



Australian Capital Territory

Planning and Unit Titles Legislation Amendment Act 2021 (No 2)

A2021-25

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Australian Capital Territory

Planning and Unit Titles Legislation Amendment Act 2021 (No 2)

A2021-25

An Act to amend legislation about planning and unit titles, and for other purposes

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

J2021-942

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 1 Preliminary

1 Name of Act

This Act is the *Planning and Unit Titles Legislation Amendment Act 2021 (No 2)*.

2 Commencement

This Act commences on the day after its notification day.

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

3 Legislation amended

This Act amends the following legislation:

- [Land Titles Act 1925](#)
- [Planning and Development Act 2007](#)
- [Unit Titles Regulation 2001](#).

Note This Act also amends other legislation (see sch 1).

Part 2 Land Titles Act 1925

4 Section 123C

substitute

123C Definitions—pt 11A

(1) In this part:

building lessee, for a relevant building—

(a) means—

- (i) for any part of the building the subject of a units plan under the *Unit Titles Act 2001*—the owners corporation for the units plan; and
- (ii) for a Crown lease other than a lease for a unit in a units plan—each Crown lessee; and

(b) includes any mortgagee in possession or sublessee of any part of the building.

building management committee—see section 123F (1) (a).

building management statement means a statement about how a relevant building, or a proposed building, will be managed between the building lessees.

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

relevant building means a building in relation to which more than 1 Crown lease is granted.

(2) In this section:

building—

- (a) means a single building or single set of physically related buildings; and
- (b) includes the site on which the building is located and any common facilities related to the building.

set of physically related buildings means 2 or more buildings with no, or limited, external open space, that—

- (a) are semi-detached; or
- (b) are physically integrated, for example through underground car parking or physical overpasses or similar building structures; or
- (c) make use of physically integrated common facilities, for example, lifts and underground parking.

Examples—open space

- internal roads
- lawns and gardens

**5 Building management statement may be registered
Section 123D (1) and (2)**

substitute

- (1) A person may apply to the registrar-general for registration of a building management statement or an amendment of a registered building management statement for a relevant building.

6 Section 123D (3)

after

approved

insert

by the planning and land authority under section 123I

7 Section 123D (5)

omit

owner of

substitute

lessee under

8 Section 123D (5) (a) (ii)

substitute

- (ii) that will be provided by the burdened lease if the lessee complies with any building and development provision in the burdened lease;

**9 Effect of building management statement
Section 123E (1)**

substitute

- (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 building lessees.

10 Section 123E (2)

omit

parties

substitute

building lessees

11 Section 123E (3)

omit

person mentioned in subsection (1)

substitute

building lessee

**12 Formal requirements for building management statement
Section 123F (1) (a)**

omit

party to the statement

substitute

building lessee

13 Section 123F (1) (d)

omit

parties to the statement

substitute

building lessees

14 Section 123F (1) (h)

omit

if a party to the statement is an owners corporation mentioned in section 123E (1) (a)

substitute

if a building lessee is an owners corporation

15 Section 123F (3)

omit

parties to the building management statement

substitute

building lessees

**16 Amendment of building management statement
Section 123H**

omit

17 Section 123I

substitute

123I Planning and land authority approval of building management statement

- (1) A person may apply to the planning and land authority for approval of a building management statement or an amendment to a registered building management statement.
- (2) The planning and land authority must approve the building management statement or the amendment if satisfied that—
 - (a) the statement, or the statement as amended, provides for each matter mentioned in section 123F (1); and

- (b) the statement relates to a relevant building; and
 - (c) for an amendment or a statement that relates to an existing relevant building—
 - (i) each building lessee (not including any sublessee) consents to the application; or
 - (ii) for an amendment—it is required by an order of a court or the ACAT.
- (3) To remove any doubt—
- (a) subsection (2) (a) does not require the planning and land authority to consider the adequacy of any matter provided for in the building management statement or the amendment; and
 - (b) an amendment to a registered building management statement is not binding on the building lessees unless it is registered under section 123D.

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

omit

19 Dictionary, definitions of *applicant* and *approved*

omit

20 Dictionary, new definition of *building lessee*

insert

building lessee, for a relevant building, for part 11A (Building management statements)—see section 123C (1).

