)

- (1) An arrangement to insure a building must include an arrangement to insure and keep insured the building, to the greatest practicable extent—
  - (a) for the replacement value of the building from time to time against all of the following risks:
    - (i) fire, tempest, earthquake and explosion;
    - (ii) riot, civil commotion, strikes and labour disturbances;
    - (iii) malicious damage;
    - (iv) bursting, leaking and overflowing boilers, water tanks, water pipes and associated apparatus;
    - (v) impact of aircraft (including parts of, and objects falling from, aircraft), road vehicles, horses and cattle; and
  - (b) for costs incidental to the reinstatement or replacement of the insured building, including the cost of removing debris and the fees of architects and other professional advisors.
- (2) An arrangement to insure a building must set out a method for allocating the costs of the insurance premiums between the parties to the building management statement including the basis of that method as user pays, lease value or otherwise.

## Part 7 Land Titles (Unit Titles) Act 1970

### 37 Section 6

*substitute*

#### 6 Lodging units plan for registration

- (1) The lessee of a parcel may make an application to the registrar-general to register a units plan.
- (2) A units plan under subsection (1) must be—
  - (a) prepared in accordance with the requirements set out in schedule 1; and
  - (b) endorsed by the planning and land authority under the [Unit Titles Act 2001](#), section 27.

### 38 Registration of units plan New section 7 (1) (f)

*after the note, insert*

- (f) if the proposed rules of the owners corporation for the units plan include any alternative rules—the alternative rules.

### 39 Registration of charge to secure unpaid amounts Section 13 (b)

*omit*

under the corporation seal

*substitute*

by the executive committee

**40 Registration of discharge  
Section 14 (b)**

*omit*

under the corporation's seal

*substitute*

by the executive committee

**41 Section 27**

*substitute*

**27 Owners corporation rules—registration**

- (1) This section applies if—
  - (a) a lessee—
    - (i) makes an application to register a units plan under section 6 (Lodging units plan for registration); and
    - (ii) lodges with the application proposed rules for the owners corporation mentioned in section 7 (1) (f); or
  - (b) an owners corporation or the ACAT makes an alternative rule for the owners corporation.
- (2) The registrar-general must register the alternative rules in relation to the owners corporation for the units plan.
- (3) The registrar-general may only register an alternative rule for an owners corporation—
  - (a) on lodgment of a certificate under the *Unit Titles (Management) Act 2011*, schedule 3, section 3.19 about the special resolution authorising the rule; or
  - (b) on lodgment of a declaration of the ACAT under the *Unit Titles (Management) Act 2011*, section 129 (2A).

**42 Dictionary, new note***insert*

*Note 4* Terms defined in the *Unit Titles (Management) Act 2011* have the same meaning in this Act (see s 3A). For example, the following terms are defined in the *Unit Titles (Management) Act 2011*, dict:

- alternative rule
- owners corporation
- rule.

**43 Dictionary, definition of *owners corporation****omit*





## Part 9                      Planning and Development Act 2007

### 45                      Form of development applications New section 139 (2) (ca)

*insert*

- (ca) if the application relates to a building the subject of a building management statement—also be signed by 2 members of the building management committee who are authorised to sign the application on behalf of the committee; and

### 46                      Section 139 (8), new definitions

*insert*

*building management committee*—see the [Land Titles Act 1925](#), section 123F (1).

*building management statement*—see the [Land Titles Act 1925](#), section 123D (2).

## Part 10 Residential Tenancies Act 1997

### 47 New section 11AAA

*insert*

#### 11AAA Adaptable housing—advertising

- (1) A person commits an offence if—
- (a) the person publishes an advertisement for the lease of a unit; and
  - (b) the unit is an adaptable housing dwelling; and
  - (c) the advertisement does not contain a statement that the unit is an adaptable housing dwelling.

Maximum penalty: 5 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.

### 48 Section 12 (4), new definitions

*insert*

***adaptable housing dwelling*** means a dwelling that complies with Australian Standard AS 4299-1995 (Adaptable Housing).

***unit***—see the [Unit Titles Act 2001](#), dictionary.

### 49 Standard residential tenancy terms Schedule 1, clause 66

*substitute*

#### Tenant of unit to comply with owners corporation's rules

- 66 (1) If the premises are a unit under the [Unit Titles Act 2001](#)—
- (a) the tenant must comply with the owners corporation's rules and with any notice served in accordance with the rules; but

- (b) need not comply with the rules to the extent that they are inconsistent with the standard residential tenancy terms in this agreement.
- (2) However, if the owners corporation's rules include a rule about keeping animals in the unit, the tenant must comply with the rule.

## Part 11 Unit Titles Act 2001

### 50 Unit title applications—general requirements New section 17 (5A)

*insert*

- (5A) The application must include a statement about the proposed use of the units indicating—
- (a) the full list of potential authorised uses under the lease for the parcel; and
  - (b) if the developer proposes to restrict the use of a unit to a subset of the potential uses mentioned in paragraph (a)—
    - (i) the proposed subset of uses that applies to the unit; and
    - (ii) the conditions (if any) applying to a stated use.

**Example—par (b) (ii)**

use of a unit for ‘shop’ only if that use will not make the total gross floor area of the building that is used for ‘shop’ more than 800m<sup>2</sup>

### 51 New section 17B

*insert*

### 17B Unit title applications—lease part of multi-lease building

- (1) This section applies to an application under section 17 or section 17A to the planning and land authority for approval of the subdivision of a parcel if—
- (a) there is a building on, or proposed for, any part of the parcel; and
  - (b) the building includes leases that are not included in the application; and
  - (c) the parcel is not part of a community title scheme approved under the *Community Title Act 2001*, section 10.

- (2) The application must include a building management statement or, if a building management statement is not registered, a proposed building management statement.

**52 Unit title applications—approval  
Section 20 (1) (b)**

*substitute*

- (b) each unit is (or will be) suitable for separate occupation; and
- (ba) the proposed use for each unit—
- (i) is permitted under the lease for the parcel; and
  - (ii) is consistent with any development approval under the *Planning and Development Act 2007*, chapter 7, or condition subject to which a development approval is given, applying to the building or use of the relevant building; and

*Note 1* If a development approval relates to a use of land, or a building or structure on the land, a condition of the approval may be that the land, or buildings or structures on the land, may only be used for the use in stated circumstances (see *Planning and Development Act 2007*, s 165 (3) (j)).

*Note 2* The planning and land authority must not do any act that is inconsistent with the *territory plan* (see *Planning and Development Act 2007*, s 50).

**53 New section 20 (1) (e)**

*insert*

- (e) if the application includes a building management statement—the statement complies with the requirements for the statement under the *Land Titles Act 1925*, part 11A.

**54 Notice of approval of unit title applications  
Section 23 (1) (b)**

*substitute*

- (b) a schedule setting out, for each unit—
  - (i) the rent to be reserved under the lease; and
  - (ii) the provisions subject to which the lease is to be held including the permitted uses and—
    - (A) whether the unit is restricted to residential use only; and
    - (B) if the unit is not restricted to residential use only— the full list of potential uses; and
    - (C) any conditions on a particular use; and

**55 Leases of units and common property  
Section 33 (2) and (3) and note**

*substitute*

- (2) On registration of the units plan—
  - (a) the former lessee is granted a lease for each unit in the units plan; and
  - (b) the owners corporation is granted a lease for the common property.
- (3) A lease mentioned in subsection (2)—
  - (a) is subject to the provisions set out in the units plan; and

(b) is taken to be granted by the Territory under the *Planning and Development Act 2007*, chapter 9.

*Note 1* On the registration of a units plan, an owners corporation for the units plan is established (see *Unit Titles (Management) Act 2011*, s 8).

