



Australian Capital Territory

Unit Titles Legislation Amendment Act 2023

A2023-24

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Australian Capital Territory

Unit Titles Legislation Amendment Act 2023

A2023-24

An Act to amend legislation about unit titles, and for other purposes

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

Part 1 Preliminary

1 Name of Act

This Act is the *Unit Titles Legislation Amendment Act 2023*.

2 Commencement

This Act commences on 1 July 2023.

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 following legislation:

- *Civil Law (Sale of Residential Property) Act 2003*
- *Land Titles (Unit Titles) Act 1970*
- *Unit Titles Act 2001*
- *Unit Titles (Management) Act 2011*
- *Unit Titles (Management) Regulation 2011*
- *Unit Titles Regulation 2001*.

Note This Act also amends the *Civil Law (Property) Act 2006* (see sch 1).

Part 2

Civil Law (Sale of Residential Property) Act 2003

4 Meaning of *required documents* New section 9 (1) (g) (i) (D)

insert

- (D) if the land titles register includes 1 or more entries in relation to alternative rules of the owners corporation—a certified extract from the register of the compilation of the alternative rules registered under the *Land Titles (Unit Titles) Act 1970*, section 27 or section 27A; and

5 Section 9 (4), new definitions

insert

alternative rules—see the *Unit Titles (Management) Act 2011*, dictionary.

owners corporation, for a units plan—see the *Unit Titles (Management) Act 2011*, dictionary.

Part 3 Land Titles (Unit Titles) Act 1970

6 Lodging units plan for registration Section 6 (2) (a)

omit

the requirements set out in schedule 1

substitute

a requirement approved by the registrar-general

7 New section 6 (3)

insert

- (3) An approved requirement under subsection (2) (a) is a notifiable instrument.

8 Registration of units plan Section 7 (1) (b)

substitute

(b) the endorsed units plan prepared in accordance with section 6;

9 Section 7 (1) (e)

omit

the alternative rules

substitute

a document compiling the proposed alternative rules

10 Section 7 (2)

substitute

- (2) On the registration of the units plan, the registrar-general must tell the applicant for registration and the planning and land authority, in writing, about the registration.

11 Section 27

substitute

27 Owners corporation rules—initial registration of alternative rules

- (1) This section applies if a lessee—
 - (a) makes an application to register a units plan under section 6 (Lodging units plan for registration); and
 - (b) lodges with the application a document compiling the proposed alternative rules of the owners corporation mentioned in section 7 (1) (e).
- (2) The registrar-general must register the alternative rules of the owners corporation for the units plan.

Note The rules of an owners corporation are the default rules as modified by the alternative rules (if any) registered under this section or s 27A (see [Unit Titles \(Management\) Act 2011](#), s 106). The default rules are set out in the [Unit Titles \(Management\) Regulation 2011](#), sch 1.

27A Owners corporation rules—changes to rules

- (1) This section applies if—
 - (a) the owners corporation modifies its rules under the [Unit Titles \(Management\) Act 2011](#), section 108; or
 - (b) the ACAT makes a declaration that a rule is invalid under the [Unit Titles \(Management\) Act 2011](#), section 129 (1) (e) (iii) or (iv).

- (2) If the rules of the owners corporation include alternative rules, the owners corporation must lodge for registration a compilation of the alternative rules of the owners corporation and either—

- (a) for subsection (1) (a)—a certificate under the *Unit Titles (Management) Act 2011*, schedule 3, section 3.19 about a special resolution authorising the change, within 3 months after the day the resolution is passed; or

Note If an alternative rule is not lodged within 3 months after the day the special resolution is passed, the resolution is taken to have never been made (see *Unit Titles (Management) Act 2011*, s 108A (2)).

- (b) for subsection (1) (b)—the ACAT declaration.

Note An ACAT declaration under the *Unit Titles (Management) Act 2011*, s 129 (1) (e) (iii) or (iv) must be lodged by the owners corporation with the registrar-general for the registration of alternative rules under this section (see *Unit Titles (Management) Act 2011*, s 129 (3) (b)).

