

2005

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Planning)

## Unit Titles Amendment Bill 2005

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## Unit Titles Amendment Bill 2005

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### A Bill for

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

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

1 **1 Name of Act**

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

3 **2 Commencement**

4 This Act commences on the day after its notification day.

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

7 **3 Legislation amended**

8 This Act amends the *Unit Titles Act 2001*.

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

10 **4 Provisional building damage order—application**  
11 **Section 154 (1) (c) and (d)**

12 *after*

13 cancellation authority

14 *insert*

15 or cancellation order

16 **5 Section 160 heading**

17 *substitute*

18 **160 Cancellation authority—grant by planning and land**  
19 **authority**

1 **6 New section 160 (1A)**

2 *insert*

3 (1A) On application for a cancellation authority, the planning and land  
4 authority may—

5 (a) grant the cancellation authority; or

6 (b) refuse to grant the cancellation authority.

7 **7 Section 160 (2)**

8 *omit*

9 if satisfied on reasonable grounds

10 *insert*

11 only if satisfied

12 **8 Section 160 (2) (a)**

13 *omit*

14 authorised

15 *substitute*

16 supported

17 **9 Section 160**

18 *renumber subsections when Act next republished under Legislation*  
19 *Act*

1 **10 Section 161 heading**

2 *substitute*

3 **161 Cancellation authority—period of effect**

4 **11 New division 11.2**

5 *insert*

6 **Division 11.2 Cancellation orders**

7 **161A Cancellation orders—Supreme Court powers**

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

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

7 **161B Cancellation orders—provisional orders**

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

24 **161C Cancellation orders—after provisional order is made**

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

1 (b) the owners corporation subsequently applies for a cancellation  
2 order under that section.

3 (2) The Supreme Court may make a cancellation order under  
4 section 161A if satisfied that the conditions and directions stated in  
5 the provisional cancellation order have been complied with.

6 **161D Cancellation orders—right of appearance**

7 (1) The following have a right to appear on an application for a  
8 cancellation order for a units plan:

9 (a) the owners corporation;

10 (b) a unit owner;

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

13 (d) an insurer who has insured a building on the parcel for  
14 section 132 (Building insurance by owners corporation);

15 (e) the chief executive, for the Territory.

16 (2) An owners corporation that applies for a cancellation order must  
17 serve a copy of the application on everyone else who has a right to  
18 appear, except the chief executive.

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

22 (3) A person who has a right to appear may be represented by a lawyer  
23 or someone else.

24 (4) The registrar of the Supreme Court must give a copy of an  
25 application for a cancellation order to the chief executive.



1 **12 Division 11.2 heading**

2 *substitute*

3 **Division 11.3 Effects of cancellation**

4 **13 Cancellation of units plan—effects**  
5 **Section 162**

6 *after*

7 cancellation authority

8 *insert*

9 or cancellation order

10 **14 Cancellation of units plan—new lease over parcel**  
11 **Section 163 (1) (c)**

12 *omit*

13 (Cancellation authority—grant)

14 *insert*

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

18 **15 Section 165 heading**

19 *substitute*

20 **165 Dissolution of owners corporation—Supreme Court**  
21 **powers**

- 1 **16 Section 165 (1)**
- 2 *omit*
- 3 Magistrates Court
- 4 *substitute*
- 5 Supreme Court
- 6 **17 Section 165 (3) (b)**
- 7 *substitute*
- 8 (b) a unit owner;
- 9 (ba) someone else with an interest in a unit, or the common
- 10 property, that is recorded on the corporate register;
- 11 **18 Section 165 (3)**
- 12 *renumber paragraphs when Act next republished under Legislation*
- 13 *Act*
- 14 **19 Section 165 (6)**
- 15 *omit*
- 16 Magistrates Court
- 17 *substitute*
- 18 Supreme Court
- 19 **20 Section 169 heading**
- 20 *substitute*
- 21 **169 Dissolution of owners corporation on lease expiry—**
- 22 **Supreme Court powers**

- 1 **21 Section 169 (1)**
- 2 *omit*
- 3 Magistrates Court
- 4 *substitute*
- 5 Supreme Court
- 6 **22 Section 169 (3) (b)**
- 7 *substitute*
- 8 (b) a unit owner;
- 9 (ba) someone else with an interest in a unit, or the common
- 10 property, that is recorded on the corporate register;
- 11 **23 Section 169 (3)**
- 12 *renumber paragraphs when Act next republished under Legislation*
- 13 *Act*
- 14 **24 Section 169 (6)**
- 15 *omit*
- 16 Magistrates Court
- 17 *substitute*
- 18 Supreme Court
- 19 **25 Dictionary, definition of *cancellation dissolution order***
- 20 *substitute*
- 21 *cancellation dissolution order*—see section 165 (Dissolution of
- 22 owners corporation—Supreme Court powers).

1 **26 Dictionary, new definition of *cancellation order***

2 *insert*

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

5 **27 Dictionary, definition of *expiry dissolution order***

6 *substitute*

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

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

4 (see s 3)

5 **[1.1] Section 16**

6 *substitute*

7 **16 Cancellation of units plans—registration**

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

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

16 **[1.2] Section 17 (1), (2) and (3)**

17 *after*

18 cancellation authority

19 *insert*

20 or cancellation order

21 **[1.3] Section 17 (1) and (2)**

22 *after*

23 registration of the authority

24 *insert*

25 or order

- 1 **[1.4] Section 18 (1)**
- 2 *after*
- 3 cancellation authority
- 4 *insert*
- 5 or cancellation order
- 6 **[1.5] Section 19 heading**
- 7 *substitute*
- 8 **19 Amendment of units plans—registration of authorities**
- 9 **[1.6] Section 19 (1)**
- 10 *omit*
- 11 ministerial
- 12 **[1.7] Section 19 (1), notes**
- 13 *omit*
- 14 a ministerial authority
- 15 *substitute*
- 16 an authority
- 17 **[1.8] Section 19 (2)**
- 18 *omit*
- 19 a ministerial authority
- 20 *substitute*
- 21 an authority

- 
- 1 **[1.9] Section 31 (2)**  
2 *after*  
3 cancellation authority  
4 *insert*  
5 or cancellation order

- 6 **[1.10] Section 31 (2)**  
7 *after*  
8 registration of the authority  
9 *insert*  
10 or order

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## Endnotes

- 1 Presentation speech**  
Presentation speech made in the Legislative Assembly on 2005.
- 2 Notification**  
Notified under the Legislation Act on 2005.
- 3 Republications of amended laws**  
For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).