



Australian Capital Territory

Unit Titles Regulation 2001

SL2001-15

made under the

Unit Titles Act 2001

Republication No 10

Effective: 8 September 2010 – 6 July 2011

Republication date: 8 September 2010

Last amendment made by SL2010-37

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Unit Titles Regulation 2001*, made under the *Unit Titles Act 2001* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 8 September 2010. It also includes any commencement, amendment, repeal or expiry affecting the republished law to 8 September 2010.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Unit Titles Regulation 2001

made under the

Unit Titles Act 2001

Contents

	Page	
Part 1	Preliminary	
1	Name of regulation	2
1A	Dictionary	2
Part 2	Unit title applications	
Division 2.1A	Unit title assessment report	
2	Definitions—div 2.1A	3
2A	Prescription of parcel—Act, s 17 (5) (b)	4
2B	Unit title assessment report application—Act, s 22B (2)	4
2C	Offence—false or misleading information in application	4
2D	Unit title assessment report—contents—Act, s 22B (5) (a)	5

R10
08/09/10

Unit Titles Regulation 2001
Effective: 08/09/10-06/07/11

contents 1

Contents

	Page
2E Unit title assessment report—accompanying material—Act, s 22B (5) (b)	8
2F Offence—preparing false or misleading unit title assessment report	10
2G Offence—providing false or misleading unit title assessment report in application for unit title	12
Division 2.1 Unit subsidiaries	
3 Permissible unit subsidiaries—Act, s 19	14
Division 2.2 Detailed requirements	
4 Uncovered balconies and stairways	15
5 Diagrams—manner of subdivision	15
6 Boundary diagrams	16
7 Schedule of unit entitlement and rent	17
Division 2.3 Development statements	
8 Staged developments—development statements—Act s 17 (4)	18
Division 2.4 Approval of units plans	
9 Endorsement of units plans—Act, s 27 (2)	20
Part 3 Owners corporations	
10 Code of conduct for managers—Act, s 55E	21
10A Manager insurance—Act, s 55F (2)	21
11 Corporate register—access—Act, s 72 (3)	21
12 Fees for requests for unit title certificates and access to owners corporation records—Act, s 75 (4)	21
13 Costs of taking legal action—Act, s 88C (2) (b)	22
14 Public liability insurance for owners corporations—Act, s 131 (2)	22
15 Exemptions from building insurance requirements—Act, s 133 (1)	22
Part 4 Owners corporation articles	
16 Default articles—Act, s 126 (1) (a)	23
Schedule 1 Default articles	24
1 Definitions etc	24
2 Payment of rates and taxes by unit owners	24

	Page
3 Repairs and maintenance	24
4 Erections and alterations	24
5 Use of common property	25
6 Hazardous use of unit	25
7 Use of unit—nuisance or annoyance	25
8 Noise	25
10 Illegal use of unit	26
11 What may an executive committee representative do?	26
12 Seal of owners corporation	27
Schedule 2 Code of conduct	28
2.1 Knowledge of Act and code	28
2.2 Honesty, fairness and professionalism	28
2.3 Skill, care and diligence	28
2.4 Acting in owners corporation's best interests	28
2.5 Keeping owners corporation informed of developments	28
2.6 Ensuring employees comply with Act and code	28
2.7 Fraudulent or misleading conduct	29
2.8 Unconscionable conduct	29
2.9 Conflict of duty or interest	29
2.10 Goods and services to be supplied at competitive prices	29
2.11 Manager to demonstrate keeping of particular records	29
Dictionary	30
Endnotes	
1 About the endnotes	32
2 Abbreviation key	32
3 Legislation history	33
4 Amendment history	34
5 Earlier republications	37



Australian Capital Territory

Unit Titles Regulation 2001

made under the

Unit Titles Act 2001

Part 1 Preliminary

1 Name of regulation

This regulation is the *Unit Titles Regulation 2001*.

1A Dictionary

The dictionary at the end of this regulation is part of this regulation.

