

Civil Law (Sale of Residential Property) Amendment Regulation 2025 (No 1)

Subordinate law SL2025–22

made under the

Civil Law (Sale of Residential Property) Act 2003, s 40 (Regulation-making power)

EXPLANATORY STATEMENT

This explanatory statement relates to the *Civil Law (Sale of Residential Property) Amendment Regulation 2025 (No 1)* (the **regulation**) as made by the Executive. It has been prepared to assist the reader of the regulation. It does not form part of the regulation and has not been endorsed by the Legislative Assembly.

This statement must be read in conjunction with the regulation. It is not, and is not meant to be, a comprehensive description of the regulation. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Overview

This regulation amends the *Civil Law (Sale of Residential Property) Regulation 2004*. It supports implementation of the *Property Developers Act 2024*. The *Property Developers Act 2024* establishes a framework for licensing certain residential property developers, and a regulatory scheme to bring these property developers into the regulatory chain of accountability for building work they are involved in.

The regulation is made under section 40 of the *Civil Law (Sale of Residential Property) Act 2003*.

The purpose of this regulation is to create specific exemptions from the property developer licensing requirements for individuals or entities who are on-selling an off-the-plan property that was previously purchased. This typically refers to buyers that purchase a property from a developer before it is built and then on sold to another buyer before (or after) settlement, without ever occupying it.

This regulation ensures that subsequent, or ‘second-hand sellers’ are not captured by the requirements of the scheme, which were intended for the original property developer, provided they are not property developers themselves. To maintain transparency, the regulation imposes disclosure requirements on exempt sellers to ensure that the next purchaser is aware of the original licensed developer.

Applications for property developer licenses will be accepted from 1 October 2025. From 1 October 2026 it will be mandatory for certain residential property developers to hold a licence. This regulation provides clarity regarding what types of people the various provisions in the *Property Developers Act 2024* will apply to, and those who will be exempted from that Act or particular provisions in it.

Regulatory Impact Statement (RIS)

Section 34 of the *Legislation Act 2001* (the **Legislation Act**) provides that if a proposed subordinate law or disallowable instrument (the **proposed law**) is likely to impose appreciable costs on the community, or a part of the community, then, before the proposed law is made, the Minister administering the authorising law must arrange for a Regulatory Impact Statement (**RIS**) to be prepared for the proposed law.

Regulatory impact was considered by government as part of the policy approval for the Act, including advice on exemptions. The *Property Developers Act 2024* establishes the ACT's developer licensing and regulation scheme, the requirement to be licensed, and the obligations on relevant property developers including payment of licensing fees.

This regulation does not impose an additional regulatory burden on people that the *Property Developers Act 2024* applies to. As such, a RIS is not required to support this regulation.

Consistency with Human Rights

The Standing Committee on Legal Affairs (Legislative Scrutiny Role) (the **Scrutiny Committee**) terms of reference require consideration of human rights impacts of subordinate legislation, among other matters, to be assessed for its compatibility with the *Human Rights Act 2004* (the **HRA**).

A detailed human rights assessment is in the explanatory statement to the Property Developers Bill 2023, including consideration of the impact of introducing a property developer licensing scheme in the Territory.

This regulation could be seen to promote the right to privacy and reputation under section 12 of the HRA by exempting certain people from the property developer licensing process, which requires the provision and publishing of information on a property developer.

The disclosure requirements set out in the (uncommenced) section 19AD of the *Civil Law (Sale of Residential Property) Act 2003* are maintained if a seller is exempted from licence requirements. This does not further impact the right to privacy and reputation under section 12 of the HRA, as these details have already been disclosed by the original seller. The disclosure requirements established in the regulation are considered justified to achieve the objectives of the *Property Developers Act 2024*.

Scrutiny Committee Principles

The regulation has been developed in accordance with the Scrutiny Committee's terms of reference, principles and technical and stylistic standards expected by the Assembly.

Consultation on the proposed approach

The Government consulted extensively with the public, industry, key stakeholders, and other jurisdictions on the *Property Developers Act 2024*. This includes public consultation via YourSay, discussion paper, written submissions, online feedback, surveys and polls. A Listening Report is available on the YourSay website.

Extensive consultation has also been undertaken with key ACT industry representative bodies including the Construction Forestry Maritime Mining Energy Union, Housing Industry Association, Master Builders Association, Owners Corporation Network, Property Council of Australia, and Strata Community Association. This consultation included stakeholder workshops as well as individual meetings and correspondence.

This consultation has informed this regulation, including refining who the *Property Developers Act 2024* applies to. The Government will continue to consult closely with these stakeholders on implementation of the scheme.

Climate Impact

There are no climate change impacts arising from the regulation.

Clause Notes

Clause 1 Name of regulation

This clause provides that the name of the regulation is the *Civil Law (Sale of Residential Property) Amendment Regulation 2025 (No 1)*.

Clause 2 Commencement

This clause provides that the regulation commences on the commencement of the *Property Developers Act 2024*, schedule 2, part 2.4, which is due to commence on 1 October 2026 when licensing becomes compulsory.

Clause 3 Legislation amended

This clause provides that the legislation amended is the *Civil Law (Sale of Residential Property) Regulation 2004*.

Clause 4 New sections 12A to 12C

This clause inserts new sections 12A, 12B and 12C into part 2 of the *Civil Law (Sale of Residential Property) Regulation 2004*.

New section 12A excludes a person from needing to hold a property developer licence to sell off-the-plan dwellings in a regulated residential building, if the dwellings have already been sold under an off-the-plan contract, and that person was not the seller, a related entity or a property developer.

New section 12B excludes a person from needing to hold a property developer licence to advertise off-the-plan dwellings in a regulated residential building, if the dwellings have already been sold under an off-the-plan contract, and that person was not the seller or a related entity.

This exclusion recognises that an off-the-plan dwelling may be on-sold several times before the occupant moves into the property, and it is intended to capture the original seller (i.e. the developer), not subsequent owners.

New section 12C provides that disclosure statements, which provide additional information to people buying off-the-plan, must still include the property developer licence number and a statement about the property developer register, even if the person is excluded from the licensing requirements.