



Australian Capital Territory

Unit Titles Regulations 2001

Subordinate Law 2001 No 15

The Australian Capital Territory Executive makes the following regulations under the *Unit Titles Act 2001*.

Dated 28 May 2001.

BRENDAN SMYTH
Minister

MICHAEL MOORE
Minister



Australian Capital Territory

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Part 1 Preliminary

1 Name of regulations

These regulations are the *Unit Titles Regulations 2001*.

2 Commencement

These regulations commence immediately after the commencement of the *Unit Titles Act 2001*, part 16 (Repeals and transitional).

Note The naming and commencement provisions automatically commence on the notification day (see *Legislation Act 2001*, s 75).

Part 2 Unit title applications

Division 2.1 Unit subsidiaries

3 Permissible unit subsidiaries (the Act, s 19)

- (1) A unit title application may show as a unit subsidiary a part of the relevant parcel—
- (a) that is a building, or part of a building, consisting of any of the following:
 - (i) airconditioner;
 - (ii) balcony;
 - (iii) corridor;
 - (iv) garage or carport;
 - (v) gazebo;
 - (vi) laundry;
 - (vii) pergola;
 - (viii) porch;
 - (ix) stairway;
 - (x) shed;
 - (xi) storeroom;
 - (xii) utility room;
 - (xiii) verandah;
 - (xiv) any other part of the parcel approved by the Minister under subregulation (2); or
 - (b) that is suitable for 1 or more of the following purposes:

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- (i) a garden, lawn or yard;
 - (ii) a carspace or parking area;
 - (iii) a recreation area;
 - (iv) any other purpose approved by the Minister under subregulation (2).
- (2) When approving a unit title application under the Act, section 20, the Minister may approve a part of the parcel for paragraph (a) (xiv) or a purpose for paragraph (b) (iv).

Division 2.2 Detailed requirements

4 Uncovered balconies and stairways

- (1) A unit title application for the subdivision of a parcel under a units plan with class A units must show an uncovered balcony or uncovered stairway as a unit subsidiary or as common property.
- (2) A unit title application for the subdivision of a parcel under a units plan with class B units may show an uncovered balcony or uncovered stairway as part of a class B unit, as a unit subsidiary or as common property.

5 Diagrams—manner of subdivision

A unit title application must be accompanied by diagrams showing how the parcel is to be subdivided, including the following details:

- (a) the classification of the units as class A or class B units;
- (b) any unit subsidiary or subsidiaries annexed to each unit;
- (c) the number of each unit;
- (d) the number of each unit subsidiary, consisting of the number of the unit to which the unit subsidiary is annexed, followed by the letter 'S', followed by any further number necessary to distinguish the subsidiary from any other subsidiaries annexed to that unit;

- (e) if the proposals provide for a class B unit, or a unit subsidiary other than a subsidiary that is a building or a part of a building, with a projection above or below ground level by another part of the parcel—
 - (i) a statement to the effect that the unit or subsidiary is limited in its vertical dimensions by such a projection; and
 - (ii) a statement of the nature of that projection.

6 Boundary diagrams

- (1) A unit title application must be accompanied by the following diagrams:
 - (a) a boundary diagram showing the following and their relationship to each other:
 - (i) the boundaries of the parcel;
 - (ii) the extremities of each building on the parcel at (or projected to) ground level;
 - (iii) the boundaries of any class B units;
 - (b) if the application provides for a building to be subdivided so that any class A unit is completely or partly above another class A unit, a separate diagram for each floor of the building showing—
 - (i) sufficient particulars, at floor level, to allow the vertical boundaries of each unit on that floor to be worked out (without necessarily stating any bearings or dimensions); and
 - (ii) the approximate floor area of each unit;
 - (c) if the application provides for a building to be subdivided into class A units otherwise than as mentioned in paragraph (b), a diagram showing—

-
- (i) sufficient details, at floor level, to allow the vertical boundaries of each unit on that floor to be worked out (without necessarily stating any bearings or dimensions); and
 - (ii) the approximate floor area of each unit.
- (2) The diagrams mentioned in subregulation (1) (a) and (c) may be combined.
- (3) The diagrams required by this regulation must also show—
- (a) any unit subsidiary consisting of a building or part of a building as if the subsidiary were a class A unit; and
 - (b) any other unit subsidiary as if the subsidiary were a class B unit.