*Note 2* The original lease for the parcel is cancelled on registration of the units plan (see *Land Titles (Unit Titles) Act 1970*, s 10 (1) (a)). If a registered units plan is subsequently cancelled the leases under this section are cancelled and the new lease that arises reverts to the terms of the original lease (see s 162 and s 163).

#### **56 Section 33 (4)**

*omit*

subsections (2) and (3)

*substitute*

subsection (2)

#### **57 Section 33 (6)**

*omit*

estate

*substitute*

lease

#### **58 Cancellation of units plan—new lease over parcel New section 163 (1) (d)**

*insert*

(d) is taken to be granted by the Territory under the *Planning and Development Act 2007*, chapter 9.

**59 New part 26***insert***Part 26 Transitional—Unit Titles  
Legislation Amendment Act 2020****305 Requirement for building management statement—s 17B**

- (1) This section applies to an application under section 17 or section 17A to the planning and land authority if—
  - (a) the application is an application to which section 17B applies; and
  - (b) the application is made before 1 July 2021.
- (2) The application may, but need not, comply with section 17B (2).

**306 Expiry—pt 26**

This part expires 12 months after the day it commences.

*Note* Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).



**60 Dictionary, new definitions**

*insert*

***building management statement***—see the *Land Titles Act 1925*, section 123D (2).

***schedules of rent and lease provisions*** means the schedules issued by the planning and land authority under section 23 (1) setting out—

- (a) the rent to be reserved under the lease of each unit in a units plan and the provisions subject to which the lease of the unit is to be held; and
- (b) the provisions subject to which the lease of the common property for the units plan is to be held.

## Part 12 Unit Titles (Management) Act 2011

### 61 Owners corporation—establishment New section 8 (1A)

*insert*

- (1A) To remove any doubt, an owners corporation continued in existence under this Act is established under this section.

*Note 1* An owners corporation in existence under the [Unit Titles Act 2001](#) immediately before the commencement of s 150 (expired) is continued in existence as an owners corporation under that section.

*Note 2* **Establish** includes constitute and continue in existence (see [Legislation Act](#), dict, pt 1, def **establish**).

### 62 Owners corporation—legal status Section 9 (2) (b)

*substitute*

- (b) may have a common seal; and

### 63 New section 9A

*in division 2.2, insert*

### 9A Execution of documents by owners corporation

An owners corporation must execute a document in 1 of the following ways:

- (a) if the owners corporation has a common seal—by attaching the seal to the document—
- (i) as authorised by a resolution of the owners corporation;  
and

- (ii) with 2 executive members witnessing the attaching and signing the document as witnesses;
- (b) without using a common seal—
  - (i) by 2 executive members, as authorised by a resolution of the owners corporation, signing the document; or
  - (ii) if a manager for the owners corporation is delegated this function—by the manager, as authorised by a resolution of the owners corporation, signing the document.

**64 Evidence of representative status  
Section 15**

*omit*

certificate sealed with the owners corporation's seal

*substitute*

certificate executed by the executive committee

**65 Exemptions for units plans with 4 or fewer units  
Section 18**

*omit*

**66 Section 22**

*substitute*

**22 Special privileges relating to common property**

- (1) An owners corporation for a units plan may, if authorised by a special resolution, grant a special privilege for a period of less than 3 months to—
  - (a) a unit owner; or

(b) someone else with an interest in a unit.

**Example**

a right to the exclusive use of a pool area for a private party

*Note* A special privilege that is granted for a period of 3 months or more must be granted by a special privilege rule (see s 112A).

- (2) A grant under subsection (1) may be terminated, in accordance with a special resolution, by written notice given by the owners corporation to the person to whom the grant was made.
- (3) The owners corporation may only grant a special privilege under this section—
- (a) with the consent of the grantee of the special privilege; and
  - (b) subject to a condition that states that the maintenance requirement is the responsibility of 1 of the following:
    - (i) the owners corporation;
    - (ii) the grantee.
- (4) A condition that states that the maintenance requirement is the responsibility of the grantee—
- (a) must state the type and frequency of maintenance the grantee must undertake; and
  - (b) relieves the owners corporation of its obligations under section 24 to the extent the rule places this obligation on the grantee.
- (5) A grantee must not unreasonably withhold consent mentioned in subsection (3) (a).

**67 Maintenance obligations  
New section 24 (1A) and (1B)**

*insert*

- (1A) For meeting its obligations under subsection (1), the owners corporation must prepare a maintenance plan taking into account the developer's maintenance schedule (if any).
- (1B) The maintenance plan must contain the matters prescribed by regulation.

**68 Section 25**

*substitute*

**25 Developer to prepare maintenance schedule**

- (1) The developer of a units plan must prepare a schedule for maintenance of the common property (the *developer's maintenance schedule*).

*Note* The developer must give the initial maintenance schedule to the owners corporation at the first annual general meeting of the corporation (see sch 3, s 3.4).

- (2) The developer's maintenance schedule must contain the matters prescribed by regulation.
- (3) The owners corporation is not required to comply with the developer's maintenance schedule in meeting its maintenance obligations for the common property under section 24.
- (4) In any legal proceeding—
- (a) the developer's maintenance schedule may be considered for the purpose of determining whether or not a defect in, or damage to, a building could have been avoided by taking stated action; but

- (b) the provision of the developer's maintenance schedule to the owners corporation does not affect any obligations of the developer in relation to structural defects, warranties or similar matter in relation to the building.

**69 Section 32 heading**

*substitute*

**32 Unit owners etc keeping animals****70 Section 32 (1)**

*substitute*

- (1) A unit owner or occupier of a unit may keep an animal, or allow an animal to be kept, within the unit or the common property—
  - (a) if the animal is an assistance animal; or
  - (b) if the animal is not an assistance animal, only if—
    - (i) if the rules of the owners corporation include a pet friendly rule—the animal is kept in accordance with the pet friendly rule; or
    - (ii) the owners corporation consents to the animal being kept.

*Note* Other territory laws also apply to keeping animals—for example, [Animal Diseases Act 2005](#), [Animal Welfare Act 1992](#), [Nature Conservation Act 2014](#) and [Residential Tenancies Act 1997](#).

**71 Section 32 (3) and note**

*substitute*

- (3) The owners corporation—
  - (a) must respond to any request for consent under this section and the response must—
    - (i) be in writing; and

- (ii) if the request is refused—give reasons for the refusal; and
  - (iii) if the consent is given subject to conditions—state the conditions; and
- (b) may delegate its decision-making power under this section to the executive committee; and
  - (c) is taken to consent to the request if the owners corporation does not take action under paragraph (a) within 3 weeks of the day on which the request was made.

*Note* The owners corporation may also delegate this power to the manager (see s 58 (1)).

(3A) The owners corporation may—

- (a) only withhold consent on reasonable grounds; and
- (b) impose reasonable conditions on the consent.

**Examples—par (a)**

- 1 unacceptable risk of damage or soiling of common property that cannot be addressed through reasonable conditions
- 2 unacceptable risk of nuisance to other unit owners or occupiers that cannot be addressed through reasonable conditions
- 3 unacceptable risk of the animal escaping the unit unsupervised that cannot be addressed through reasonable conditions
- 4 unacceptable risk to health or safety of other unit owners or occupiers or the general public that cannot be addressed through reasonable conditions
- 5 keeping the animal on the units plan would be contrary to a territory law

**Examples—par (b)**

- 1 requiring supervision of the animal when the animal is on the common property
- 2 requiring cleaning of any areas of the units plan that are soiled by the animal
- 3 requiring the unit to be secured to prevent the escape of the animal

**72 Section 32 (4), new definition of *occupier***

*insert*

***occupier*** includes a person who has entered into a residential tenancy agreement in relation to the unit even if—

- (a) the residential tenancy agreement has not yet started; or
- (b) the person has not yet taken possession of the unit; or
- (c) the person has not yet obtained any required consent from the lessor to keep an animal in the unit under the *Residential Tenancies Act 1997*.