- (3) The registrar-general must register the compilation of the alternative rules.

Note If the rules of the owners corporation no longer include alternative rules because of a change under this section, the registrar-general may cancel the entry in the register relating to alternative rules (see *Land Titles Act 1925*, s 43 (5)).

27B Class B units plan insurance exemptions—registration

- (1) This section applies if the owners corporation for a units plan containing only class B units exempts itself from the requirement to take out building insurance under the *Unit Titles (Management) Act 2011*, section 101 (2) (an *insurance exemption*).

- (2) The registrar-general must register the insurance exemption in relation to the units plan if a certificate under the *Unit Titles (Management) Act 2011*, schedule 3, section 3.19 about the unanimous resolution authorising the insurance exemption is lodged with the registrar-general within 3 months after the day the resolution is passed.
- (3) Also, the registrar-general must cancel the entry in the land titles register in relation to the insurance exemption if a certificate under the *Unit Titles (Management) Act 2011*, schedule 3, section 3.19 about a unanimous resolution revoking the insurance exemption is lodged with the registrar-general within 3 months after the day the resolution is passed.

Note If a resolution in relation to an insurance exemption is not lodged within 3 months after the day the unanimous resolution is passed, the resolution is taken to have never been made (see *Unit Titles (Management) Act 2011*, s 101 (5)).

12 Formal requirements for units plans Schedule 1

omit

13 Dictionary, note 4

insert

- unanimous resolution

Part 4 Unit Titles Act 2001

14 Unit title applications—general requirements Section 17 (5) (a)

substitute

- (a) if the parcel is prescribed by regulation—
 - (i) a unit title assessment report that is not more than 3 months old; and
 - (ii) if a work approval for the development is required under the *Public Unleased Land Act 2013*, section 19 (Approval to carry out work on public unleased land)—a copy of the approval; and

15 New section 19A

insert

19A Unit title applications—certificates of occupancy and use

- (1) At the time of making a unit title application, or at any time before the application is approved under section 20, the applicant must give the registrar-general a copy of the most recent certificate of occupancy and use—
 - (a) for each unit in the parcel; and
 - (b) for any structure within the boundaries of the common property.
- (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).

**16 Unit title applications—approval
New section 20 (7) (aa)**

insert

- (aa) the applicant is required to provide a copy of either of the following documents to the authority and the applicant has not provided the document:
- (i) for section 17 (5) (a) (ii)—a work approval under the *Public Unleased Land Act 2013*, section 19;
 - (ii) for section 19A (1)—a certificate of occupancy and use; or

17 Section 20 (10), new definition of *certificate of occupancy and use*

insert

certificate of occupancy and use—see section 19A (2).

**18 What is a *building damage scheme*?
Section 152 (b)**

substitute

- (b) the elimination of any class A unit that is damaged or destroyed (unless the units plan has fewer than 3 units or the unit is to be reinstated); and

Note A damaged or destroyed class A unit in a 2-unit units plan cannot be eliminated as only 1 unit would remain in the units plan. In this circumstance, if an owners corporation seeks to cancel the units plan, it must apply for the cancellation under s 160.

19 Dictionary, definition of *utility services*, paragraph (e)

omit

airconditioning

substitute

air conditioning

Part 5 Unit Titles (Management) Act 2011

20 Dealings with common property New section 20 (3) and (4)

insert

- (3) However, the owners corporation may sublet its interest in any part of the common property to an entity for not longer than 5 years—
- (a) for the purpose of a business or other activity; and

Examples

coffee cart, florist, parcel locker service

- (b) if—
- (i) authorised by a special resolution; and
- (ii) the affected part of the common property is not the subject of a grant of special privilege under section 22; and
- (iii) the business or other activity carried out under the sublease does not unreasonably interfere with the reasonable use or enjoyment of any part of a unit or the common property; and

Examples—unreasonable interference

- restricting access to a unit
- obstructing views from a unit balcony

- (c) subject to a condition stating that the entity must take out and maintain public liability insurance for the affected part of the common property in relation to each of the following events happening:
- (i) death, bodily injury or illness to anyone;
- (ii) loss of, or damage to, the property of anyone.

