



Australian Capital Territory

Unit Titles Amendment Act 2008

A2008-9

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Australian Capital Territory

Unit Titles Amendment Act 2008

A2008-9

An Act to amend the *Unit Titles Act 2001*

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

1 Name of Act

This Act is the *Unit Titles Amendment Act 2008*.

2 Commencement

This Act commences on the day after its notification day.

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

3 Legislation amended

This Act amends the *Unit Titles Act 2001*.

**4 Unit title applications—general requirements
Section 17 (5)**

substitute

- (5) The application must include—
- (a) a certificate from a registered surveyor describing the degree to which any building (including an attachment to a building) on, or being constructed on, the parcel is situated in accordance with the application; and
 - (b) if any existing or proposed attachment to a building on the parcel encroaches, or would encroach, on a public place—a plan prepared by a registered surveyor that shows—
 - (i) the nature and extent of the encroachment; and
 - (ii) whether the encroachment is for use with a unit or the common property; and
 - (iii) if the encroachment is for use with a unit—the unit to which the encroachment relates.

Note *Attachment*, *encroachment* and *public place*—see the dictionary.

5 Unit title applications—approval
New section 20 (1) (d)

insert

(d) if the application shows an encroachment on a public place by an attachment to a building—

(i) if the attachment exists on the day the application is lodged with the authority—the attachment is an authorised existing attachment; or

Note **Authorised existing attachment**—see s (7).

(ii) in any other case—

(A) the encroachment would not endanger public safety or unreasonably interfere with the amenity of the neighbourhood; and

(B) it is not in the public interest to refuse to approve the application because of the encroachment.

6 Section 20 (7), new definition of *authorised existing attachment*

insert

authorised existing attachment, in relation to a unit title application, means—

(a) if the application includes the cancellation of a units plan (the ***old plan***) that was registered before 1 January 2002—the old plan shows the attachment; or

(b) in any other case—the attachment was lawful when it was constructed.

**7 Endorsement of units plan for registration
Section 27 (1) (a)**

substitute

- (a) diagrams showing the subdivision as approved (including the nature and extent of any encroachment mentioned in section 20 (1) (d) (Unit title applications—approval));

8 New division 4.3

insert

Division 4.3 Encroachments on public places

37A Effect of registration of units plan with encroachment on public place

- (1) This section applies if—
- (a) a units plan is registered for a parcel; and
- (b) the plan shows an encroachment on a public place by an attachment to a building on the parcel.

Note **Attachment** and **encroachment**—see the dictionary.

- (2) This Act and the *Land Titles (Unit Titles) Act 1970*, other than the provisions relating to ownership of interests and certificates of title, apply to the encroachment—
- (a) if the units plan shows the encroachment is for use with a unit—as if it were part of the unit; and
- (b) in any other case—as if it were common property.

Note The *Land Titles (Unit Titles) Act 1970*, s 4 (1) provides that it is incorporated with and must be read as one with the *Land Titles Act 1925*.

9 Dictionary, new definitions

insert

attachment, in relation to a building, means—

- (a) an eave, gutter or downpipe; or
- (b) an awning; or
- (c) anything attached to the building prescribed by regulation.

encroachment includes a projection at, above or below ground level.

public place—see the *Roads and Public Places Act 1937*, dictionary.

Schedule 1 Other amendments

(see s 3)

[1.1] Section 11 (2), note

omit

any projection or encroachment, whether above or below ground level

substitute

any encroachment, whether at, above or below ground level

[1.2] Sections 18 (2) and 19 (3)

omit

any projection above, or encroachment below, ground level

substitute

any encroachment at, above or below ground level

[1.3] Section 127 (4)

omit

section 7

substitute

section 8

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 6 December 2007.

2 Notification

Notified under the Legislation Act on 17 April 2008.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Unit Titles Amendment Bill 2008, which originated in the Legislative Assembly as the Unit Titles Amendment Bill 2007 and was passed by the Assembly on 8 April 2008.

Clerk of the Legislative Assembly

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