**73 Restriction on owners corporation during developer control period  
Section 33 (1) (a) (ii) (B)**

*omit*

subsection (3)

*substitute*

section 33A

**74 Section 33 (1) (b)**

*substitute*

- (b) other than with the approval of the ACAT under section 33A—change the rules of the corporation;

**75 Section 33 (2), (3) and (4) and examples**

*omit*



**76 New section 33A**

*in division 3.4, insert*

**33A Developer control period—ACAT authorisation of actions**

- (1) The owners corporation for a units plan (the *applicant*) may apply to the ACAT for authority to do 1 or more of the following during the developer control period:
  - (a) enter into a contract that the corporation is otherwise prohibited from entering;
  - (b) change the rules of the corporation.
- (2) The applicant must provide written notice of the application to—
  - (a) each unit owner; and
  - (b) if there is a mortgagee or other registered interest holder for a unit in the units plan—the mortgagee or registered interest holder.
- (3) The entities mentioned in subsection (2) are parties to the application.
- (4) The ACAT may authorise the owners corporation entering into a contract mentioned in subsection (1) (a) if the ACAT is satisfied the terms of the contract are reasonable in all the circumstances.
- (5) The ACAT may authorise the owners corporation changing the rules of the corporation if the ACAT is satisfied that the change is fair in the circumstances.
- (6) However, this section does not apply if the developer has not entered into a contract for the sale of any of the units in the units plan.

**77 Executive committee—at and from the first annual general meeting  
Section 39 (4)**

*substitute*

- (4) An executive member—
- (a) must be a qualified person for the units plan; and
  - (b) is elected (if necessary) by ordinary resolution at each annual general meeting; and
  - (c) holds office until the earlier of—
    - (i) the next annual general meeting; and
    - (ii) the executive member ceasing to be an eligible person.

**78 Section 39 (5)**

*omit*

another member of the corporation

*substitute*

a qualified person

**79 Section 39 (6)**

*omit*

a member of the corporation

*substitute*

a qualified person

**80 New section 39 (7)**

*insert*

(7) In this section:

**associate**, of a manager, means—

- (a) a business partner of the manager; or
- (b) a close friend of the manager; or
- (c) a family member of the manager.

**manager**—see section 49.

**qualified person**, for a units plan, means a person (other than the manager or associate of the manager) who is—

- (a) the owner of a unit in the units plan; or
- (b) if the unit is owned by a company or 2 or more part-owners—a representative for the company or the part-owners, as the case requires.

*Note* An adult (the **principal**) may appoint a person to do anything for the principal that the principal can lawfully do by an attorney (see [Powers of Attorney Act 2006](#), s 13).

**81 New section 39A**

*insert*

**39A Executive committee—additional requirements for mixed use units plan**

- (1) This section applies if the schedule of lease provisions under a units plan provides for—
  - (a) at least 1 unit for residential use only; and
  - (b) at least 1 unit for non-residential use.

- (2) In addition to the requirements under section 39, the executive committee of the owners corporation must include, if feasible, at least—
- (a) 1 member who is the owner of a unit mentioned in subsection (1) (a); and
  - (b) 1 member who is the owner of a unit mentioned in subsection (1) (b).
- (3) An owner or executive member may apply to the ACAT for an order requiring an election to be held to satisfy the requirement under subsection (2).

**82 Executive committee—chairperson’s functions**  
**Section 41 (b)**

*after*

(if any)

*insert*

and in accordance with guidelines under subsection (2)

**83 New section 41 (2) and (3)**

*insert*

- (2) The Minister may make guidelines about items that the chairperson must include on an agenda under this section.
- (3) A guideline is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

**84 Executive committee—delegation  
Section 44 (1), except note**

*substitute*

- (1) An executive committee may delegate its functions to—
- (a) a sub-committee; or
  - (b) 1 or more executive members.

**85 Manager—code of conduct  
Section 56, new note**

*insert*

*Note* Other laws may also apply to a manager—for example, a manager who is required to be licensed as a real estate agent under the [Agents Act 2003](#) must comply with the rules of conduct for real estate agents under the [Agents Regulation 2003](#).

**86 General fund—budget  
Section 75 (2) (a)**

*substitute*

- (a) an estimate of—
- (i) the total contributions (the ***total general fund contribution***) to be paid into the general fund by the owners corporation's members; and
  - (ii) if there is a special resolution under section 78 (2) (b)—the general fund contribution payable by each unit owner, or unit owner in a particular class; and

**87      General fund—contributions  
Section 78 (2) (b)**

*omit*

in an unopposed resolution

*substitute*

by special resolution

**88      Section 78 (3) and (4)**

*substitute*

- (3) A resolution under subsection (2) (b)—
- (a) must be fair, taking into account—
    - (i) the structure of the unit plan; and
    - (ii) the nature of the buildings that are part of the units or common property of the unit plan, including the features and character of the units and common property; and
    - (iii) the purposes for which units are used, including the likely impact of that use on the common property; and
    - (iv) the extent to which the change imposes a burden on a unit that is commensurate with the use of that unit; and
  - (b) may provide that only stated unit owners, or unit owners in a stated class, are required to pay a particular contribution, or a contribution of a particular kind.
- (4) A resolution under subsection (2) (b) may only be amended or revoked by—
- (a) a special resolution; or

(b) an order of the ACAT.

*Note 1* A unit owner may apply to the ACAT for review of a special resolution under subsection (2) (b) about a method for working out general fund contributions (see s 127).

*Note 2* A special resolution is taken to be an amendment to the rules of the owners corporation (see s 108 (5)).

**89 Sinking fund plan  
New section 82 (3) (c)**

*before the examples, insert*

(c) if the owners corporation has made a special resolution under section 89 (2) (b)—the sinking fund contribution required from each unit owner, or unit owner in a particular class, for each financial year of the plan.

**90 Sinking fund—contributions  
Section 89 (2) (b)**

*omit*

in an unopposed resolution

*substitute*

by special resolution

**91 Section 89 (3) and (4)**

*substitute*

- (3) A resolution under subsection (2) (b)—
- (a) must be fair, taking into account—
    - (i) the structure of the unit plan; and
    - (ii) the nature of the buildings that are part of the units or common property of the unit plan, including the features and character of the units and common property; and

- (iii) the purposes for which units are used, including the likely impact of that use on the common property; and
    - (iv) the extent to which the change imposes a burden on a unit that is commensurate with the use of that unit; and
  - (b) may provide that only stated unit owners, or unit owners in a stated class, are required to pay a particular contribution, or a contribution of a particular kind.
- (4) A resolution under subsection (2) (b) may only be amended or revoked by—
- (a) a special resolution; or
  - (b) an order of the ACAT.

*Note 1* A unit owner may apply to the ACAT for review of a special resolution under subsection (2) (b) about a method for working out sinking fund contributions (see s 127).

*Note 2* A special resolution is taken to be an amendment to the rules of the owners corporation (see s 108 (5)).