- (4) Public liability insurance under subsection (3) (c) must be for a total amount of liability of at least the amount agreed, in writing, by the owners corporation and the entity.

21 New section 33B

in division 3.4, insert

33B Consent to building management statements for existing buildings

- (1) An owners corporation for a units plan for an existing relevant building may, if authorised by a special resolution, consent to an application under the *Land Titles Act 1925*, section 123I (Planning and land authority approval of building management statement) for—
- (a) approval of a building management statement; or
 - (b) an amendment to a registered building management statement.
- (2) In this section:
- relevant building*—see the *Land Titles Act 1925*, section 123C (1).

**22 Definitions—div 5.2
Section 72, definition of *general fund contribution***

omit

23 Sections 78, note 2 and 89, note 2

omit

amendment to the rules

substitute

alternative rule

**24 Lodgment of insurance claims
Section 100A (2) (b), new note**

insert

Note An expense incurred because of a wilful or negligent act or omission, or a breach of an owners corporation's rules, by a member of the owners corporation or an occupier of the member's unit, may be recoverable from the member as a debt (see s 31).

**25 Exemption from building insurance requirements
Section 101 (3)**

substitute

- (3) An exemption resolution—
- (a) under subsection (1)—has effect from the date of the annual general meeting when it is passed until the date of the next annual general meeting; or
 - (b) under subsection (2)—takes effect on the registration of the resolution and continues until the day another unanimous resolution amending or revoking the exemption resolution is registered.
- (4) An exemption resolution under subsection (2) or a resolution amending or revoking the exemption under subsection (3) (b) must be lodged under the *Land Titles (Unit Titles) Act 1970*, section 27B within 3 months after the day the resolution is passed.
- (5) If an exemption resolution under subsection (2) or a resolution amending or revoking the exemption under subsection (3) (b) is not lodged within 3 months after the day the resolution is passed, the resolution is taken to have never been made.

Note An exemption resolution under this section does not affect the requirement for an owners corporation to take out and maintain public liability insurance (see s 102).

26 **What are the rules of an owners corporation?
Section 106**

omit

amended

substitute

modified

27 **Section 106**

after

section 27

insert

or section 27A

28 **Owners corporation may make alternative rules
Section 108 (1)**

omit

amending its rules

substitute

to modify the rules of the corporation

29 **Section 108 (7)**

omit

**30 Effect of registration of alternative rule
Section 108A (1) (a)**

after

section 27

insert

or section 27A

31 Section 108A (2)

omit

registered within 3 months after the day the special resolution was passed

substitute

lodged within 3 months after the day the special resolution is passed,

**32 Grant of special privileges in relation to common property
Section 112A, note**

substitute

Note A modification of the rules of the owners corporation must be registered with the registrar-general under the *Land Titles (Unit Titles) Act 1970*, s 27A.

**33 Corporate register—information to be included
New section 114 (2) (d)**

insert

- (d) if the owners corporation subleases part of the common property under section 20 (3)—
- (i) details of the sublease; and
 - (ii) the sublessee's full name and an address for correspondence.

**34 Corporate register—provision of information
Section 115 (1) (a)**

omit

35 Section 115 (4), except note

substitute

- (4) A person who has or acquires an interest in a unit or the common property, other than a unit owner, may give the owners corporation written notice of the details of the following events:
- (a) if the interest is in a lease of the unit or the common property—the person completing an agreement to transfer the interest to someone else;
 - (b) the lodgment for registration of an instrument under which the person acquires the interest;
 - (c) if the interest is not a registered interest—the person acquiring the interest;
 - (d) a change in the full name or address for correspondence of the person;
 - (e) a change in the nature of the interest held by the person, including the person ceasing to have the interest.