Note 1 The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*approved plans—see the Building Act 2004, dictionary.*' means that the term '*approved plans*' is defined in that dictionary and the definition applies to this regulation.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

Part 2 **Unit title applications**

Division 2.1A **Unit title assessment report**

2 **Definitions—div 2.1A**

In this division:

planning documents, for a parcel, means—

- (a) the approved plans; and
- (b) for a development under the *Planning and Development Act 2007*—a notice of decision given under the *Planning and Development Act 2007*, division 7.3.8; and
- (c) for a development under a planning and development law in force in the ACT before the commencement of the *Planning and Development Act 2007*—an approval given under the law previously in force; and
- (d) for works in a designated area under the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth)—
 - (i) a copy of the proposal to perform works submitted to the National Capital Authority; and
 - (ii) the plans and specifications (if any) required by the National Capital Authority; and
 - (iii) a copy of the approval for the works given by the National Capital Authority.

relevant development approval, for a parcel, means the planning documents that show the approval status of development on the parcel immediately before the unit title application is made.

2A Prescription of parcel—Act, s 17 (5) (b)

A parcel under the Act, section 5 (a) is prescribed.

2B Unit title assessment report application—Act, s 22B (2)

The following details and material are prescribed:

- (a) in relation to the parcel—
 - (i) the block and section number and division; and
 - (ii) the street name and number;
- (b) in relation to the applicant—
 - (i) if the applicant is an entity—the full name of the entity; and
 - (ii) if the applicant is a company—the company name and the Australian Company Number (ACN); and
 - (iii) the postal and email address; and
 - (iv) the contact telephone and facsimile numbers;
- (c) the number of class A or class B units applied for;
- (d) the proposed commencement and completion dates of the development;
- (e) if the application is in relation to a staged development—a schedule of commencement and completion dates for each stage;
- (f) a copy of the relevant development approval for the parcel;
- (g) the applicant's signature.

2C Offence—false or misleading information in application

A person commits an offence if—

- (a) the person applies for a unit title assessment report; and

- (b) the application—
 - (i) includes information that is false or misleading; or
 - (ii) omits something without which the information is false or misleading; and
- (c) the person knows, or is reckless as to whether, the application—
 - (i) includes information that is false or misleading; or
 - (ii) omits something without which the information is false or misleading.

Maximum penalty: 60 penalty units.

2D Unit title assessment report—contents—Act, s 22B (5) (a)

- (1) The following contents of a unit title assessment report are prescribed:
 - (a) the block and section number, street name and number of the parcel to be subdivided;
 - (b) if the parcel is in a district—
 - (i) that is divided into divisions—the division name; or
 - (ii) that is not divided into divisions—the district name;
 - (c) the following particulars of the unit title assessor:
 - (i) the full name, postal, email, fax and telephone contact details;
 - (ii) if the unit title assessor is a company—the company's ACN;
 - (d) the date the report is prepared;
 - (e) the signature of the unit title assessor or, if the assessor is not a natural person, the signature of the assessor's nominee under

the *Construction Occupations Licensing Regulation 2004*, section 15 (2);

- (f) the date of each site inspection conducted by the unit title assessor;
- (g) a statement by the unit title assessor that—
 - (i) the assessor has conducted a site inspection; and
 - (ii) the development is complete;
- (h) a statement by the unit title assessor that the unit entitlements shown on the certification of unit entitlements are the same as those shown on the schedule of unit entitlement form and that the total number of unit entitlements shown on the form is 10, 100, 1 000, 10 000 or 100 000;
- (i) if the relevant development approval for the parcel includes a condition other than a condition that applied only in the construction stage of the development—an assessment of whether the condition has been complied with;
- (j) if the landscape plans form part of the relevant development approval—a statement by the unit title assessor that the landscaping has been inspected and complies with the relevant development approval;
- (k) an assessment based on a site inspection of the extent to which the development is consistent with the site plan and floor plan for the parcel in relation to the following:
 - (i) the position of the boundary of—
 - (A) the parcel; and
 - (B) a unit; and
 - (C) a non-adjointing unit subsidiary; and
 - (D) the common property;