**92 Security for unpaid amounts—declaration of charge**  
**Section 96 (3) (a)**

*omit*

under the seal of the corporation

*substitute*

by the executive committee



**93 Security for unpaid amounts—discharge  
Section 97 (2) (b)**

*omit*

under the seal of the corporation

*substitute*

by the executive committee

**94 Section 100**

*substitute*

**100 Building insurance requirements**

- (1) The responsible entity for a units plan must insure and keep insured all buildings on the land for their replacement value from time to time against all of the following risks:
  - (a) fire, lightning, tempest, earthquake and explosion;
  - (b) riot, civil commotion, strikes and labour disturbances;
  - (c) malicious damage;
  - (d) bursting, leaking and overflowing of boilers, water tanks, water pipes and associated apparatus;
  - (e) impact of aircraft (including parts of, and objects falling from, aircraft) and of road vehicles, horses and cattle;
  - (f) anything prescribed by regulation.

- (2) The responsible entity must also insure against the costs incidental to the reinstatement or replacement of the insured building, including the cost of removing debris and the fees of architects and other professional advisers.

*Note* If the responsible entity is an owners corporation and a developer is the only member of the owners corporation, the developer must on behalf of the owners corporation take out insurance under s (1), unless exempted under s 101.

- (3) A regulation may make provision in relation to an insurance policy under this section including for the following:
- (a) combining the policy with other insurance policies;
  - (b) notification requirements by unit owners in relation to improvements made to units;
  - (c) the proportion of the premium payable for the policy by particular unit owners by way of a general fund contribution;
  - (d) valuation of the insured buildings.
- (4) For all purposes related to any insurance taken out by it under this section, a responsible entity is taken to have an insurable interest in the buildings on the land to the extent of their replacement value.

*Note 1* The owners corporation must produce its insurance policies for inspection at the request of an eligible person (see s 118).

*Note 2* The executive committee of the owners corporation must give certain details about the corporation's current insurance policies at each annual general meeting (see sch 2, s 2.3).

- (5) In this section:

***building management committee***—see the *Land Titles Act 1925*, section 123F (1) (a).

*responsible entity* means—

- (a) if the units plan is part of a building the subject of a building management statement—the building management committee established under the statement; or
- (b) in any other case—the owners corporation.

**95 New section 100A**

*insert*

**100A Lodgment of insurance claims**

- (1) This section applies to an insurance claim made in relation to a building on the land in relation to a units plan.
- (2) The responsible entity for the units plan must—
  - (a) lodge the insurance claim; and
  - (b) pay any excess payable in relation to the insurance claim.
- (3) In this section:

*responsible entity*—see section 100 (5).

**96 Public liability insurance by owners corporation  
New section 102 (3)**

*after the notes, insert*

- (3) However, the owners corporation need not comply with a requirement of this section if—
  - (a) the units plan is part of a building the subject of a building management statement; and
  - (b) the requirement is satisfied by insurance taken out and maintained under the building management statement.

**97 New division 6.1 heading**

*insert*

**Division 6.1 Rules—generally****98 Section 106**

*substitute*

**106 What are the rules of an owners corporation?**

The rules of an owners corporation are the default rules as amended by the alternative rules, if any, registered under the *Land Titles (Unit Titles) Act 1970*, section 27.

*Note* The owners corporation may make alternative rules under s 108.

**99 Effect of rules  
Section 107 (2)**

*substitute*

- (2) An occupier of a unit (who is not the owner of the unit) is bound by each rule of the corporation as if the occupier were the owner of the unit except to the extent that—
- (a) the rule requires payments to be made to the general fund or a sinking fund; or
  - (b) the rule provides otherwise.

**100 Section 107 (4)**

*substitute*

- (4) An occupier of a unit who occupies the unit under a residential tenancy agreement is not bound by any rule of the owners corporation to the extent that the rule is inconsistent with the standard residential tenancy terms, other than a pet friendly rule.

(5) In this section:

*residential tenancy agreement* means a residential tenancy agreement under the *Residential Tenancies Act 1997*.

*standard residential tenancy terms*—see the *Residential Tenancies Act 1997*, dictionary.

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**101 Section 108**

*substitute*

**108 Owners corporation may make alternative rules**

- (1) An owners corporation may, by special resolution, make alternative rules amending its rules.
- (2) In particular, the owners corporation of a retirement village may make alternative rules to make provision in relation to any of the following:
  - (a) people other than residents or employees of the retirement village living in the village;
  - (b) visitors, including overnight or short-stay guests;
  - (c) the making of noise;
  - (d) the parking of motor vehicles;
  - (e) the disposal of garbage;
  - (f) the keeping of pets;
  - (g) gardening and landscaping;
  - (h) the use and operation of services or facilities (including restrictions on their use);
  - (i) security in the retirement village;
  - (j) the external appearance of residents' premises.

- (3) An alternative rule is not valid to the extent that it results in the rules—
- (a) being inconsistent with this Act or another territory law; or
  - (b) being inconsistent with a building management statement that applies to the units plan; or
  - (c) being incompatible with a human right under the *Human Rights Act 2004*, or otherwise being harsh, unconscionable or oppressive; or
  - (d) giving a function to the corporation that is not incidental or ancillary to the exercise of its functions under this Act or under a building management statement; or
  - (e) prohibiting or restricting any dealing (including devolution, transfer, lease or mortgage) with—
    - (i) an interest in a unit; or
    - (ii) the equitable estate of a unit owner in the common property; or
  - (f) prohibiting or restricting the installation, operation or maintenance of sustainability infrastructure in or on the common property or a unit; or
  - (g) unless the alternative rule is made by unanimous resolution—being inconsistent with an order of the ACAT requiring the owners corporation to make or repeal an alternative rule; or
  - (h) prohibiting a unit owner from keeping an animal, or allowing an animal to be kept, within the unit or the common property in any circumstances.

- (4) An alternative rule is not invalid under subsection (3) (a) only because it requires a person who keeps an assistance animal to produce evidence that the animal is an assistance animal.

*Note* A unit owner or occupier is not required to obtain the consent of the owners corporation to keep an animal that is an assistance animal within the unit or common property (see s 32 (1) (a)).

- (5) A special resolution under section 78 (General fund—contributions) or section 89 (Sinking fund—contributions) is taken to be an alternative rule of the owners corporation made under this section.
- (6) A regulation may prescribe requirements in relation to alternative rules.
- (7) In this section:

*amendment*, of rules, includes variation, rescission, substitution or addition.

#### **108A Effect of registration of alternative rule**

- (1) An alternative rule made by the owners corporation under section 108 takes effect—
- (a) on registration under the *Land Titles (Unit Titles) Act 1970*, section 27; or
  - (b) from any later date stated in the special resolution making the rule.
- (2) If the alternative rule is not registered within 3 months after the day the special resolution was passed the resolution is taken to have never been made.

**102 New division 6.2**

*after section 112, insert*

**Division 6.2 Rules—particular matters****Subdivision 6.2.1 Special privileges in relation to common property****112A Grant of special privileges in relation to common property**

- (1) The owners corporation may, by special resolution, make a rule granting a special privilege for a period of 3 months or more (a *special privilege rule*) to—
  - (a) a unit owner; or
  - (b) someone else with an interest in a unit in the units plan.
- (2) A special privilege rule must—
  - (a) only be made with the grantee's written consent; and
  - (b) must include a provision that states the maintenance requirement is the responsibility of 1 of the following:
    - (i) the owners corporation;
    - (ii) the grantee.
- (3) A special privilege rule that states that the maintenance requirement is the responsibility of the grantee—
  - (a) must state the type and frequency of maintenance the grantee must undertake; and
  - (b) relieves the owners corporation of its obligations under section 24 (Maintenance obligations) to the extent the rule places this obligation on the grantee.



- (4) A special privilege rule may be made to have effect for a specific period.
- (5) A grantee must not unreasonably withhold consent mentioned in subsection (2).
- (6) A special privilege rule that is registered is taken to have been validly made after a period of 2 years from the day the rule was made, or purportedly made, despite any defect or irregularity in relation to making the rule.