7 Schedule of unit entitlement and rent

A unit title application must be accompanied by a schedule stating the following:

- (a) the proposed unit entitlement for each unit as a whole number;
- (b) a total proposed unit entitlement of 10, 100, 1 000, 10 000 or 100 000;
- (c) the rent (however expressed) proposed to be reserved under the lease of each unit.

Division 2.3 Development statements

8 Staged developments—development statements (the Act, s 17 (4))

The development statement included in a unit title application that provides for a staged development must—

- (a) state how the staged development is to be carried out; and

- (b) include a copy of the plans and specifications relating to the development, as approved under the Land Act, part 6; and
- (c) include a requirement that after the completion of any stated stages of the development, and after the completion of the entire development, the Minister is to be provided with a report by a registered surveyor about the position of fully or partially completed buildings in relation to the boundaries of the units and of the parcel, in a form approved by the Minister.

Note 1 The Minister may amend the development statement (before approving the unit title application) to minimise the effect of the proposed development on the amenity of unit occupiers, neighbours and members of the public (see the Act, s 22).

Note 2 The development statement may be amended after unit title proposals have been approved, and even after they have been registered (see the Act, s 29 to s 31).

Division 2.4 Approval of units plans

9 Endorsement of units plans (the Act, s 27 (2))

- (1) If the Minister approves a unit title application, the Minister must—
 - (a) make, on the approved form, an endorsement that the documents that are to form the units plan are approved under this Act as the units plan for the subdivision of the parcel; and
 - (b) sign and date the endorsement; and
 - (c) sign each other sheet of the documents.
- (2) The documents must be signed by the lessee of the parcel.
- (3) The boundary diagram that is to form part of the units plan must be endorsed with (or accompanied by) a certificate by a registered surveyor in the approved form.
- (4) In this regulation:

approved form means the form approved under the *Land Titles Act 1925* for an application for registration of a units plan.

Part 3 Owners corporations

10 Sinking funds—opting out by small owners corporations (the Act, s 62 (1) (b))

The value of the common property in the units plan must be not more than \$5 000.

11 Corporate register—access (the Act, s 72 (3))

The fee fixed by the owners corporation for a request to inspect and take a copy of information on corporate register must be not more than \$10 (plus any GST payable in relation to that amount).

12 Unit title certificate and access to owners corporation records (the Act, s 75 (3))

The fee fixed by the owners corporation for a request for a unit title certificate, or to inspect the owners corporation information, records or documents, or both, must be not more than \$70 (plus any GST payable in relation to that amount).

Note Only a single fee of not more than \$70 (plus any GST) is payable for a request for a unit title certificate made together with a request for inspection of the owners corporation records (see the Act, s 75 (4)).

13 Agent insurance (the Act, s 90 (4))

An agent engaged to manage the affairs of an owners corporation must take out and maintain public liability insurance for a total amount of liability not less than \$10 000 000.

14 Public liability insurance for owners corporations (the Act, s 131 (2))

An owners corporation must take out and maintain public liability insurance for a total amount of liability not less than \$10 000 000.

15 Exemptions from building insurance requirements (the Act, s 133 (1))

An owners corporation may exempt itself from the requirement to take out building insurance (under the Act, section 132) if the replacement value of all common property buildings (or parts of buildings) on the parcel is less than \$10 000.

Part 4 **Owners corporation articles**

Division 4.1 **All owners corporations**

16 **Default articles (the Act, s 126 (1) (a))**

The default articles of an owners corporation are set out in schedule 1.

Division 4.2 **3-member owners corporations**

17 **Conciliation articles—3-member corporations (the Act, s 126 (1) (b))**

The additional prescribed articles for an owners corporation with 3 members are set out in schedule 2.