- (ii) the footprint of any building on the parcel, including the footprint of—
 - (A) any building within each unit boundary; and
 - (B) any building within 1 metre of the boundary of the parcel;
- (iii) the position of boundary fences and boundary walls;
- (iv) the number of each unit and each non-adjointing unit subsidiary, allocated car park and storage cage, taking account of an address schedule for the parcel (if any);
- (l) an assessment based on a site inspection of the extent to which the development is consistent with the relevant development approval for the parcel in relation to the following:
 - (i) the number of units in the development;
 - (ii) the position of a retaining wall, courtyard wall, boundary fence, fence within a unit, car parking space, access ramp, carport, garage, bicycle parking space, storage cage, garbage enclosure, letterbox, water tank or lighting that is shown on a plan that forms part of the development approval;
- (m) an assessment based on a site inspection of the extent to which each unit and unit subsidiary has access to common property without requiring access through another unit or unit subsidiary;
- (n) a statement by the unit title assessor that—
 - (i) there is a letter box for each unit and for the owners' corporation; and

- (ii) the numbers on the letter boxes correspond to the numbers for the units, taking account of an address schedule for the parcel (if any).

Note 1 If a unit title assessor contravenes an applicable code of practice the unit title assessor commits an offence—see the *Construction Occupations Licensing Act 2004*, s 87.

Note 2 If a form is approved under the Act, s 180 for this provision, the form must be used.

- (2) If the unit title assessment report is in relation to a staged development, the unit title assessor need only report on those matters mentioned in subsection (1) that relate to stage 1 of the development.

- (3) In this section:

district—see the *Districts Act 2002*, dictionary.

footprint, of a building on a parcel, means the part of the parcel covered by the extremities of the building at or projected to ground level.

**2E Unit title assessment report—accompanying material—
Act, s 22B (5) (b)**

- (1) The following accompanying material is prescribed:
- (a) the relevant development approval;
 - (b) the most recent certificate of occupancy and use—
 - (i) for each unit in the parcel; and
 - (ii) for any structure within the boundaries of the common property;
 - (c) a certification of unit entitlements for the parcel that is not more than 3 months old;
 - (d) a completed schedule of unit entitlement form for the parcel that is not more than 3 months old;

- (e) a site plan for the parcel that is not more than 3 months old;
- (f) a floor plan for the parcel that is not more than 3 months old;
- (g) a completed registered surveyor's declaration form for the parcel that is not more than 3 months old;
- (h) if permission for the development is required under the *Roads and Public Places Act 1937*, section 9—a copy of the permit;
- (i) a certificate (a *fitness for unit title certificate*) that—
 - (i) is not more than 3 months old; and
 - (ii) is issued by an eligible building surveyor; and
 - (iii) certifies that each proposed unit in the parcel is suitable for separate occupation;
- (j) certification by a registered surveyor, not more than 3 months old, that any structure not shown on the site plan or floor plan does not encroach on any of the following:
 - (i) the parcel boundary;
 - (ii) a unit boundary;
 - (iii) a unit subsidiary;
 - (iv) the common property;
- (k) if an attachment is allowed to encroach on leased or unleased Territory land, certification by a registered surveyor—
 - (i) that is not more than 3 months old; and
 - (ii) that the encroachment is allowed under the Act and the relevant development approval for the parcel; and
 - (iii) that the attachment complies with the approval based on a site inspection; and

- (iv) for leased land—that includes the Land Titles Office dealing number of the registered transfer and grant of the easement;

Note Attachment—see the Act, dictionary.