*Note* An amendment to the rules of the body corporate must be registered with the registrar-general under the *Land Titles (Unit Titles) Act 1970*, s 27.

#### **112B Amendment or revocation of special privilege rule**

- (1) A special privilege rule may only be amended or revoked—
  - (a) by special resolution of the owners corporation; and
  - (b) with the consent of the grantee.

*Note* A rule granting a special privilege may also be made for a specific period and expire according to its terms (see s 112A (4)).

- (2) However, the grantee's consent must not be unreasonably withheld.

### **Subdivision 6.2.2 Rules about animals**

#### **112C Owners corporation may make pet friendly rule**

- (1) The owners corporation may, by special resolution, make a rule allowing an owner or occupier to keep an animal, or allow an animal to be kept, within a unit or the common property without the consent of the owners corporation (a *pet friendly rule*).
- (2) A pet friendly rule may include conditions about—
  - (a) the number and type of animals that may be kept by a unit owner or occupier under the rule; and

- (b) cleaning and maintenance requirements for keeping an animal under the rule; and
- (c) providing written notice to the owners corporation about the keeping of an animal; and
- (d) supervision requirements when an animal is on the common property; and
- (e) requirements in relation to keeping an animal secure so that it does not escape a unit unsupervised; and
- (f) any other matters that are reasonably necessary to ensure that an animal does not cause a nuisance or a risk to health or safety.

**103 Insurance information**  
**Section 118 (a)**

*substitute*

- (a) any current insurance policy or policies taken out—
  - (i) by the owners corporation; or
  - (ii) if the units plan is part of a building the subject of a building management statement—the building management committee established under the statement;

**104 Unit title certificate and access to owners corporation records**  
**Section 119 (1) and (2) and note**

*substitute*

- (1) An eligible person for a unit or the common property in a units plan may request the owners corporation give the person—
  - (a) a certificate stating information about the unit or the common property suitable for disclosure to a potential buyer (a *unit title certificate*); or

- (b) a certificate updating information in the unit title certificate (a *unit title update certificate*).
- (1A) The owners corporation must, within 14 days after receiving a request under subsection (1), give the person the requested certificate.
- (2) The Minister may determine the information that must be included in a unit title certificate or a unit title update certificate.

**105 Section 119 (6), except note**

*substitute*

- (6) A determination under subsection (2) or (5) is a disallowable instrument.

**106 Section 125**

*substitute*

**125 Disputes—generally**

- (1) This section applies to a dispute between 2 or more of the following:
- (a) the owners corporation for a units plan;
  - (b) the executive committee;
  - (c) an owner or occupier of a unit in the units plan;
  - (d) the manager (if any) for the owners corporation;
  - (e) a service contractor for the owners corporation;
  - (f) an executive member.
- (2) A party to the dispute may apply to the ACAT for an order in relation to another party if the application relates to the dispute.

**107 Sections 127 and 128***substitute***127 Disputes about rules—general**

- (1) A unit owner may apply to the ACAT for an order declaring that an alternative rule is invalid on the grounds that—
- (a) the owners corporation does not have the power to make the rule; or
  - (b) the rule contravenes section 108 (3); or
  - (c) there was irregularity in the process for making the rule; or
  - (d) for an alternative rule about the method used to work out the proportion payable by the unit owner of the total general fund contribution under section 78 or the total sinking fund contribution under section 89—the rule is not fair; or
  - (e) for an alternative rule about the method used to work out the proportion payable by the unit owner of the total general fund contribution under section 78 or the total sinking fund contribution under section 89—the rule is no longer fair due to a change in circumstances related to the use of the unit or the common property.

**Examples—change in circumstances of use**

- 1 change in use of a unit from laundromat to office with the result that the unit now uses significantly less water
  - 2 new restrictions on access to, or use of, common property such as restricting access to a swimming pool to specified unit owners only
- (2) An application under subsection (1) (c) or (d) must be made within—
- (a) 3 months after the day the special resolution making the alternative rule is passed by the owners corporation; or

- (b) any longer period the ACAT considers reasonable in the circumstances, provided the period is not more than 12 months after the day the special resolution making the rule is passed by the owners corporation.

### **128 Disputes about rules—special privilege rules**

- (1) An owners corporation may apply to the ACAT for an order declaring that a grantee has unreasonably withheld consent—
  - (a) to making a special privilege rule under section 112A; or
  - (b) to amending or revoking a special privilege rule under section 112B.
- (2) A grantee may apply to the ACAT for an order declaring that the owners corporation—
  - (a) has unreasonably refused to make a special privilege rule under section 112A; or
  - (b) has imposed unreasonable maintenance obligations on the grantee under section 112A (3) (a); or
  - (c) has unreasonably refused to amend or revoke a special privilege rule under section 112B.
- (3) In this section:  
*grantee* includes a prospective grantee.

### **108 Kinds of ACAT orders Section 129 (1) (e) (iii)**

*substitute*

- (iii) that a rule of the owners corporation is invalid—
  - (A) because the owners corporation does not have the power to make the rule; or
  - (B) under section 108 (3); or

(C) for irregularity; or

- (iv) for an application made under section 127 (1) (d)—that the rule is invalid on the ground that the method in the resolution used to work out the proportion of fund contributions to be paid by each unit owner is not fair;

### **109 Section 129 (1) (I)**

*substitute*

- (I) if the dispute relates to a unit owner or occupier keeping an animal, or allowing an animal to be kept, within the unit and the ACAT considers that the animal causes a nuisance to the owner or occupier of another unit, or unreasonably interferes with the use or enjoyment of another unit or of the common property—
- (i) an order to remove the animal from the premises within a stated time; or
- (ii) any other order the ACAT considers will end the nuisance or the unreasonable interference with use or enjoyment.

### **110 New section 129 (2A) and (2B)**

*insert*

- (2A) A declaration by the ACAT under subsection (1) (e) (iii) or (iv) that a rule is invalid—
- (a) has effect as if the rule were repealed by special resolution of the owners corporation on the day the declaration is made; and
- (b) must be lodged by the owners corporation with the registrar-general for registration under the *Land Titles (Unit Titles) Act 1970*, section 27.

- (2B) In considering whether to make an order in relation to a special privilege in relation to common property, the ACAT must have regard to—
- (a) the interests of all unit owners in the use and enjoyment of their unit and the common property; and
  - (b) the rights and reasonable expectations of a person deriving or anticipating a benefit under a special privilege in relation to the common property.

**111 Regulation-making power  
New section 147 (1A)**

*insert*

- (1A) A regulation may—
- (a) exempt a units plan from the application of a provision of this Act; or
  - (b) for schedule 3, section 3.31A (Alternative voting mechanism)—prescribe or prohibit a method or process that may be agreed by an owners corporation for voting on a matter.

*Note* Power to make a statutory instrument (including a regulation) includes power to make different provision in relation to different matters or different classes of matters, and to make an instrument that applies differently by reference to stated exceptions or factors (see [Legislation Act](#), s 48).

**112 New part 13**

*insert*

**Part 13 Transitional—Unit Titles  
Legislation Amendment Act 2020**

**166 Meaning of *commencement day*—pt 13**

In this part:

*commencement day* means the day that the *Unit Titles Legislation Amendment Act 2020*, section 104 commences.