18 **Conciliator for 3-member owners corporations**

- (1) This regulation applies if a person entitled to vote on any motion (a *voter*) at a general meeting of an owners corporation with 3 members gives written notice to the Minister asking for the appointment of a conciliator under the additional articles in schedule 2, because the voters are in dispute about a stated issue.
- (2) On request, the Minister may (by instrument) appoint a conciliator to help the owners corporation to resolve the dispute.
- (3) An instrument of appointment must state the terms (about payment and anything else) on which the conciliator is appointed.
- (4) The owners corporation is responsible for the payment of the conciliator under the terms stated in the instrument, and the conciliator may recover any amount owing under those terms as a debt from the owners corporation.
- (5) The Minister must give a copy of the instrument to the conciliator and the owners corporation.

Division 4.3 2-member owners corporations

19 Conciliation articles—2-member owners corporations (the Act, s 126 (1) (c))

The additional prescribed articles for an owners corporation with 2 members are set out in schedule 3.

20 Conciliator for 2-member owners corporations

- (1) This regulation applies if a person entitled to vote on any motion (a *voter*) at a general meeting of an owners corporation that has only 2 members gives written notice to the Minister asking for the appointment of a conciliator under the additional articles in schedule 3, because—
 - (a) a quorum was not present within $\frac{1}{2}$ an hour after the motion arose for consideration at a general meeting of the corporation adjourned under section 102 (2) of the Act; or
 - (b) the voters are in dispute about a stated issue.
- (2) On request, the Minister may (by instrument) appoint a conciliator to help the owners corporation to resolve the matters set out in the request.
- (3) An instrument of appointment must state the terms (about payment and anything else) on which the conciliator is appointed.
- (4) The owners corporation is responsible for the payment of the conciliator under the terms stated in the instrument, and the conciliator may recover any amount owing under those terms as a debt from the owners corporation.
- (5) The Minister must give a copy of the instrument to the conciliator and the owners corporation.

Schedule 1 Default articles

(See reg 16)

Note Whether the default articles apply will depend on whether the owners corporation was formed before or after the commencement of the *Unit Titles Act 2001*, pt 16. For more detail, see the note at the end.

1 Definitions etc

(1) In these articles:

executive committee representative means a person authorised in writing by the executive committee under article 11 (4).

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 the *Unit Titles Act 2001* and the *Unit Titles Regulations 2001* has the same meaning in these articles.

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.

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 any Territory law.

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 unopposed 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.

5 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.

6 Hazardous use of unit

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

7 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 article 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.

8 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 article 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.

9 Animals and birds

- (1) A unit owner must not keep, or permit to be kept, any animal or bird within the unit or on the common property.
- (2) This article does not apply to the keeping of an animal or bird if the executive committee has given the person keeping the animal 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.

10 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 Territory.

11 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 *Unit Titles Act 2001* or the articles in relation to a unit—inspect the unit to investigate the breach;
 - (b) carry out any maintenance required under the Act or these articles;
 - (c) do anything else the owners corporation is required to do under the Act or these articles.

- (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 subarticle (1).
- (3) An executive committee representative is not authorised to do anything in relation to a unit mentioned in subarticle (1) unless—
 - (a) the executive committee or the representative has given the owner, occupier or user of the unit reasonable notice of his or her 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 article.

12 Seal of owners corporation

For the attaching of the seal of the owners corporation to a document to be effective—

- (a) the seal must be attached by decision of the executive committee; and

Note Executive committee decisions must be made by majority vote, or by unanimous vote if there are only 2 members of the committee (see *Unit Titles Act 2001*, s 88).

- (b) the seal must be attached in the presence of 2 executive members; and
- (c) the executive members witnessing the attaching of the seal must sign the document as witnesses.

Note: Do the default articles apply?	
Owners corporations formed BEFORE commencement of <i>Unit Titles Act 2001</i> , pt 16	Owners corporations formed AFTER commencement of <i>Unit Titles Act 2001</i> , pt 16
<ul style="list-style-type: none"> • The articles applying immediately before commencement continue to apply (s 192). • The new default articles may be adopted 	<ul style="list-style-type: none"> • The default articles apply unless the owners corporation changes them (s 126 (1) (a) and s 128 (1)). • The default articles may be changed by

Note: Do the default articles apply?	
Owners corporations formed BEFORE commencement of <i>Unit Titles Act 2001</i> , pt 16	Owners corporations formed AFTER commencement of <i>Unit Titles Act 2001</i> , pt 16
(in part or in full) by special resolution at a general meeting (s 128 (3)).	special resolution at a general meeting (s 128 (3)).