- (1) any other further information obtained by the unit title assessor under the Act, section 22C.
- (2) In this section:

certificate of occupancy and use means—

- (a) for a development on or after 1 July 1995—a certificate of occupancy issued under, or taken to be issued under, the *Building Act 2004*; or
- (b) for a development before 1 July 1995—a certificate of occupancy issued under the *Building Act 1972* (repealed) and the approval of plumbing or drainage work issued under the *Energy and Water Act 1988* (repealed).

eligible building surveyor means a building surveyor who would be eligible to be appointed as a building certifier of the building if the building were to be built when the fitness for unit title certificate is given.

registered surveyor's declaration form means the surveyor's declaration form approved under the *Land Titles Act 1925*, section 140.

2F Offence—preparing false or misleading unit title assessment report

- (1) A unit title assessor commits an offence if—
 - (a) the unit title assessor prepares a unit title assessment report; and

- (b) the report—
 - (i) is false or misleading; or
 - (ii) omits something without which the report is false or misleading; and
- (c) the person knows, or is reckless as to whether the report—
 - (i) is false or misleading; or
 - (ii) omits something without which the report is false or misleading.

Maximum penalty: 60 penalty units.

- (2) Each partner of a unit title assessor commits an offence if—
 - (a) the unit title assessor prepares a unit title assessment report; and
 - (b) the report—
 - (i) is false or misleading; or
 - (ii) omits something without which the report is false or misleading; and
 - (c) the partner, or one of the partners, knows, or is reckless as to whether—
 - (i) the report is false or misleading; or
 - (ii) omits something without which the report is false or misleading.

Maximum penalty: 60 penalty units.

- (3) It is a defence to a prosecution for an offence against subsection (2) if the partner proves—
- (a) that—
 - (i) the partner did not know about the false or misleading report; and
 - (ii) reasonable precautions were taken and appropriate diligence was exercised to avoid the preparation of a false or misleading report; or
 - (b) that the partner was not in a position to influence the other partners in relation to the preparation of the report.

2G Offence—providing false or misleading unit title assessment report in application for unit title

- (1) A person commits an offence if—
- (a) the person applies for the subdivision of a parcel under the Act, section 17; and
 - (b) the person provides a unit title assessment report as part of the application; and
 - (c) the report—
 - (i) is false or misleading; or
 - (ii) omits something without which the report is false or misleading; and
 - (d) the person knows, or is reckless as to whether the report—
 - (i) is false or misleading; or
 - (ii) omits something without which the report is false or misleading.

Maximum penalty: 60 penalty units.

- (2) Each partner of a partnership commits an offence if—
- (a) the partnership applies for the subdivision of a parcel under the Act, section 17; and
 - (b) the partnership provides a unit title assessment report as part of the application; and
 - (c) the report—
 - (i) is false or misleading; or
 - (ii) omits something without which the report is false or misleading; and
 - (d) the partner or one of the partners knows, or is reckless as to whether the report—
 - (i) is false or misleading; or
 - (ii) omits something without which the report is false or misleading.

Maximum penalty: 60 penalty units.

- (3) It is a defence to a prosecution for an offence against subsection (2) if the partner proves—
- (a) that—
 - (i) the partner did not know about the false or misleading report; and
 - (ii) reasonable precautions were taken and appropriate diligence was exercised to avoid the provision of a false or misleading report; or
 - (b) that the partner was not in a position to influence the other partners in relation to the provision of the report.

Division 2.1 Unit subsidiaries

3 Permissible unit subsidiaries—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) balcony;
 - (ii) corridor;
 - (iii) garage or carport;
 - (iv) gazebo;
 - (v) laundry;
 - (vi) pergola;
 - (vii) porch;
 - (viii) stairway;
 - (ix) shed;
 - (x) storeroom;
 - (xi) utility room;
 - (xii) verandah;
 - (xiii) any other part of the parcel approved by the planning and land authority under subsection (2); or
 - (b) that is suitable for 1 or more of the following purposes:
 - (i) a garden, lawn or yard;
 - (ii) a carspace or parking area;
 - (iii) a recreation area;