21 Dictionary, definition of *building management statement*

substitute

building management statement, for part 11A (Building management statements)—see section 123C (1).

22 Dictionary, definition of *parties*

omit

23 Dictionary, definition of *registered building management statement*

substitute

registered building management statement, for part 11A (Building management statements)—see section 123C (1).

24 Dictionary, new definition of *relevant building*

insert

relevant building, for part 11A (Building management statements)—see section 123C (1).

25 Dictionary, definition of *reviewable decision*

omit

Part 3 Planning and Development Act 2007

26 Form of development applications Section 139 (8), definition of *building management statement*

substitute

building management statement—see the [Land Titles Act 1925](#), section 123C (1).

27 Meaning of *community concessional lease use* Section 253B (1) (d)

substitute

(d) educational establishment;

28 Land management agreements Section 283 (2) (a)

after

land comprised in the lease

insert

(a *land management agreement*)

29 Section 283 (2) (b)

substitute

(b) the agreement is signed by the conservator of flora and fauna and the person mentioned in paragraph (a).

30 Section 283 (3)

omit

31 Section 283 (4)

omit

An agreement

substitute

A land management agreement

32 New section 283 (5) to (7)

insert

- (5) The conservator of flora and fauna may make guidelines setting out the requirements for land management agreements.
- (6) In preparing a guideline, the conservator of flora and fauna must consult the planning and land authority.
- (7) A guideline is a notifiable instrument.

33 New section 283A

insert

283A Validation of certain land management agreements

- (1) This section applies to a land management agreement that was made—
 - (a) on or after the revocation of the *Planning and Development (Land Management Agreement Form) Approval 2016* (AF2016-26); but
 - (b) before the *Planning and Unit Titles Legislation Amendment Act 2021 (No 2)*, part 3 commenced.
- (2) Despite the revocation of the approval mentioned in subsection (1), the land management agreement is taken to be valid.

- (3) To remove any doubt, any act done, or required to be done, under or in relation to the land management agreement in reliance of the agreement being valid is taken to have been validly done or required to be done.
- (4) This section expires on the day it commences.

Note If a law validates something that is or may otherwise be invalid, the validating effect of the law does not end merely because of the repeal of the law (see [Legislation Act](#), s 88 (1)).

Part 4 Unit Titles Regulation 2001

**34 Endorsement of units plans—Act, s 27 (2)
Section 9 (1) (b)**

omit

sign and

35 Section 9 (1) (c)

omit

36 Section 9 (2)

omit

Schedule 1 Consequential amendments

(see s 3)

Part 1.1 Civil Law (Property) Act 2006

[1.1] Section 260 (4), definition of *building management statement*

substitute

building management statement—see the [Land Titles Act 1925](#), section 123C (1).

Part 1.2 Civil Law (Sale of Residential Property) Act 2003

[1.2] Section 9 (1) (g) (i) (C)

omit

section 123E (1) (a)

substitute

section 123E (1)

[1.3] Dictionary, definition of *building management statement*

substitute

building management statement—see the [Land Titles Act 1925](#), section 123C (1).

Part 1.3 Unit Titles Act 2001

[1.4] Section 17B (2)

substitute

- (2) The application must include a building management statement.

[1.5] Section 20 (1) (f)

substitute

- (f) if the application includes a building management statement—
- (i) the statement has been approved under the *Land Titles Act 1925*, section 123I; or
 - (ii) the requirements mentioned in the *Land Titles Act 1925*, section 123I (2) are met.

[1.6] Dictionary, definition of *building management statement*

substitute

building management statement—see the *Land Titles Act 1925*, section 123C (1).

Part 1.4 Unit Titles (Management) Act 2011

[1.7] Dictionary, definition of *building management statement*

substitute

building management statement—see the *Land Titles Act 1925*, section 123C (1).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 8 October 2021.

2 Notification

Notified under the [Legislation Act](#) on 17 November 2021.

3 Republications of amended laws

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

I certify that the above is a true copy of the Planning and Unit Titles Legislation Amendment Bill 2021 (No 2), which originated in the Legislative Assembly as the Planning and Unit Titles Legislation Amendment Bill 2021 and was passed by the Assembly on 11 November 2021.

Clerk of the Legislative Assembly

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