Schedule 2 Conciliation articles for 3-member owners corporations

(See reg 17)

13 Resolution of disputes

If the people entitled to vote on any motion at general meetings of the owners corporation (the *voters*) are in dispute about an issue, any of the voters may (in writing) ask the Minister to appoint a conciliator (under the *Unit Titles Regulations 2001*, regulation 18) to help the owners corporation to resolve the dispute.

Note The owners corporation is responsible for paying the conciliator (see reg 18 (4)).

14 Conciliation

- (1) The conciliator must tell each voter of the time and place of a conference.
- (2) If 2 or 3 voters attend the conference—
 - (a) the conciliator must do everything reasonable to help them reach agreement on the issues in dispute; and
 - (b) if they agree about an issue, the agreement has the force of a unanimous resolution of a general meeting for the *Unit Titles Act 2001*, and must be recorded as such in the minute book of the owners corporation.
- (3) Conciliation about an issue fails if—
 - (a) no voter, or only 1 voter, attends the conference; or
 - (b) agreement is not reached about the issue at the conference.

- (4) If conciliation about an issue fails, the conciliator must give written notice to each voter, and any member who is not a voter, of the following alternative ways to resolve the dispute about the issue:
- (a) an application to the Magistrates Court for a deadlock order about the matter (under the *Unit Titles Act 2001*, division 6.5);
 - (b) an application to the Magistrates Court for an order appointing an administrator of the owners corporation (under the *Unit Titles Act 2001*, part 9).

Schedule 3 Conciliation articles for 2-member owners corporations

(See reg 19)

1 Failure to reach a quorum at a general meeting

- (1) This article applies if—
- (a) a general meeting of the owners corporation has been called;
and
 - (b) within ½ an hour after a motion arises for consideration at the meeting, anyone entitled to vote on the motion (any *voter*) is not present; and
 - (c) the meeting has been adjourned to the same day in the next week to the same day at the same place and time (as required by the *Unit Titles Act 2001*, section 102 (2)); and
 - (d) within ½ an hour after a motion arises for consideration at the adjourned meeting, any voter is not present.
- (2) The person who called the general meeting may (in writing) ask the Minister to appoint a conciliator (under the *Unit Titles Regulations 2001*, regulation 20) to help the owners corporation to achieve a quorum and reach agreement on the matters on the agenda for that general meeting.

Note The owners corporation is responsible for paying the conciliator (see reg 20 (4)).

2 Resolution of disputes

If the voters are in dispute about an issue, any voter may (in writing) ask the Minister to appoint a conciliator (under the *Unit Titles Regulations 2001*, regulation 20) to help the owners corporation to resolve the dispute.

Note The owners corporation is responsible for paying the conciliator (see reg 20 (4)).

3 Conciliation

- (1) The conciliator must tell each voter of the time and place of a conference.
- (2) If each voter attends the conference—
 - (a) the conciliator must do everything reasonable to help them reach agreement on the issues in dispute; and
 - (b) if they agree about an issue, the agreement has the force of a unanimous resolution of a general meeting for the *Unit Titles Act 2001*, and must be recorded as such in the minute book of the owners corporation.
- (3) Conciliation about an issue fails if—
 - (a) any voter fails to attend the conference; or
 - (b) agreement is not reached about the issue at the conference.
- (4) If conciliation about an issue fails, the conciliator must give written notice to each voter, and any member who is not a voter, of the following alternative ways to resolve the dispute about the issue:
 - (a) an application to the Magistrates Court for a deadlock order about the matter (under the *Unit Titles Act 2001*, division 6.5);
 - (b) an application to the Magistrates Court for an order appointing an administrator of the owners corporation (under the *Unit Titles Act 2001*, part 9).

Endnote

Notification

- 1 Notified in Gazette 2001 No 23 on 7 June 2001.

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