- (iv) any other purpose approved by the planning and land authority under subsection (2).
- (2) When approving a unit title application under the Act, section 20, the planning and land authority 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 letter S followed by the number of the unit to which the unit subsidiary is annexed, 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 subsection (1) (a) and (c) may be combined.
- (3) The diagrams required by this section 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; and
 - (c) the position of boundary fences and boundary walls; and
 - (d) the nature and extent of any encroachments, whether on leased land or unleased land, and their relationship to the parcel or unit boundary, including—
 - (A) whether the encroachment is for use with a unit or the common property; and
 - (B) if the encroachment is for use with a unit—the unit to which the encroachment relates; and
 - (e) the site and nature of any existing or proposed easements affecting the parcel.

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—Acts 17 (4)

- (1) A development statement must—
 - (a) include a description of the land consisting of the parcel; and
 - (b) include a copy of the plans relating to the development, and any amendment of the plans, as approved in the development approval under the *Planning and Development Act 2007*, chapter 7; and
 - (c) state how the staged development is to be carried out, including—
 - (i) a description of the work (including common property amenities) to be completed in each stage of the development; and
 - (ii) a schedule of commencement and completion dates for each stage; and
 - (iii) the arrangements for access to the parcel during the development; and
 - (iv) the permitted uses of the common property during the development; and
 - (v) landscaping of the parcel; and
 - (d) state that the developer must pay the reasonable expenses incurred by the owners corporation—
 - (i) in repairing any damage to the common property, or to units, in the completed stages of the development that is caused in carrying out the development; and

- (ii) for any water, sewerage, drainage, gas, electricity, oil, garbage, conditioned air or telephone service used in carrying out the development; and
- (e) state that the developer must make good, as soon as practicable, any damage to the common property or units in the completed stages of the development caused in carrying out the development; and
- (f) state that the standard of materials used, finishes effected, common property improvements, landscaping, roadways and paths to be carried out in the development must not be inferior to or substantially different from those of the buildings and other works in the completed stages of the development; and
- (g) include a requirement that after the completion of any stated stages of the development, and after the completion of the entire development, the planning and land authority must 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.

Note If a form is approved under the Act, s 180 for a report by a registered surveyor under par (g), the form must be used.

- (2) The development statement may apportion the liability for expenses for the use or maintenance of the common property of the staged development differently from the way that liability would otherwise be apportioned by the schedule of unit entitlement.
- (3) An apportionment under subsection (2) has effect despite the current schedule of unit entitlement, but does not apply to any liability for the use or maintenance of the common property after the development is completed.

Note If a form is approved under the Act, s 180 for a development statement, the form must be used.

Division 2.4 Approval of units plans

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

- (1) If the planning and land authority approves a unit title application, the authority 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 section:

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 Code of conduct for managers—Act, s 55E

The code of conduct in schedule 2 is prescribed.

10A Manager insurance—Act, s 55F (2)

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

11 Corporate register—access—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 Fees for requests for unit title certificates and access to owners corporation records—Act, s 75 (4)

- (1) The fee fixed by the owners corporation for a request for a unit title certificate must not be more than \$80 (plus any GST payable in relation to that amount).
- (2) The fee fixed by the owners corporation for a request for access to owners corporation information, records and documents in relation to a unit or common property must not be more than—
 - (a) if the person making the request has requested a unit title certificate in relation to the unit or the common property—\$0; or
 - (b) in any other case—\$80 (plus any GST payable in relation to that amount).

13 Costs of taking legal action—Act, s 88C (2) (b)

The amount prescribed is the lesser of—

- (a) \$750 for each unit in the units plan; and
- (b) \$10 000.

14 Public liability insurance for owners corporations—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—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**

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

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

Schedule 1 Default articles

(see s 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 Regulation 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.

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 ACT.

