

2012

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

**UNIT TITLES (MANAGEMENT) TRANSITIONAL PROVISIONS REGULATION
2012**

SL2012-12

EXPLANATORY STATEMENT

**Circulated by authority of the
Attorney-General
Mr Simon Corbell MLA**

Unit Titles (Management) Transitional Provisions Regulation 2012

Overview of the Transitional Regulation

The *Unit Titles (Management) Act 2011*, section 162, contains a transitional regulation making power. Section 162(1) provides that a regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the Act.

The *Unit Titles (Management) Transitional Provisions Regulation 2012* (the transitional regulation) provides for transitional arrangements for existing sinking fund plans.

Specifically, the transitional regulation provides for the transitioning of determinations of sinking fund contributions that are made in accordance with a sinking fund plan that was established before the commencement of the *Unit Titles (Management) Act 2011*.

Section 157 provides that a sinking fund plan established under the *Unit Titles Act 2001* is taken to be a sinking fund plan under the *Unit Titles (Management) Act 2011*. This transitional provision saves sinking fund plans established under the previous legislative provisions.

Under the *Unit Titles (Management) Act 2011*, sinking fund plans must include estimations of amounts required each year in the 10 year period to ensure the ongoing maintenance and renewal of common property and any other property held by the owners corporation. The yearly estimates in the sinking fund plan are the basis on which contributions to the sinking fund can be determined by the owners corporation each year.

The sinking fund provisions that applied under the *Unit Titles Act 2001* did not require estimations of amounts required each year.

The transitional regulation removes all doubt that contributions levied in accordance with sinking fund plans established under the *Unit Titles Act 2001* are preserved under the new legislative scheme.

The transitional provision applies to the sinking fund contributions levied by existing owners corporations in accordance with existing sinking fund plans until such time as the plan is reviewed, amended or replaced.

The transitional regulation will expire 5 years after commencement.

Clause notes

Clause 1 Name of regulation

This clause states that this regulation is the *Unit Titles (Management) Transitional Provisions Regulation 2012*.

Clause 2 Commencement

This clause states that this regulation commences on the commencement of the *Unit Titles (Management) Act 2011*, section 3. The Minister has determined a commencement date of 30 March 2012 for the Act.

Clause 3 Dictionary

This clause states that the dictionary at the end of this regulation is part of this regulation.

Clause 4 Notes

This clause states that a note included in this regulation is explanatory and is not part of this regulation.

Clause 5 Existing sinking funds—contributions

This clause assists with the transition of sinking fund plans determined under the previous legislation (*Unit Titles Act 2001*, division 5.4, which is repealed by the *Unit Titles (Management) Act 2011*).

Specifically, this clause defines ‘total sinking fund amount for a financial year’ for sinking fund plans determined under the previous legislation. It is necessary to define ‘total sinking fund amount for a financial year’ for the purposes of determining sinking fund contributions under section 89(2) of the *Unit Titles (Management) Act 2011*.

For existing sinking fund plans established under the previous legislative provisions, ‘total sinking fund amount for a financial year’ is taken to be the sinking fund contribution determined in accordance with the sinking fund plan by the existing owners corporation for that year.

This definition applies only to sinking fund plans established before the commencement of the *Unit Titles (Management) Act 2011* and ensures that contributions levied in accordance with existing sinking fund plans are preserved.

This transitional provision applies to determinations of contributions to the sinking fund made every financial year until such time as the sinking fund plan is replaced, reviewed or amended.

For sinking fund plans established under the *Unit Titles (Management) Act 2011*, estimates of the amounts required each year to meet the ongoing maintenance and renewal of the common property (and any other property held by the owners corporation) must be included in the sinking fund plan. These yearly estimates must form the basis of determinations of

contributions to the sinking fund for sinking funds established under the *Unit Titles (Management) Act 2011*.

For this clause, ‘commencement day’ and ‘existing owners corporation’ are defined.

Clause 6 Expiry

This clause states that this regulation expires 5 years after the day it commences. This provides sufficient time for existing sinking fund plans to transition to the new legislative scheme.