**36 Corporate register—access
Section 116 (1)**

substitute

- (1) On request by an eligible person for a unit or the common property, the owners corporation for the units plan must allow the person, within 14 days after the request is received, to inspect, and take a copy of—
 - (a) for a request by an eligible person for a unit—the information on the corporate register about the unit; and
 - (b) for a request by an eligible person for a unit or the common property—the information on the corporate register about any easements, or subleases under section 20 (3), applying to the common property.

37 New section 116 (5)

after the note, insert

- (5) In this section:

eligible person, for the common property, includes a sublessee of the common property under section 20 (3).

interest, in the common property, includes a sublease under section 20 (3).

**38 Unit title certificate and access to owners corporation records
New section 119 (1A)**

insert

- (1A) However, an eligible person may only request a unit title update certificate within 4 months after the day a unit title certificate is given.

**39 Service of documents on members, interested people and occupiers
New section 124 (6)**

insert

- (6) For this section, an interest in the common property includes a sublease under section 20 (3).

**40 Kinds of ACAT orders
Section 129 (3) (b)**

omit

registration under the *Land Titles (Unit Titles) Act 1970*, section 27

substitute

the registration of alternative rules under the *Land Titles (Unit Titles) Act 1970*, section 27A

**41 Executive committee must keep minutes, and records and accounts
Schedule 2, section 2.1 (1) (h), except note**

substitute

- (h) if the rules of the owners corporation include alternative rules—maintain an up-to-date compilation of the alternative rules.

42 Schedule 2, new section 2.1A

insert

2.1A Working out the annual budget for audit purposes

- (1) For section 2.1 (1) (g) (ii), the annual budget of the owners corporation is the sum of—
- (a) an estimate of each of the following for the financial year in which the annual general meeting is held:
 - (i) the total general fund contribution;
 - (ii) if there is a special resolution under section 78 (2) (b)—the general fund contribution payable by each unit owner, or unit owner in a particular class;
 - (iii) the total sinking fund contribution; and
 - (b) an estimate of any other amounts to be paid into the general fund in the financial year in which the annual general meeting is held; and
 - (c) any other amounts held by the owners corporation for the purposes of managing the units plan at the beginning of the financial year in which the annual general meeting is held.

Examples—other amounts held by owners corporation

- sinking fund
- special purpose fund

- (2) In this section:

general fund—see section 72.

total general fund contribution—see section 75 (2) (a) (i).

total sinking fund contribution—see section 82 (3) (b).

Part 6 Unit Titles (Management) Regulation 2011

43 Alternative rules requirements—Act, s 108 (6) Section 7B (1) (a)

omit

amend

substitute

modify

44 Erections and alterations Schedule 1, section 1.4, 1st examples

substitute

Examples—permission not unreasonably withheld

- safety considerations
- structural considerations
- financial considerations
- equity of access to common property, easements, facilities or utility services

Part 7 Unit Titles Regulation 2001

45 Section 2A heading

substitute

2A Prescription of parcel—Act, s 17 (5) (a)**46 Unit title assessment report—accompanying material—
Act, s 22B (5) (b)
Section 2E (1) (b) and (h)**

omit

47 Section 2E (2), definition of *certificate of occupancy and use*

omit

Schedule 1 Civil Law (Property) Act 2006— Consequential amendments

(see s 3)

[1.1] Sections 259A (1) (b) (ii) and 260 (1) (g)

omit

for the owners corporation

substitute

of the owners corporation

[1.2] Section 260 (4), definition of *alternative rules*

omit

[1.3] Section 260 (4), definition of *proposed rules*

substitute

proposed rules means—

- (a) the default rules; and
- (b) if the developer proposes to register alternative rules of the owners corporation under the *Unit Titles (Management) Act 2011*, section 27 or section 27A—a document compiling the proposed alternative rules.

[1.4] Section 260G (1) (b)

omit

for the owners corporation

substitute

of the owners corporation

[1.5] Section 260G (1) (b)*after*

section 27

*insert*or section 27A

Endnotes**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 22 March 2023.

2 Notification

Notified under the [Legislation Act](#) on 23 June 2023.

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 Legislation Amendment Bill 2023, which was passed by the Legislative Assembly on 8 June 2023.

Clerk of the Legislative Assembly