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 Unit Titles Act 2001, pt 16	Owners corporations formed AFTER commencement of Unit Titles Act 2001, pt 16
<input type="checkbox"/> The articles applying immediately before commencement continue to apply (s 192). <input type="checkbox"/> The new default articles may be adopted (in part or in full) by special resolution at a general meeting (s 128 (1)).	<input type="checkbox"/> The default articles apply unless the owners corporation changes them (s 126 (1) (a) and s 128 (1)). <input type="checkbox"/> The default articles may be changed by special resolution at a general meeting (s 128 (1)).

Schedule 2 Code of conduct

(see s 10)

2.1 Knowledge of Act and code

A manager must have a good working knowledge and understanding of the Act, including this code, as relevant to the manager's functions.

2.2 Honesty, fairness and professionalism

- (1) A manager must act honestly, fairly and professionally in exercising the manager's functions.
- (2) A manager must not try to unfairly influence the outcome of an election for the owners corporation executive committee.

2.3 Skill, care and diligence

A manager must exercise reasonable skill, care and diligence in exercising the manager's functions.

2.4 Acting in owners corporation's best interests

A manager must act in the best interests of the owners corporation unless it is unlawful to do so.

2.5 Keeping owners corporation informed of developments

A manager must keep the owners corporation informed of any significant development or issue about an activity carried out for the owners corporation.

2.6 Ensuring employees comply with Act and code

A manager must take reasonable steps to ensure that the manager's employees comply with the Act, including this code, when exercising the manager's functions.

2.7 Fraudulent or misleading conduct

A manager must not engage in fraudulent or misleading conduct in exercising the manager's functions.

2.8 Unconscionable conduct

A manager must not engage in unconscionable conduct in carrying out the manager's functions.

Examples

- 1 taking unfair advantage of the manager's superior knowledge relative to the owners corporation
- 2 requiring the owners corporation to comply with conditions that are unlawful or not reasonably necessary
- 3 exerting undue influence on, or using unfair tactics against, the owners corporation or the owner of a unit in the units plan

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

2.9 Conflict of duty or interest

A manager for an owners corporation (the *first corporation*) must not accept an engagement for another owners corporation if accepting the engagement may place the manager's duty to, or the interests of, the first corporation in conflict with the manager's duty to, or the interests of, the other owners corporation.

2.10 Goods and services to be supplied at competitive prices

A manager must take reasonable steps to ensure the goods and services the manager gets for, or supplies to, the owners corporation are obtained or supplied at competitive prices.

2.11 Manager to demonstrate keeping of particular records

If an owners corporation or its executive committee asks the manager, in writing, to show that the manager has kept the owners corporation's records as required under the Act, the manager must comply with the request within a reasonable time.

Dictionary

(see s 1A)

Note 1 The Legislation Act contains definitions and other provisions relevant to this regulation.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- Act
- planning and land authority
- registered surveyor.

Note 3 Terms used in this regulation have the same meaning that they have in the *Unit Titles Act 2001* (see Legislation Act, s 148). For example, the following terms are defined in the *Unit Titles Act 2001*, dictionary:

- attachment
- building
- development
- staged development
- unit subsidiary (see s 12).

address schedule, for a parcel, means a schedule that shows the relationship between the numbering of units on the site plan or floor plan of the parcel and the door numbering and street address of the units in the parcel.

approved plans—see the *Building Act 2004*, dictionary.

building code means the Building Code of Australia prepared and published by the Australian Building Codes Board, as amended from time to time by—

- (a) the Australian Building Codes Board; and
- (b) the Australian Capital Territory Appendix to the Building Code of Australia.

certification of unit entitlements, for a parcel, means a written statement showing the details of the value of unit entitlements for the units in the parcel—

- (a) prepared by a certified practising member of the Australian Property Institute (ABN 49 007 505 866); and
- (b) dated and signed by the member.

division—see the *Districts Act 2002*, dictionary.

floor plan means a floor plan prepared for a parcel in the form approved under the *Land Titles Act 1925*, section 140.

schedule of unit entitlement form means the schedule of unit entitlements form approved under the *Land Titles Act 1925*, section 140.

site plan means a site plan prepared for a parcel in the form approved under the *Land Titles Act 1925*, section 140.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

3 **Legislation history**

This regulation was originally the *Unit Titles Regulations 2001*. It was renamed under the *Legislation Act 2001*.