**167 Special privileges relating to common property**

- (1) This section applies if, under this Act as in force immediately before the commencement day, the owners corporation—
  - (a) granted a special privilege for the enjoyment of the common property, or any part of the common property, to—
    - (i) a unit owner; or
    - (ii) someone else with an interest in a unit; and
  - (b) the special privilege has not been terminated on or after the commencement day.
- (2) A special privilege to which subsection (1) applies—
  - (a) is taken to have been validly granted; and
  - (b) continues in effect according to the terms on which the grant of the special privilege was made; and
  - (c) may be terminated, in accordance with a special resolution, by written notice given by the owners corporation to the person to whom the grant was made; and



- (d) unless terminated earlier under paragraph (c)—terminates on 1 July 2021.

### **168 Obligations in relation to maintenance schedule**

- (1) This section applies to a units plan registered before 1 July 2021.
- (2) The following provisions do not apply:
  - (a) section 25 (Developer to prepare maintenance schedule);
  - (b) schedule 3, section 3.4 (ca).
- (3) Section 24 (1A) (Maintenance obligations) does not apply to the owners corporation until after the second annual general meeting of the owners corporation after the commencement day.

### **169 Rules**

- (1) This section applies to an owners corporation established before the commencement day.
- (2) On the commencement day—
  - (a) the articles or rules of the owners corporation—
    - (i) are the default rules under the *Unit Titles (Management) Regulation 2011*, schedule 1; and
    - (ii) are taken to be rules for the owners corporation under this Act; and
  - (b) if immediately before the commencement day non-standard rules are in force for the owners corporation—the default rules mentioned in paragraph (a) (i) apply as amended by the non-standard rules.
- (3) A non-standard rule mentioned in subsection (2) (b) that is inconsistent with this Act or another territory law has no effect to the extent of the inconsistency.

- (4) A unit owner may only apply to the ACAT for a declaration under section 127 (1) in relation to a non-standard rule if, after the second annual general meeting of the owners corporation after the commencement day, the non-standard rule is still in force.
- (5) This section applies even if the non-standard rule was not registered under the *Land Titles (Unit Titles) Act 1970*, section 27 before the commencement day.
- (6) This section is subject to section 170.
- (7) In this section:  
*non-standard rule* means an article or rule of the owners corporation other than the default rules as in force immediately before the commencement day.

## 170 Rules—pets in units

- (1) This section applies to an owners corporation established before the commencement day.
- (2) The owners corporation rules in relation to keeping an animal in a unit are as follows:
  - (a) during the transition period only the current pet rule applies;
  - (b) for the period beginning on the day after the transition period ends only the default pet rule applies;
  - (c) despite paragraphs (a) or (b), if at any time beginning on or after the commencement day the owners corporation makes an alternative rule in relation to keeping an animal in a unit—the alternative rule applies.
- (3) In this section:  
*current pet rule* means a rule (if any) of the owners corporation in relation to keeping an animal in a unit that is in force immediately before the commencement day.

*default pet rule* means the default rule under the *Unit Titles (Management) Regulation 2011*, schedule 1, rule 1.5 (Pets in units).

*transition period*, for an owners corporation, means the period beginning on the commencement day and ending on the day after the second annual general meeting of the owners corporation after the commencement day is held.

### **171 Executive committee's audit obligations**

The following provisions do not apply to an executive committee in relation to the first annual general meeting held on or after the commencement day:

- (a) schedule 2, section 2.1 (1) (g);
- (b) schedule 2, section 2.2 (1) (b).

### **172 Expiry—pt 13**

This part expires 2 years after the day it commences.

*Note* Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

### **113 Executive committee must keep minutes, and records and accounts** **Schedule 2, section 2.1 (1) (c)**

*substitute*

- (c) include in the minutes of proceedings kept under paragraphs (a) and (b) the following:
  - (i) the date, time and place of the meeting;

- (ii) the names of members present at the meeting, including (if authorised) those members taking part using a method to hear or otherwise know what each other member taking part says without the members being in each other's presence;
- (iii) details of proxy and absentee votes for the meeting;
- (iv) details of resolutions passed including, for special, unopposed and unanimous resolutions, details of the kind of resolution; and

**114 Schedule 2, new section 2.1 (1) (g) and (h)**

*before the note, insert*

- (g) must arrange for the financial records of the units plan to be audited before the annual general meeting if either—
  - (i) the number of units in the units plan is more than 100, or another number prescribed by regulation; or
  - (ii) the annual budget of the owners corporation is more than \$250 000, or another amount prescribed by regulation; and
- (h) maintain an up-to-date consolidated version of the rules of the owners corporation.

**115 Schedule 2, new section 2.1 (1A)**

*insert*

- (1A) The executive committee must give a copy of the minutes of proceedings required under subsection (1) to each member of the owners corporation within 14 days after the day the meeting was held.

**116 Schedule 2, section 2.1 (2)**

*substitute*

- (2) The executive committee must keep the documents, records and books of account for at least 7 years and make copies available for inspection on request by any member of the owners corporation.

**117 Schedule 2, section 2.1 (3)**

*after*

keep

*insert*

and distribute

**118 Executive committee must present financial statements at annual general meeting  
Schedule 2, section 2.2 (1)**

*substitute*

- (1) At each annual general meeting of an owners corporation, the executive committee must present to the corporation—
- (a) annual financial statements in relation to the matters mentioned in section 2.1 (1) (f); and
  - (b) the audit opinion (if any) in relation to the annual financial statements.

**119 Meetings of executive committee  
Schedule 2, new section 2.8 (3) and (4)**

*insert*

- (3) The executive committee may authorise a meeting to be held using a method of communication, or a combination of methods of communication, that allows a member taking part to hear or otherwise know what each other member taking part says without the members being in each other's presence.

**Examples**

a phone link, a satellite link, an internet or intranet link

- (4) A member who takes part in a meeting conducted under subsection (3) is taken, for all purposes, to be present at the meeting.

**120 Conduct of general meetings  
Schedule 3, new section 3.1 (2) and (3)**

*insert*

- (2) The owners corporation may authorise a meeting to be held using a method of communication, or a combination of methods of communication, that allows a member taking part to hear or otherwise know what each other member taking part says without the members being in each other's presence.

**Examples**

a phone link, a satellite link, an internet or intranet link

- (3) A person who takes part in a meeting conducted under subsection (2) is taken, for all purposes, to be present at the meeting.

**121 First annual general meeting—developer to deliver records  
Schedule 3, section 3.4 (c)**

*substitute*

- (c) any plans, specifications, diagrams or drawings that relate to the design or service of the units or common property of the units plan, including the development approval and any condition to which the approval is subject;
- (ca) the developer's maintenance schedule for the common property;

**122 Schedule 3, section 3.4 (f)**

*after*

seal

*insert*

(if any)

**123 Special resolutions  
Schedule 3, section 3.16 (1)**

*omit*

more than 2 members

*substitute*

more than 3 members

**124 Schedule 3, section 3.16 (1)**

*omit*

less than  $\frac{1}{3}$

*substitute*

not more than  $\frac{1}{4}$

**125 Schedule 3, new section 3.16 (1A)**

*insert*

- (1A) For an owners corporation with 3 members, the requirements for passing a special resolution at a general meeting are that—
- (a) unless a poll is taken—
    - (i) the number of votes cast in favour of the resolution is greater than the number of votes cast against it; and
    - (ii) the votes cast against the resolution number less than  $\frac{1}{3}$  of the total number of votes that can be cast on the resolution by people present at the meeting (including proxy votes);  
or
  - (b) on a poll—
    - (i) the voting value of votes cast in favour of the resolution is greater than the voting value of the votes cast against it; and
    - (ii) the voting value of votes cast against the resolution is less than  $\frac{1}{3}$  of the voting value of the total number of votes that can be cast on the resolution by people present at the meeting (including proxy votes).

