

1994

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

UNIT TITLES REGULATIONS

EXPLANATORY MEMORANDUM

Circulated by authority of Bill Wood MLA

Minister for the Environment, Land and Planning

Outline

The *Unit Titles Act 1970* (the Act) was amended in 1993 to reduce the minimum number of units that can be unit titled from four to two. Where a body corporate managing only two or three units is established, the Act envisaged that an alternative method for settling disputes would be established.

This recognised that the operation of a corporation of only two particular members could create difficulties. The method for settling disputes prescribed in the Act needed to be revised to address the problems that may arise within a body corporate of only two or three members.

Essentially, where a dispute exists, the Minister is to be advised. The Minister may then appoint a conciliator who will attempt to resolve the problem.

Financial Implications

The costs of engaging the conciliator are to be met by the corporation.

Notes on Regulations

Regulations 1, 2 & 3 - Citation, Commencement and Interpretation

Regulations 1, 2 and 3 provide for the citation and commencement of the Regulations and define terms for the purposes of the Regulations.

Regulation 4 - Articles of corporation of 2 or 3 members

Section 78 of the Act provides that the articles of corporation of a corporation of 2 or 3 members shall consist of the articles relating to voting procedures and dispute resolution.

Regulation 4 provides that for the purposes of paragraph 78(1)(b) the articles for a corporation of 2 members are set out in Schedule 1. Where the corporation consists of 3 members the articles are specified in Schedule 2.

The Schedule in respect of a corporation of 2 members specifies the procedures for dealing with a situation where a quorum is not present at a general meeting which has been adjourned and where a dispute exists between members of the corporation on a specified matter.

In respect of a corporation of 3 members the Schedule specifies the procedures to be used when there is a dispute in relation to a specified matter.

The Schedules provide that in the event of a dispute, a member of the corporation may notify the Minister in writing that there is a dispute and request that a conciliator be appointed to assist in resolving the dispute.

The conciliator appointed by the Minister shall attempt to resolve the dispute by inviting the members to attend a conference to discuss the matters in dispute. In the event that a quorum is not present at the conference or agreement cannot be reached, the conciliator is to advise each party of their right to apply to the Supreme Court for an order in respect of a person's right to vote and the appointment of an administrator.

Regulation 5 - Appointment of conciliator by Minister

Regulation 5 provides that on being notified in writing that a dispute exists, the Minister may appoint a conciliator. A dispute exists in respect of 2 members where a quorum is not present at an adjourned general meeting. In a corporation of 2 or 3 members there is a dispute where the members are in dispute on a specific matter.

The conciliator is to attempt to assist the members achieve the quorum and resolve any matter on the agenda or resolve the matter in dispute.

The terms and conditions, including remuneration, of the conciliator are to be set out in writing by the Minister [subregulation 5(2)].

The expenses of the conciliator are deemed to be expenditure incurred by the corporation [subregulation 5(3)].