Unit Titles Regulation 2001 SL 2001 No 15

notified 7 June 2001 (Gaz 2001 No 23)
s 1, s 2 commenced 7 June 2001 (IA s 10B)
remainder commenced 5 October 2001 (s 2)

as amended by

Statute Law Amendment Act 2002 No 30 pt 3.85

notified LR 16 September 2002
s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))
pt 3.85 commenced 17 September 2002 (s 2 (1))

Planning and Land (Consequential Amendments) Act 2002 A2002-56 sch 3 pt 3.17

notified LR 20 December 2002
s 1, s 2 commenced 20 December 2002 (LA s 75 (1))
sch 3 pt 3.17 commenced 1 July 2003 (s 2 and see Planning and Land
Act 2002 A2002-55, s 2)

Unit Titles Amendment Regulations 2003 (No 1) SL2003-23

notified LR 29 July 2003
s 1, s 2 commenced 29 July 2003 (LA s 75 (1))
remainder commenced 30 July 2003 (s 2)

Unit Titles (Staged Development) Amendment Act 2005 A2005-37 sch 1 pt 1.2

notified LR 26 August 2005
s 1, s 2 commenced 26 August 2005 (LA s 75 (1))
sch 1 pt 1.2 commenced 14 September 2005 (s 2 and CN2005-21)

Planning and Development (Consequential Amendments) Act 2007 A2007-25 sch 1 pt 1.33

notified LR 13 September 2007
s 1, s 2 commenced 13 September 2007 (LA s 75 (1))
sch 1 pt 1.33 commenced 31 March 2008 (s 2 and see Planning and
Development Act 2007 A2007-24, s 2 and CN2008-1)

Endnotes

4 Amendment history

Unit Titles Amendment Act 2008 (No 2) A2008-45 sch 1 pt 1.3

notified LR 10 September 2008

s 1, s 2 commenced 10 September 2008 (LA s 75 (1))

sch 1 amdt 1.10, amdt 1.15 commenced 1 July 2009 (s 2 (1) and CN2008-18)

sch 1 pt 1.3 remainder commenced 31 March 2009 (s 2 (1) and CN2008-18)

Unit Titles Amendment Regulation 2010 (No 1) SL2010-37

notified LR 7 September 2010

s 1, s 2 commenced 7 September 2010 (LA s 75 (1))

remainder commenced 8 September 2010 (s 2)

4 Amendment history

Name of regulation

s 1 am R5 LA

Dictionary

s 1A ins SL2010-37 s 4

Unit title assessment report

div 2.1A hdg ins SL2010-37 s 5

Definitions—div 2.1A

s 2 om LA s 89 (4)
ins SL2010-37 s 5
def *planning documents* ins SL2010-37 s 5
def *relevant development approval* ins SL2010-37 s 5

Prescription of parcel—Act, s 17 (5) (b)

s 2A ins SL2010-37 s 5

Unit title assessment report application—Act, s 22B (2)

s 2B ins SL2010-37 s 5

Offence—false or misleading information in application

s 2C ins SL2010-37 s 5

Unit title assessment report—contents—Act, s 22B (5) (a)

s 2D ins SL2010-37 s 5

Unit title assessment report—accompanying material—Act, s 22B (5) (b)

s 2E ins SL2010-37 s 5

Offence—preparing false or misleading unit title assessment report

s 2F ins SL2010-37 s 5

Offence—providing false or misleading unit title assessment report in application for unit title

s 2G ins SL2010-37 s 5

Permissible unit subsidiaries—Act, s 19

s 3 am A2002-56 amdt 3.79; SL2010-37 s 6; pars renum R10 LA

Diagrams—manner of subdivision

s 5 am SL2003-23 s 4

Boundary diagrams

s 6 am SL2010-37 s 7

Staged developments—development statements—Act s 17 (4)