**126 Evidence of resolutions of owners corporation  
Schedule 3, section 3.19**

*omit*

sealed with the corporation's seal

*substitute*

issued by the executive committee



**127 Schedule 3, new section 3.21A***insert***3.21A General meeting—decisions about defective building work**

- (1) This section applies to a motion at a general meeting of an owners corporation in relation to defective building work.
- (2) The developer of the units plan is not entitled to vote, or exercise a proxy vote, in relation to the motion unless—
  - (a) the members of the owners corporation, other than the developer, pass a special resolution allowing the developer to vote; or
  - (b) the ACAT makes a declaration under subsection (3).
- (3) On application, the ACAT may make a declaration that the developer may vote on a motion if—
  - (a) the ACAT is satisfied, to the extent practicable, that the developer is not likely to be responsible for the defective building work; or
  - (b) taking into account the interests of the owners corporation, the individual unit owners and the developer—barring the developer from voting would be unreasonable.
- (4) This section does not apply if the developer owns all of the units in the units plan.

**128 Evidence of mortgagee's entitlement to vote  
Schedule 3, section 3.25**

*omit*

sealed with the owners corporation's seal

*substitute*

issued by the executive committee

**129 Proxy votes  
Schedule 3, new section 3.26 (4)**

*insert*

- (4) A person must not exercise more than the following number of proxy votes in a vote on a matter at a general meeting:
- (a) if there are more than 20 units in the units plan—a number that is not more than 5% of the total number of units;
  - (b) in any other case—1.

**130 Schedule 3, new section 3.31A**

*insert*

**3.31A Alternative voting mechanism**

- (1) An owners corporation may, by resolution passed at a general meeting, agree to a way of voting on a matter, or a class of matters, to be decided by the owners corporation.
- (2) A person is entitled to vote on a matter under subsection (1) only if the person would be entitled to vote on the matter if the matter was considered at a general meeting.

**131 Default rules  
Schedule 4**

*omit*

**132 Dictionary, note 2**

*insert*

- registrar-general

**133 Dictionary, new definitions**

*insert*

***alternative rules*** means rules other than the default rules.

***assistance animal***—see the *Discrimination Act 1991*, section 5AA (3).

***audit*** means an audit conducted by a person who—

- (a) is not a member of, or manager for, the owners corporation; and
- (b) has not prepared or assisted in the preparation of the corporations accounts; and
- (c) has the qualifications prescribed by regulation.

***building management statement***—see the *Land Titles Act 1925*, section 123D.

**134 Dictionary, definition of *default rules***

*substitute*

***default rules*** means the default rules prescribed by regulation.

**135 Dictionary, new definition of *developer's maintenance schedule***

*insert*

***developer's maintenance schedule***—see section 25.

**136 Dictionary, definition of *executive committee representative***

*omit*

**137 Dictionary, new definitions**

*insert*

***grantee*** means the person granted a special privilege.

***maintenance requirement*** means the obligation to undertake the maintenance of the common property that is the subject of the special privilege granted to the grantee.

**138 Dictionary, definition of *owner, occupier or user***

*omit*

**139 Dictionary, new definition of *pet friendly rule***

*insert*

***pet friendly rule***—see section 112C.

**140 Dictionary, definition of *rule***

*substitute*

***rule***, for an owners corporation, means a rule of the owners corporation under section 106.

**141 Dictionary, new definitions**

*insert*

***special privilege*** means a right, other than a sublease, granted to a person to use the common property of a units plan in a manner that is additional to, or restrictive of, the rights of other people (who are not granted the special privilege) to use the common property.

***special privilege rule***—see section 112A (1).

**142 Dictionary, definition of *sustainability infrastructure***

*substitute*

*sustainability infrastructure*—

- (a) means infrastructure or equipment that—
  - (i) if installed in relation to a units plan—
    - (A) improves the environmental sustainability of the units; or
    - (B) reduces the environmental impact of the owners corporation and the units owners; and
  - (ii) if installed in relation to a unit—
    - (A) improves the environmental sustainability of the unit; or
    - (B) reduces the environmental impact of the unit; and
- (b) includes related utility service connections and equipment.

## Part 13 Unit Titles (Management) Regulation 2011

### 143 New sections 4A and 4B

*insert*

#### 4A Maintenance plan—Act, s 24 (1B)

A maintenance plan must include the following:

- (a) a plan for the maintenance and inspection of systems, equipment, structures and other things on the common property if the maintenance and inspection is reasonably required to avoid future damage to, or failure of, the thing including (if present) the following:
  - (i) exterior walls, guttering, downpipes and roof;
  - (ii) pools and surrounds, pool fencing and gates;
  - (iii) air conditioning, heating and ventilation systems;
  - (iv) lifts;
  - (v) fire protection equipment including sprinkler systems, fire alarms and smoke detectors;
  - (vi) security access systems;
  - (vii) electric vehicle charging stations and associated infrastructure;
  - (viii) embedded networks and micro-grids;
  - (vix) solar panels and associated equipment and any other sustainability infrastructure;
- (b) as provided by the developer or as reasonably available—
  - (i) the warranties for systems, equipment or other things mentioned in the plan; and

- (ii) any manuals or statement of maintenance requirements provided by the manufacturer of the system, equipment or other things mentioned in the plan; and
- (iii) the name and contact details of the manufacturer and installer of the system, equipment or other things mentioned in the plan.

#### **4B Developer's maintenance schedule—Act, s 25 (2)**

The developer's maintenance schedule must include the following:

- (a) a schedule for maintenance and inspection of systems, equipment, structures and other things on the common property as required under section 4A (a) (i) to (vix);
- (b) the warranties for systems, equipment or other things referred to in the schedule;
- (c) any manuals or statement of maintenance requirements provided by the manufacturer of the system, equipment or other things referred to in the schedule;
- (d) the name and contact details of the manufacturer and installer of the system, equipment or other things referred to in the schedule.

#### **144 New sections 7A and 7B**

*insert*

#### **7A Default rules—Act, dict, def *default rules***

The default rules for an owners corporation are the rules set out in schedule 1.

#### **7B Alternative rules requirements—Act, s 108 (6)**

- (1) The alternative rules—
  - (a) may only amend default rule 1.4, rule 1.5 and rule 1.6; and

- (b) must provide for the following:
- (i) if the general fund contribution payable for each unit is not the proportional share for the unit of the total general fund contribution—the method for working out the contribution payable for each unit to the total general fund and the principle underlying the method;
  - (ii) if the sinking fund contribution payable for each unit is not the proportional share for the unit of the total sinking fund contribution—the method proposed for working out the contribution payable for each unit to the total sinking fund and the principle underlying the method; and

**Examples—underlying principle for par (b) (i) and par (b) (ii)**

- 1 the user pays principle
  - 2 fixed cost for each unit regardless of unit value
- (c) may provide for any other matter that is consistent with the Act and the default rules (other than a matter the subject of default rule 1.4, rule 1.5 and rule 1.6).
- (2) An alternative rule about the contribution method mentioned in subsection (1) (b) (i) or (ii) must be fair, taking into account—
- (a) the structure of the units plan; and
  - (b) the nature of the buildings that are part of the units or common property of the units plan, including the features and character of the units and common property; and
  - (c) the purposes for which units are used including the likely impact of that use on the common property; and
  - (d) the extent to which the method imposes a burden on a unit that is commensurate with the use of that unit.



**145 New section 10***insert***10 Owners corporation alternative method and process for voting—Act, sch 3, s 3.31A (1)**

- (1) An owners corporation may adopt any of the following ways to vote on a matter to be decided by the owners corporation at a general meeting:
- (a) voting in the meeting by teleconference, videoconference, email or other electronic means;
  - (b) voting on a motion by email or other electronic means before the meeting at which the matter (other than an election) is to be decided (*pre-meeting electronic voting*).