s 8 am A2002-56 amdt 3.77
sub A2005-37 amdt 1.2
am A2007-25 amdt 1.204

Endorsement of units plans—Act, s 27 (2)

s 9 am A2002-56 amdt 3.78

Code of conduct for managers—Act, s 55E

s 10 sub A2008-45 amdt 1.10

Manager insurance—Act, s 55F (2)

s 10A ins A2008-45 amdt 1.10

Fees for requests for unit title certificates and access to owners corporation records—Act, s 75 (4)

s 12 sub SL2003-23 s 5; A2008-45 amdt 1.11

Costs of taking legal action—Act, s 88C (2) (b)

s 13 sub A2008-45 amdt 1.12

All owners corporations

div 4.1 hdg om R8 LA

3-member owners corporations

div 4.2 hdg om A2008-45 amdt 1.13

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

s 17 om A2008-45 amdt 1.13

Conciliator for 3-member owners corporations

s 18 am Act 2002 No 30 amdt 3.936; A2002-56 amdt 3.79
om A2008-45 amdt 1.13

2-member owners corporations

div 4.3 hdg om A2008-45 amdt 1.13

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

s 19 om A2008-45 amdt 1.13

Endnotes

4 Amendment history

Conciliator for 2-member owners corporations

s 20 am Act 2002 No 30 amdt 3.937; A2002-56 amdt 3.79
om A2008-45 amdt 1.13

Default articles

sch 1 am A2008-45 amdt 1.14

Resolution of disputes

sch 2, article 1 (prev sch 2, cl 13) renum R1 LA
am A2002-56 amdt 3.79
om A2008-45 amdt 1.15

Conciliation

sch 2, article 2 (prev sch 2, cl 14) renum R1 LA
am Act 2002 No 30 amdt 3.938
om A2008-45 amdt 1.15

Code of conduct

sch 2 sub A2008-45 amdt 1.15

Conciliation articles for 2-member owners corporations

sch 3 hdg om A2008-45 amdt 1.15

Failure to reach a quorum at a general meeting

sch 3, article 1 am A2002-56 amdt 3.79
om A2008-45 amdt 1.15

Resolution of disputes

sch 3, article 2 am A2002-56 amdt 3.79
om A2008-45 amdt 1.15

Conciliation

sch 3, article 3 am Act 2002 No 30 amdt 3.939
om A2008-45 amdt 1.15

Dictionary

dict ins SL2010-37 s 8
def **address schedule** ins SL2010-37 s 8
def **approved plans** ins SL2010-37 s 8
def **building code** ins SL2010-37 s 8
def **certification of unit entitlements** ins SL2010-37 s 8
def **division** ins SL2010-37 s 8
def **floor plan** ins SL2010-37 s 8
def **schedule of unit entitlement form** ins SL2010-37 s 8
def **site plan** ins SL2010-37 s 8

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1* 5 Oct 2001	5 Oct 2001– 16 Sept 2002	not amended	new regulation
R2 17 Sept 2002	17 Sept 2002– 30 June 2003	A2002-30	amendments by A2002-30
R3 1 July 2003	1 July 2003– 29 July 2003	A2002-56	amendments by A2002-56
R4 30 July 2003	30 July 2003– 2 Nov 2004	SL2003-23	amendments by SL2003-23
R5 3 Nov 2004	3 Nov 2004– 13 Sept 2005	SL2003-23	includes editorial amendments under Legislation Act
R6 14 Sept 2005	14 Sept 2005– 30 Mar 2008	A2005-37	amendments by A2005-37
R7 31 Mar 2008	31 Mar 2008– 30 Mar 2009	A2007-25	amendments by A2007-25
R8 31 Mar 2009	31 Mar 2009– 30 June 2009	<u>A2008-45</u>	amendments by A2008-45
R9 1 July 2009	1 July 2009– 7 Sept 2010	A2008-45	amendments by A2008-45

© Australian Capital Territory 2010