**Example—par (b)**

requiring members to access a voting website and to vote in accordance with instructions contained on that website

- (2) For subsection (1) (b)—
- (a) the owners corporation must ensure that members have reasonable access to facilities to vote; and
  - (b) information about how members can access the facilities must accompany the notice of the general meeting.

**Example—par (a)**

making computer facilities available to members who do not have a personal computer of their own during business hours

- (3) A motion that is to be decided wholly by pre-meeting electronic voting may not be amended at the general meeting for which the pre-meeting electronic voting is conducted.
- (4) A motion that is to be decided partly by pre-meeting electronic voting must not be amended at the general meeting for which the pre-meeting electronic voting is conducted if the effect of the amendment is to change the subject matter of the original motion.

- (5) If a motion that is to be decided partly by pre-meeting electronic voting is amended at the general meeting for which the pre-meeting electronic voting is conducted, the minutes of the meeting must be accompanied by a notice of a change and a statement setting out the power to request a further general meeting under the [Act](#), schedule 3, section 3.5.

**146 New schedule 1**

*insert*

## Schedule 1 Default rules

(see s 7A)

### 1.1 Definitions—default rules

- (1) In these rules:
- owner, occupier or user*, of a unit, includes an invitee or licensee of an owner, occupier or user of a unit.
- (2) A word or expression in these rules has the same meaning as in the [Unit Titles \(Management\) Act 2011](#).

### 1.2 Payment of rates and taxes by unit owners

A unit owner must pay all rates, taxes and any other amount payable for the unit.

### 1.3 Repairs and maintenance

- (1) A unit owner must ensure that the unit is in a state of good repair.
- (2) A unit owner must carry out any work in relation to the unit, and do anything else in relation to the unit, that is required by a territory law.

## 1.4 Erections and alterations

- (1) A unit owner may erect or alter any structure in or on the unit or the common property only—
  - (a) in accordance with the express permission of the owners corporation by special resolution; and
  - (b) in accordance with the requirements of any applicable territory law (for example, a law requiring development approval to be obtained for the erection or alteration).
- (2) Permission may be given subject to conditions stated in the resolution.
- (3) However, if the structure is sustainability infrastructure, the owners corporation's permission must not be unreasonably withheld.

**Examples—permission not unreasonably withheld**

- safety considerations
- structural considerations

**Example—permission unreasonably withheld**

external appearance of a unit or the units plan

## 1.5 Pets in units

- (1) A unit owner or occupier (the *pet owner*) may keep an animal, or permit an animal to be kept, within the unit if—
  - (a) the total number of animals kept within the unit (other than birds in a cage or fish in an aquarium) is not more than 3; and
  - (b) the pet owner ensures that the animal is appropriately supervised when the animal is on the common property; and
  - (c) the pet owner keeps the animal secure so that it cannot escape the unit unsupervised; and
  - (d) the pet owner cleans any area of the units plan that is soiled by the animal; and

- (e) the pet owner takes reasonable steps to ensure the animal does not cause a nuisance or a risk to health or safety.
- (2) The pet owner must, within 14 days of the day the animal is first kept within the unit, tell the owners corporation, in writing, that the animal is being kept within the unit.

### **1.6 Assistance animals**

The owners corporation may require a person who keeps an assistance animal to produce evidence that the animal is an assistance animal.

### **1.7 Use of common property**

A unit owner must not use the common property, or permit it to be used, to interfere unreasonably with the use and enjoyment of the common property by an owner, occupier or user of another unit, other than in accordance with a special privilege rule.

### **1.8 Hazardous use of unit**

A unit owner must not use the unit, or permit it to be used, to cause a hazard to an owner, occupier or user of another unit.

### **1.9 Use of unit—nuisance or annoyance**

- (1) A unit owner must not use the unit, or permit it to be used, in a way that causes a nuisance or substantial annoyance to an owner, occupier or user of another unit.
- (2) This rule does not apply to a use of a unit if the executive committee has given an owner, occupier or user of the unit written permission for that use.
- (3) Permission may be given subject to stated conditions.
- (4) Permission may be withdrawn by special resolution of the owners corporation.

**1.10 Noise**

- (1) A unit owner must not make, or permit to be made, such a noise within the unit as might (in the circumstances) be reasonably likely to cause substantial annoyance to an owner, occupier or user of another unit.
- (2) This rule does not apply to the making of a noise if the executive committee has given the person responsible for making the noise written permission to do so.
- (3) Permission may be given subject to stated conditions.
- (4) Permission may be withdrawn by special resolution of the owners corporation.

**1.11 Illegal use of unit**

A unit owner must not use the unit, or permit it to be used, to contravene a law in force in the ACT.

**1.12 What may an executive committee representative do?**

- (1) An executive committee representative may do any of the following in relation to a unit at all reasonable times:
  - (a) if the committee has reasonable grounds for suspecting that there is a breach of the Act or these rules in relation to a unit—inspect the unit to investigate the breach;
  - (b) carry out any maintenance required under the Act or these rules;
  - (c) do anything else the owners corporation is required to do under the Act or these rules.
- (2) An executive committee representative may enter a unit and remain in the unit for as long as is necessary to do something mentioned in subrule (1).

- (3) An executive committee representative is not authorised to do anything in relation to a unit mentioned in subrule (1) unless—
- (a) the executive committee or the representative has given the owner, occupier or user of the unit reasonable notice of their intention to do the thing; or
  - (b) in an emergency, it is essential that it be done without notice.
- (4) The executive committee may give a written authority to a person to represent the corporation under this rule.

*executive committee representative* means a person authorised, in writing, by the executive committee under rule 1.12 (4).

#### **147 Dictionary, note 3**

*insert*

- assistance animal

#### **148 Dictionary, new definitions**

*insert*

*executive committee representative*, for schedule 1 (Default rules)—see schedule 1, rule 1.1.

*owner, occupier or user*, of a unit, for schedule 1 (Default rules)—see schedule 1, rule 1.1.

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## Schedule 1      New Civil Law (Property) Regulation

(see s 4)



Australian Capital Territory

# Civil Law (Property) Regulation 2020

## Subordinate Law SL2020-

made under the

**Civil Law (Property) Act 2006**

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### 1      **Name of regulation**

This regulation is the *Civil Law (Property) Regulation 2020*.

### 2      **Disclosure requirements for development approval— Act, s 260 (1) (m) (i)**

The following matters are prescribed:

- (a) if the building in the units plan is authorised by a development approval—
  - (i) identify the development approval; and

- (ii) include a statement about any condition to which the development approval is subject;
- (b) if the building, or part of the building, in the units plan is not authorised by a development approval—
  - (i) confirm the development approval status of the building; and
  - (ii) include an undertaking to notify the buyer about the lodgment of an application for development approval for the building;
- (c) if an application for development of a building in the units plan has been lodged but not approved under the *Planning and Development Act 2007*—identify the application;
- (d) in all cases—a statement about where the buyer may find further information about the development approval including information about how to find information about publicly notified amendments to the development approval.

**3 Disclosure requirements for utility services—  
Act, s 260 (1) (m) (iv)**

The following matters are prescribed:

- (a) information about which units in the units plan will be individually metered for the purpose of cold water supply;
- (b) information about facilities, if any, that will be provided for charging electric vehicles.



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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 28 November 2019.

**2 Notification**

Notified under the [Legislation Act](#) on 27 February 2020.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Unit Titles Legislation Amendment Bill 2020, which originated in the Legislative Assembly as the Unit Titles Legislation Amendment Bill 2019 and was passed by the Assembly on 18 February 2020.

Acting Clerk of the Legislative Assembly

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